



# **2024 BOE/ BTA Appeals Agenda/Table of Contents**

**November 2024**

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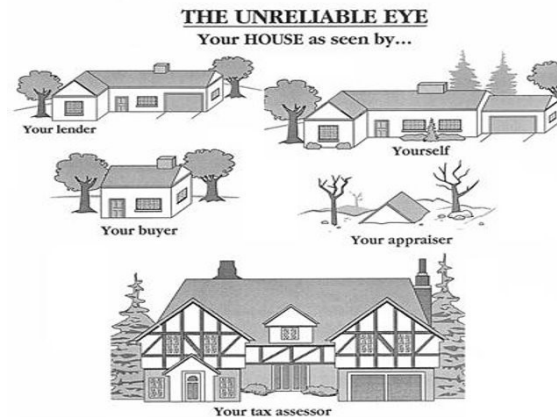


# Avenues of Appeal

Ashleigh Palmer | Appeals and Levies  
November 2024

# Why do appeals happen?

- Misunderstanding of the process
- Genuine valuation errors
- Different opinions of value
  - Different description of the subject
  - Appraising for different interests
  - One or both parties looking at the wrong data



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# What can taxpayers appeal?

- (a) Change in value when the dept. establishes taxable rent
- (b) Cancellation of exemption for multiple unit dwellings
- (c) Decisions or disputes relating to historic property
- (d) Forest land denial and removal
- (e) Current use determinations
- (f) Determinations relating to nightclub sprinkler exemptions
- (g) Senior citizen exemption denials
- (h) Assessed value for additional tax
- (i) Determinations for deferrals
- (j) Determinations of value reduction after gov. restriction
- (k) Omitted property
- (l) Valuation
- (m) Decisions of exemptions
- (n) Manifest error corrections
- (o) Destroyed property
- (p) Limited income deferrals
- (2) Valuation changes from equalization

**WAC 458-14-015**

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Assessment  
roll has been  
certified.

#### What happens if I need to make changes?

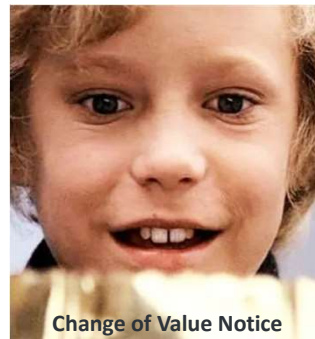
- Correct manifest errors (RCW 84.48.065(1)(a))
- Make stipulated value agreements (WAC 458-14-026)
- Other changes not requiring board action:
  - Change of tax status due to sale to or by a public entity;
  - Removal, addition, or change of status of forest land designation;
  - Removal, addition, or change of status of a special valuation assessment (RCW 84.14 & 84.26);
  - Change of status of property determined to be exempt by the Department;
  - Exemption of a nightclub sprinkler system (RCW 84.36.660);
  - Valuation reduction after an adoption of a government restriction (RCW 84.40.039);

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## BOE Appeal Triggers

**Method: submitting a properly completed and timely filed taxpayer petition to the county board of equalization.**

- Assessors must give notice of any change in the value of real property. (RCW 84.40.045)
- Manifest error corrections result in change of value notices
- Equalization results in change of value notices
- Exemption denials & removals



Change of Value Notice

WAC 458-14-056

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## BOE Deadlines

### “No late filing will be allowed...”

- By July 1<sup>st</sup> of the assessment year
- Within 30-60 days of change of value notices
- Omitted property: 30-60 days of discovery

**Appeal Process:** To preserve your appeal rights or appeal your value, a petition form **MUST** be filed with the Board of Equalization **within 30 days after the date this notice was mailed**. Call the BOE at (360) 417-2330 for further information or to have the form mailed to you.

**WAC 458-14-056**

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## “...except as provided in this subsection.”

### Good Cause Waivers

- “reasonable” amount of time passed the deadline
- G: must grant waivers for taxpayers whose value DID NOT change, and the taxpayer DID NOT receive a change of value notice
- No good cause waiver has ever been approved passed the reconvene deadline

**WAC 458-14-056(3)**

### Requests to Reconvene

- By April 30 following the assessment year
- Taxpayer did not receive change of value notice 15 days prior to filing deadline and value was changed
- “Prima facie” up to 3 years after the adjournment of the regular session

**WAC 458-14-127(8)**

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# BOE Appeal Resolutions

## Four ways petitions are resolved:

- Hearing
- Stipulation
- Withdrawal
- An appeal to the Board of Tax Appeals



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# Board of Tax Appeal Triggers

- BOE Decisions
- DOR decisions
- Direct appeals of highly valued disputed property
  - Still requires a timely pending appeal at the BOE!

### **Request for Direct Appeal to the State Board of Tax Appeals**

The following taxpayer requests the attached appeal be heard by the State Board of Tax Appeals without first having a hearing before the County Board of Equalization.

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# BTA Deadlines

## To appeal to the BTA:

- 30 days after the BOE has served its decision
- 30 days after a DOR Reconvene decision

## To appeal an informal BTA decision:

- Exemptions: 20 calendar days after service of proposed decision
- Petition for Reconsideration of final decision: 20 days after service of a final decision

## To appeal a formal BTA decision:

- Petition for Review of Initial Decision: 20 calendars days after service
- Petition for Review of Final Decision: 10 calendar days after service

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## BTA Appeal Resolutions

### Four ways petitions are resolved:

- Hearings
- Stipulations
- Withdrawal
- An appeal to superior court
  - Formal BTA appeals only



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# Judicial Appeals

## Payment Under Protest

- Filed with superior court
- By June 30<sup>th</sup> of the following year
- RCW 84.68.020
- WAC 458-18-215

## Small Claims

- Filed with the assessor
  - Errors in description
  - Double assessments
  - Manifest errors
- RCW 84.38.110

## Superior Court

- LITIGATION!!!!



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## Contact Us

Ashleigh Palmer  
Appeals and Levies Specialist

### Website

<https://propertytax.dor.wa.gov>

### Phone Number

360-534-1383

### Email

[ashleigh@dor.wa.gov](mailto:ashleigh@dor.wa.gov)





# Appearing before the BOE

Ashleigh Palmer  
Appeals and Levies Specialist

# Taxpayer brings in their valuation

Speaking with the Assessor's office does not hold a taxpayer's appeal deadline!!

- Follow your Assessor's policies for review.
  - The taxpayer has a right to appeal.
  - Can it be resolved without an appeal?

# Processing Appeals

## What happens when an appeal has been filed?

1. The clerk evaluates the petition.
  - Is the petition timely?
  - Is the petition complete?
2. Forwards the appeal to the assessor's office.
  - Did the taxpayer request valuation information?
  - Can I offer a stipulation?
  - Is this a misunderstanding?
  - Do I prepare a response or rest on the presumption of correctness?
3. The clerk schedules hearings.
4. The parties exchange evidence.



# Requests for Valuation Information

The Assessor *must* provide the taxpayer information used to value the property.

- Within 60 days of request
  - but at least 21 business days prior to the hearing!
- Cannot rest on presumption for this request
- Can send a link to the sales used in creating the valuation
- If something other than comparable sales was used, that must be provided
- Provide insight and understanding

**2 True & fair value**

A - Assessor's determination of true & fair value:		B - Your estimate of true & fair value:	
Land:	\$ 425000	Land:	\$ 300000
Improvement/Bldgs:	\$ 500000	Improvement/Bldgs:	\$ 400000
<b>TOTAL:</b>	<b>\$ 925000</b>	<b>TOTAL:</b>	<b>\$ 700000</b>

Date the assessor's "Change of Value Notice" or other determination notice was mailed: 10/15/2024

I request the information the assessor used in valuing my property.  Yes  No

**WAC 458-14-066**

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# Exchange Deadlines

**WAC 845-14-066 & RCW 84.48.150**

- Valuation information is not the same as evidence.
- Both parties must exchange any additional evidence 21 business days prior to the hearing.
- The taxpayer must separately send their evidence to the board and to the Assessor's office.
- Neither party can change the comparable sales they are providing.

**BOE can choose:**

- If there's no objection to late evidence, they may consider the evidence and proceed.
- If there's an objection:
  - Refuse to consider late evidence
  - Postpone to allow the parties an opportunity to review late evidence
  - Proceed with the hearing but allow parties to submit new evidence for comment after the hearing
  - Not consider late evidence

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# Evidence



## All the means by which a fact is established or disproved.

- Assessors enjoy a statutory presumption of correctness
- Can only be overcome by clear, cogent and convincing evidence
- The board must determine if the presumption has been overcome
- General principles are not evidence!
- Arguments are not evidence!
- Taxpayers may present:
  - Comparable sales data, cost data, income data
  - Maps, photos
  - Studies

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# At the hearing

## Evidence

- Always present evidence to the board
- Look at the appellant when they are talking
- Look at the board when you are talking
- Use the hearing to enhance written materials

## Credibility

- Established through conduct
- Correctness and credibility are not the same
- Fall on your sword
- Be objective
- “I don’t know” is a valid answer!

## Audience

- What does your audience know about the issues?
- Think of relatable analogies
- Avoid jargon when possible
- Define complex concepts
- Commercial vs. residential appeals

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# Addressing your approach to value

## The Cost Approach

- Takes the components of a house and assigns a price per sq. foot based on style and value for amenities, quality, condition etc.
- Discussion: how can this be explained simply?
- Concepts:
  - Physical Deterioration
  - Functional obsolescence
  - External obsolescence

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# Addressing your approach to value

## The Sales Approach

- Adjusts sales prices of comparable properties to make them similar to the subject property.
- Discussion: how can this be explained simply?
- Concepts:
  - Adjustments
  - Market value
  - Arms-length transaction
  - Trended data

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## Addressing your approach to value

### The Income Approach

- Estimating the value of a property based on the income the property generates.
- Discussion: how can this be explained simply?
- Concepts:
  - Cap rate
  - Net operating income
  - Operating expenses

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## The voice of the expert

- Determine the objective of your message
- Select three to four key points
- Describe policies, techniques, strategies, concepts, and ideas in terminology that the listener can understand.
- Tell stories
- Review



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# Roadblocks

## You may encounter:

- Deceptive appellants
- Emotional testimony
- Attachment to value
- Combative appellants
- Losing the presumption of correctness

## Resolutions:

- Point out inconsistencies
- Be empathetic, but stick to the facts
- Be objective
- Remain cool, calm and collected
- Appeal to the BTA



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## After the hearing

### Decisions are not negotiable.

- Requests for reconsideration
  - Not required by law
  - Reserved for egregious errors
  - Boards may develop their own policies
- Aggrieved parties may appeal to the Board of Tax Appeals
  - Must be filed within 30 days of service of BOE decision
  - Use a form required by BTA
  - Choose between formal and informal

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# Resources

## Property Tax Resource Center

<https://propertytax.dor.wa.gov>

- Manuals
- Forms
- County Contacts
- DOR Contacts
- Course Materials
- Property Tax Advisories & Special Notices

## Board of Tax Appeals Website

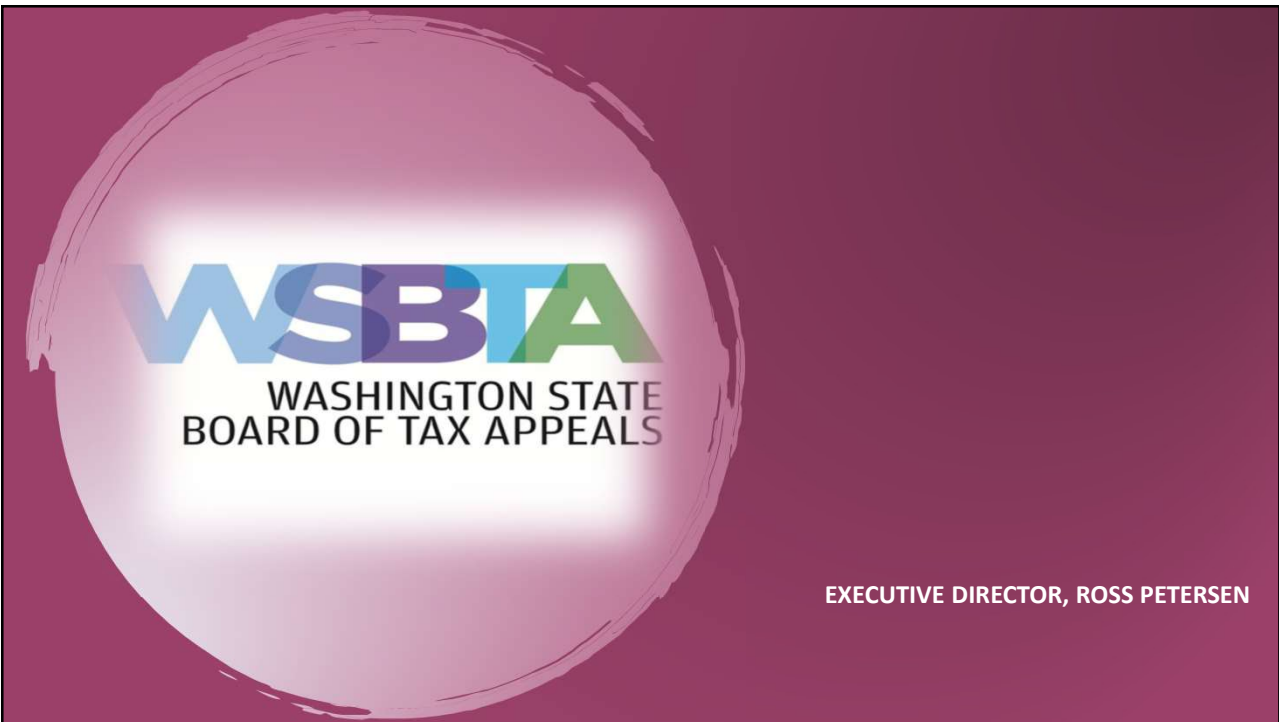
<https://bta.wa.gov>

- Appeal information
- FAQs
- Forms and Publications
- Decisions

## Laws and Rules

- RCW 84.48
- RCW 84.40
- WAC 458-14
- WAC 456-10
- WAC 456-09





Mission Statement

To maintain Public confidence in the state tax system by providing taxpayers and taxing authorities with an accessible, fair, and efficient appeals process.

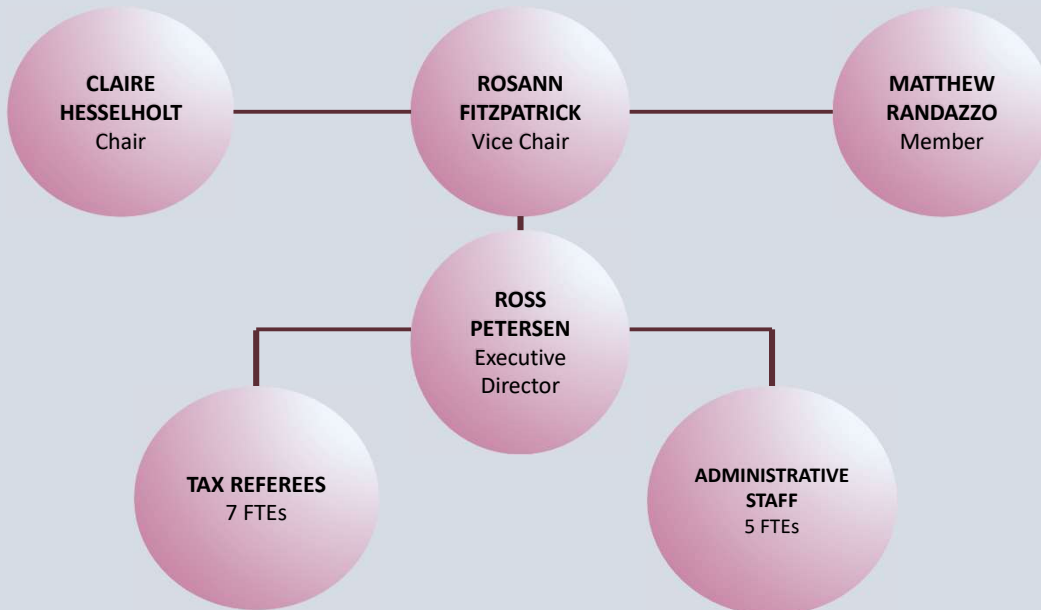
Vision

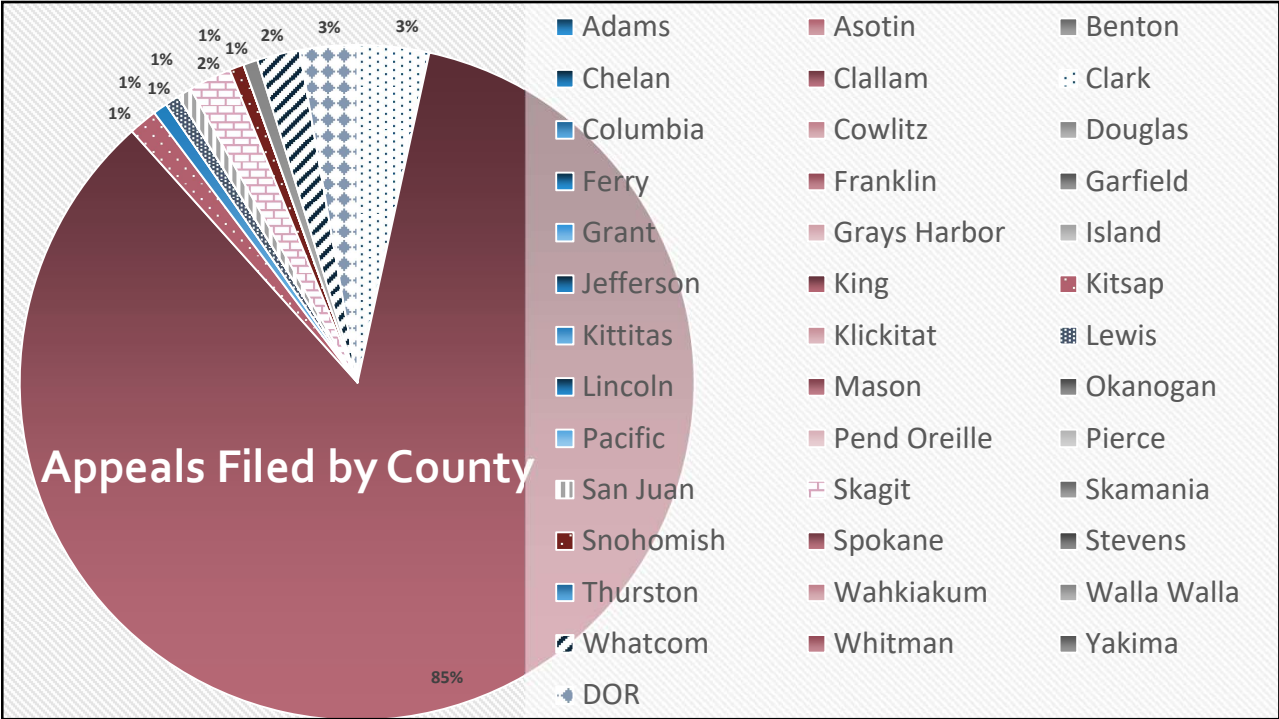
A timely appeals process that provides consistent and reasoned decisions that educate taxpayers and contribute to transparent tax administration in Washington State.

**CORE VALUES**



**Organizational Chart**





## Total Appeals filed: 1,903 FY 24 (July 2023-June 2024)

- Klickitat – 9
- Lewis – 88
- Lincoln – 1
- Mason – 6
- Okanogan – 3
- Pacific – 0
- Pend Oreille – 1
- Pierce – 165
- San Juan – 8
- Skagit – 18
- Skamania – 0
- Snohomish – 69
- Spokane – 54
- Stevens – 7
- Thurston – 4
- Wahkiakum – 0
- Walla Walla – 4
- Whatcom – 42
- Whitman – 0
- Yakima – 10
- Department of Revenue - 81

### Informal Hearing Procedure

IT'S  
INFORMAL

- Informal hearings are structured similarly to formal hearings, although more relaxed. As such, informal hearings will generally be organized as follows:

(1)

All parties and witnesses will be sworn in by a hearing officer to tell the truth;

(2)

Each party may then provide a short explanation of what the testimony of their witnesses and evidence will show;

(3)

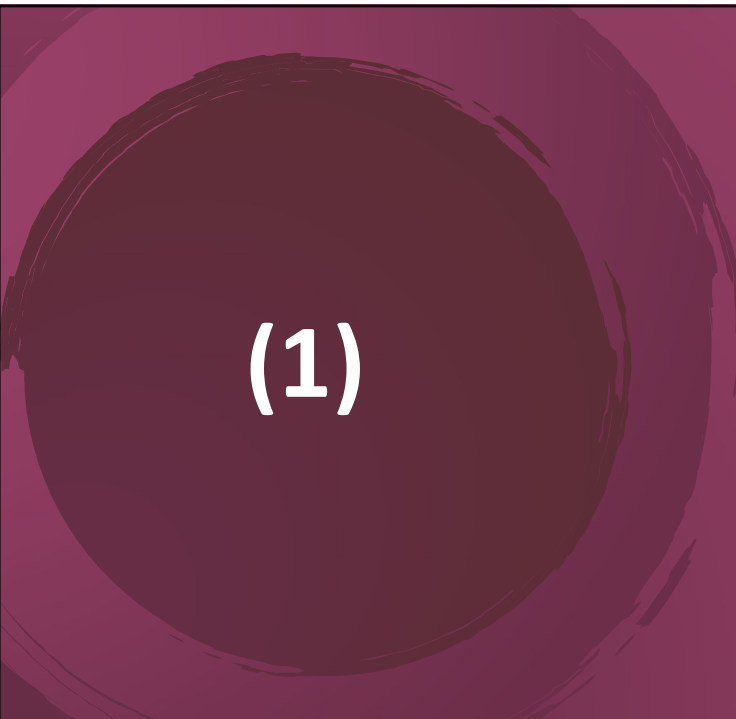
Next, each party may call witnesses to testify, beginning with the party that is appealing. The opposing party will have an opportunity to ask each witness questions, and the party calling the witness an opportunity to ask the witness questions to clarify the testimony; and

(4)

Lastly, each party may summarize the testimony and evidence that supports their case, beginning with the party that appealed.

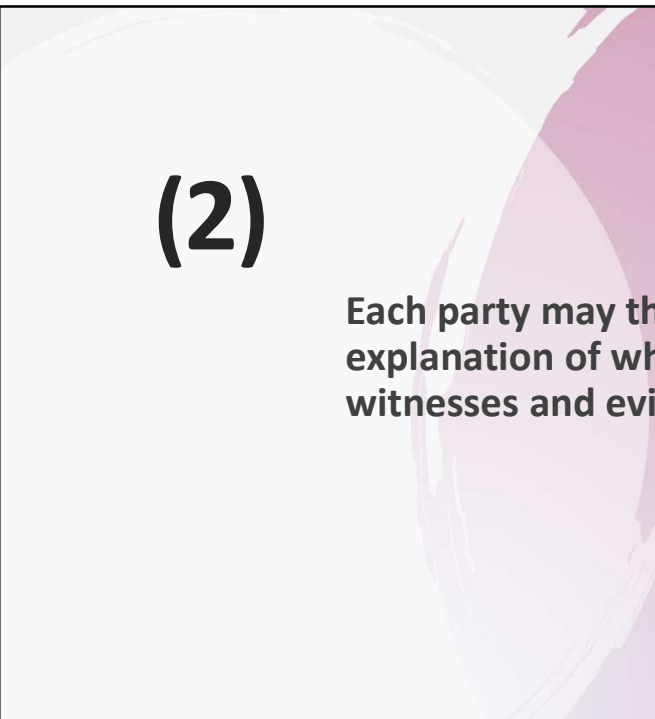
Note:

The board or hearing officer may ask a party, a representative, or a witness a question at any time during the hearing.



**(1)**

All parties and witnesses will be sworn in by a hearings officer to tell the truth;



**(2)**

Each party may then provide a short explanation of what the testimony of their witnesses and evidence will show;

**Next, each party may call witnesses to testify, beginning with the party that is appealing. The opposing party will have an opportunity to ask each witness questions, and the party calling the witness an opportunity to ask the witness questions to clarify the testimony; and**

**(3)**

**Lastly, each party may summarize the testimony and evidence that supports their case, beginning with the party that appealed.**

**(4)**

# Note:

The board or hearing officer may ask a party, a representative, or a witness a question at any time during the hearing.

## Formal Hearing Procedure:

(1) Administration of oath to all persons testifying;

(2) Opening Statements  
- Appellant  
- Respondent;

(3) The Appellant's Case in Chief and each Witness:  
(i) Direct examination of witness;  
(ii) Cross-examination by the respondent;  
(iii) Redirect examination by the appellant;  
(iv) Recross examination;

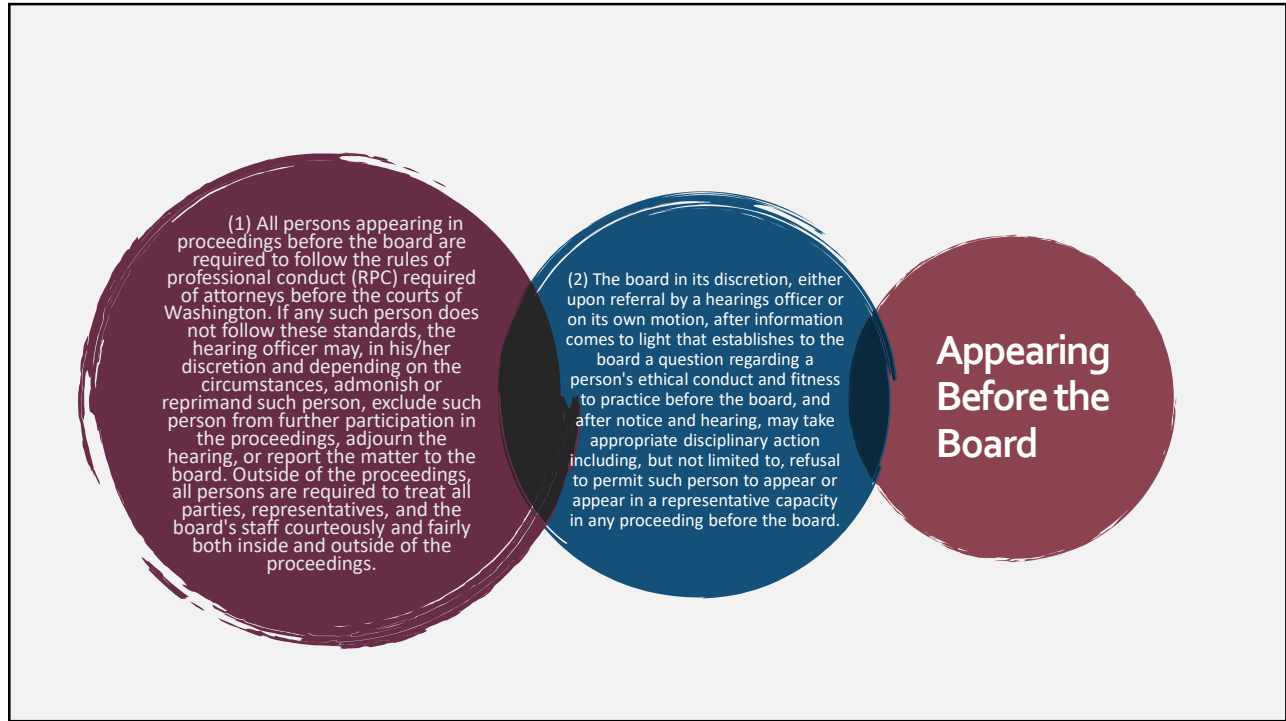
(4) The Respondent's Case in Chief and each Witness:  
(i) Direct examination of witness;  
(ii) Cross-examination by the respondent;  
(iii) Redirect examination by the appellant;  
(iv) Recross examination;

(5) The Appellant's Rebuttal for each Witness;

(6) Closing Arguments  
- Appellant  
- Respondent;

(7) Appellant Closing Rebuttal.

**(\*\*) The board may pose questions to the parties, their representatives, and any witnesses at any time during the hearing.**



- Organization is EVERYTHING
- Identification/Labeling of Documents
- Exhibit Lists
- Sales Grids are Helpful
- Number Pages (at the Bottom is best!)
- Incomplete BOE Records
- Font Size (12 point minimum)
- Blurry/Photocopy of a Photocopy of a Photocopy

## Evidence



## Service

All documents submitted to the Board **MUST** be served on the other party!

When a court hears a case de novo, it decides the issues without regard to any previous court's assumptions or legal conclusions. For example, a trial de novo is when a court tries a case again as if it had never been heard before. De novo review is when a court reviews a case independently, without deferring to a previous court's decision

## De Novo

- De novo is a Latin term that means "anew," "from the beginning," or "afresh".



## PRESUMPTION OF CORRECTNESS

RCW 84.40.0301

**DETERMINATION OF VALUE BY PUBLIC  
OFFICIAL—REVIEW—REVALUATION—  
PRESUMPTIONS.**

Upon review by any court, or appellate body, of a determination of the valuation of property for purposes of taxation, it shall be presumed that the determination of the public official charged with the duty of establishing such value is correct, but this presumption shall not be a defense against any correction indicated by clear, cogent and convincing evidence.

The Board gives consideration to Pro Se Litigants who do not have legal training. We consider service to the citizens of Washington a priority to ensure concerns are heard and there is fairness.



## Pro se Litigants

## Standard of Review

- Clear, Cogent, and Convincing
  - i.e., A high probability of the truth of the facts offered.
- Preponderance of the Evidence
  - “Proof that something is more likely than not.”


## NEW CASE MANAGEMENT SYSTEM


What this means for you –

E-filing of all documents will now be available.



# THANKYOU

Ross Petersen, Executive Director 

360-753-5446 

[bta@bta.wa.gov](mailto:bta@bta.wa.gov) 

[www.bta.wa.gov](http://www.bta.wa.gov) 

# Legal Fundamentals, Rules & Procedures

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## Disclaimer

Information and statements contained in these materials and presented by Assistant Attorneys General are not to be construed as official opinions of the Office of the Attorney General. Such information and statements represent the views of the author or presenter only. In addition, the information is time dated and may be subject to changes and updates.



# Due Process

ELEMENTS OF DUE PROCESS

APPEAL RIGHTS

APPLICABLE PROCEDURAL RULES

## Elements of Due Process

1. Notice
2. Opportunity to know the claims of the opposing party
3. The opportunity to be heard (to appear and present evidence)
4. Reasonable time to prepare one's case
5. Right to an orderly proceeding
6. The right to cross examination and to present rebuttal evidence
7. The right to an impartial tribunal
8. The right to a reasoned decision

# Property Owner Appeal Rights from County Decisions

The BOE has authority (“jurisdiction”) to review different kinds of decisions typically made by the Assessor (See WAC 458-14-015 for full list):

- Assessor’s determination of market value of property (RCW 84.48.010, 84.40.038)
- Assessor’s denial of exemptions or deferrals (RCW 84.36.385, 84.36.400, RCW 84.37.040)
- Assessor’s denial of forest land/current use designations (Chapters 84.33 and 84.34 RCW)
- Assessor’s denial of reduction in value of destroyed property (RCW 84.70.010(6))
- Assessor’s denial of reduction in value due to government restrictions (RCW 84.40.039(3))

The BTA has authority to review:

- Appeals from County Board of Equalization adverse decision (must be filed within 30 days after mailing of the decision) (RCW 82.03.130, RCW 84.08.130)
- Taxpayers may request a direct appeal to the BTA when the taxpayer, Assessor, and the BOE agree that a direct appeal is appropriate. The BTA may accept or reject the request. RCW 84.40.038(3).
- Appeals from orders issued by the state Department of Revenue pursuant to RCW 84.08.010 and 84.08.060. RCW 82.03.130(1)(c).

The Superior Court has jurisdiction to hear:

- Pay under protest actions under RCW ch. 84.68 and refund claim denials under RCW ch. 84.69.
- BTA Appeals depending on whether formal or informal was selected. RCW 82.03.130 RCW 84.68.020. If formal was selected judicial review is obtained pursuant to the Administrative Procedures Act.

# Assessor Appeal Rights



The assessor has the same right as a taxpayer to appeal a decision by the county BOE. (must be filed within 30 days after mailing of the decision) (RCW 82.03.130, RCW 84.08.130)



The Board hears assessor appeals from orders issued by the state Department of Revenue pursuant to RCW 84.08.010 and 84.08.060. See RCW 82.03.130(1)(c).

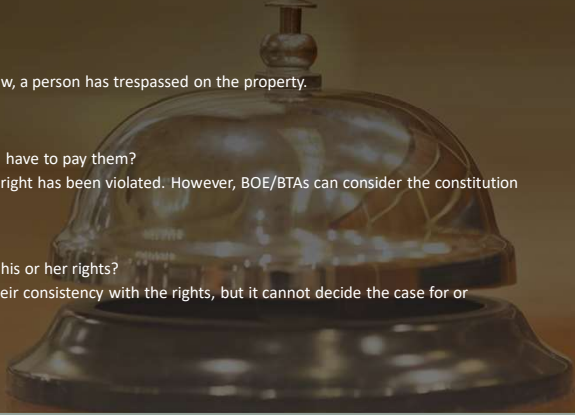


If a formal BTA hearing was selected, then Assessor may obtain judicial review pursuant to RCW 34.05.510 through 34.05.598.



## What Claims Do Not Belong at BOE/BTA

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- Whether one of the parties should pay for the attorney's fees and appraisal costs of the other party for having to bring the action?
    - **No**, the BOE/BTA has no authority to order damages be paid, award costs or fees to a party.
  - Whether the County official trespassed on the person's property
    - **No**, a court, not the BOE/BTA, decides whether, as a matter of law, a person has trespassed on the property.
  - Whether property taxes are unconstitutional and so taxpayer shouldn't have to pay them?
    - **No**, a court, not the BOE/BTA, decides whether, a constitutional right has been violated. However, BOE/BTAs can consider the constitution in their decisions and interpretations of the law.
  - The timelines for presenting evidence to the Board is unfair or violates his or her rights?
    - **No**, a BOE/BTA can comment on processes or procedures and their consistency with the rights, but it cannot decide the case for or against the Assessor based on these allegations
- 

## What Rules Apply at BOE Appeals?

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*Refer to Assessor Reference Manual Chapter 11.1 in Reference Materials.*

Designed to be a limited and simplified proceeding.

No formal pleading or motions process is recognized.

Scope of legal procedure is probably limited to those set forth in:

- WAC ch. 458-14;
- RCW ch. 84.48;
- Any orders issued by the Board;
- case law on the statutes and rules; and
- any rules the Board of Equalization has set forth.

BOE has discretion on how to conduct proceedings.

- Board could refer to Superior Court Civil Rules and Administrative Procedures Act (RCW 34.05) as guidance if a situation necessitates a procedure or process not contemplated in the WACs or statutes.

## What Rules Apply at BTA Informal Appeals?

*Refer to Assessor Reference Manual Chapter 11.2 in Reference Materials.*

Still limited, but more like a court than BOE Appeals.

How informal is an “informal” sometimes depends on who is presiding over the appeal.

WAC chapter 456-10 sets forth the rules of practice and procedure for BTA informal appeals.

- BTA also issues orders setting forth deadlines/procedures.

BTA has discretion on how to conduct its proceedings. WAC 456-10 incorporates specific rules and statutes.

NOTE: there is a difference between when the BTA specifically incorporates a rule and when the BTA has discretion to use a rule.

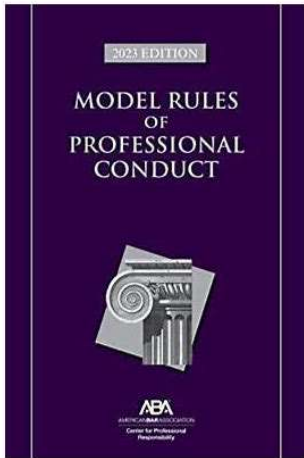
- **Specific Incorporation:** “In determining whether a petitioner qualifies as an intervenor, the presiding officer *shall* apply the rules of the superior courts of this state”
- **Discretionary Gap Filling:** “Where procedures are not covered by... the board *may*, upon its own motion or upon written application by any party, refer to and apply any rule provided for in the superior court civil rules.”

## What Rules Apply at BTA (cont.)?

**Step 1.** Apply the language of WAC 456-10 to address the situation. If the WAC 456-10 provision specifically incorporates another rule (“shall”) then look to that specific rule too.

**Step 2.** If Step 1 does not address your specific situation, and a superior court rule, the APA, RPCs, etc. (i.e., WAC ch. 10-08 and RCW 34.05.410 - RCW 34.05.494) does address it, then you can request the board apply the court rule or the APA by motion or written application.

# Rules of Professional Conduct (RPCs)



## Ethics Rules apply to you!



All persons appearing in proceedings before the board, whether on their own behalf or in a representative capacity, shall conform to the rules of professional conduct (RPC) required of attorneys before the courts of Washington. . . .

Further, all persons are required to treat all parties, representatives, and the board's staff courteously and fairly both inside and outside the proceedings.

**WAC 456-10-220 (Rules of professional conduct)**

*See also* Civil Rule 11;

Ethics in Public Service Act (Chapter 42.52 RCW); and

Your County's Ethical Rules

# Rules of Professional Conduct

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**Pay particular attention to:**

RPC 3.1 – Meritorious Claims and Contentions

RPC 3.3 – Candor Toward the Tribunal

RPC 3.4 – Fairness To Opposing Party

RPC 3.5 – Impartiality and Decorum of the Tribunal. *See* WAC 456-10-230 (Ex Parte Communication)

RPC 4.1 – Truthfulness in Statements to Others

RPC 4.2 – Communication with Person Represented By A Lawyer.

RPC 4.3 – Dealing With A Person Not Represented By A Lawyer.

RPC 4.4 – Respect for Rights of Third Person

RPC 8.4 – Misconduct

# Ex Parte Contact

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*Ex parte* = one-sided

An ex parte contact means a written or oral communication with the adjudicator about something related to the hearing when all other parties are not present.

- Procedural questions (e.g., clarifying date/time of hearing) are not considered ex parte contact.

Implicates the fairness, or appearance of fairness, of the proceeding

Avoiding ex parte contact preserves the integrity of the adjudicative proceedings

See RPC 3.5(b); RPC 3.3



# Advocating For The Assessor

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## Certain Non-Attorneys Can Practice at BTA

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Practice before the board is limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
- (2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;
- (3) An authorized officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation;
- (4) **County assessors or their duly authorized representative;**
- (5) Certified public accountants licensed in Washington; and
- (6) Other persons permitted by law.

WAC 456-10-210

## Considerations In Picking a Representative for The Assessor



YOUR OFFICE'S CURRENT PRACTICE?



DEGREE OF COMFORT IN LEGAL PROCEDURES NEEDED TO RESOLVE THE CASE?



WHO NEEDS TO TESTIFY?



AMOUNT AT ISSUE OR COMPLEXITIES OF APPEAL?



EXISTING FAMILIARITY WITH ISSUES?



ATTITUDE OF OPPOSING PARTY?



TIME TO SPEND ON CASE AND AVAILABILITY FOR HEARING

## Assessor's Representative is an Advocate

Effectively advocate for the Assessor.

- Educate the Board on the facts and law; persuade the Board to view the facts and law in a particular way.

Typically advocates have authority to decide how they will argue a case, but not *necessarily* what the ultimate objective is.

You are subject to the rules of the Board, including Rules of Professional Conduct and Procedural Rules.

You are also the face of a public entity, who ultimately serves all taxpayers.

## Why Attend the Hearing?

---

Builds public trust and confidence in the property tax system if someone is available who can explain what the Assessor did.

The process is designed to have the two sides present to the Board.

The statutory presumption of correctness (and often burden of proof standards) are one-sided in favor of the Assessor.

Boards need to be (and appear) neutral.

Unanticipated issues also could come up.



## Legal Resources

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# Different types of law

Type of Law	Authority	Description	Relevant Examples
Constitutional Law	"The people"	Defines and/or limits government's power with respect to people.	"Due Process" Clauses "Uniformity" Clause in Article VII, §§ 1 & 9.
Statutory Law	Legislatures (state and federal)	Sets forth the laws of the State or country	Revised Code of Washington (RCW) Title 84 26 U.S.C. Ch. 1 (Federal Income Taxes)
Administrative Law	State and federal agencies	Legislature creates "agencies" to execute specific governmental functions as subject matter experts.  They are granted quasi-legislative and quasi-judicial powers within specific standards.	Washington Administrative Code (WAC)  WAC Title 458 (Department of Revenue); WAC Title 456 (Board of Tax Appeals).
Municipal or Local Law	Governing bodies of municipalities/districts	Laws limited to particular district and local governmental functions.	Ordinances and Resolutions.
Common Law	Judges interpret the law and apply laws to facts to decide cases	Decisions are made on the basis of preceding rulings by judges (precedent)	Washington State Supreme Court decisions: <i>Weyerhaeuser Co. v. Easter</i> , 126 Wn.2d 370, 894 P.2d 1290 (1995) Published Court of Appeals decisions: <i>University Village Ltd. Partners v. King County</i> , 106 Wn. App. 321, 23 P.3d 1090 (2001).

## Weight to Give Legal Resources

**Legal Authority** (binding on all citizens, unless authority changes it)

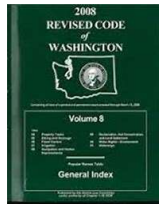
**Legally persuasive** (helpful, but does not control the outcome of a different case)



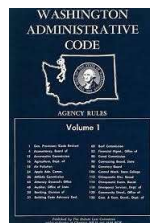
Supreme Court and published appellate court opinions  
(Wn.2d, Wash., Wn. App.2d, Wn. App.)



Federal and State Constitutions



State Statutes  
(RCW 84.48.042)



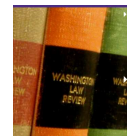
Agency Regulations  
(WAC 458-14-046)



Attorney General Opinions  
(AGO 1986 No. 3 - Feb 18 1986)



Superior Court opinions; and, unpublished appellate court opinions.



Law review articles, law dictionary, legal practice guides, desk books.



Board of Tax Appeal Decisions

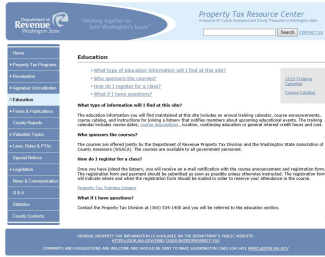


Department formal actions: interpretation letters, directives and Property Tax Advisories (PTAs)



Department informal actions: manuals, webpages, trainings, etc.





## Where to find Legal Resources



**Property Tax Resource Center -**  
<http://propertytax.dor.wa.gov/>

Access to guidance documents, manuals and specific topic information  
 Catalog of links to Property Tax specific RCWs and WACs.



**Office of the Code Reviser -**  
<http://leg.wa.gov/CodeReviser>

Official and latest update of Revised Code of Washington (RCW)  
 Official and latest update of Washington Administrative Code (WAC)  
 Links to laws and rulemaking which changed RCW and WAC

## Where else to find Legal Resources

### Published Court Cases, Law Review Articles, Practice Guides

- Law Library (Courthouses or some local libraries)
- Office of Reporter of Decisions [http://www.courts.wa.gov/appellate\\_trial\\_courts/supreme/?fa=atc\\_supreme.reporter](http://www.courts.wa.gov/appellate_trial_courts/supreme/?fa=atc_supreme.reporter)
- Internet (FindLaw or Justia; Westlaw or LexisNexis require subscription)

### Rules of Professional Conduct (RPCs) – Washington State Bar Association Website

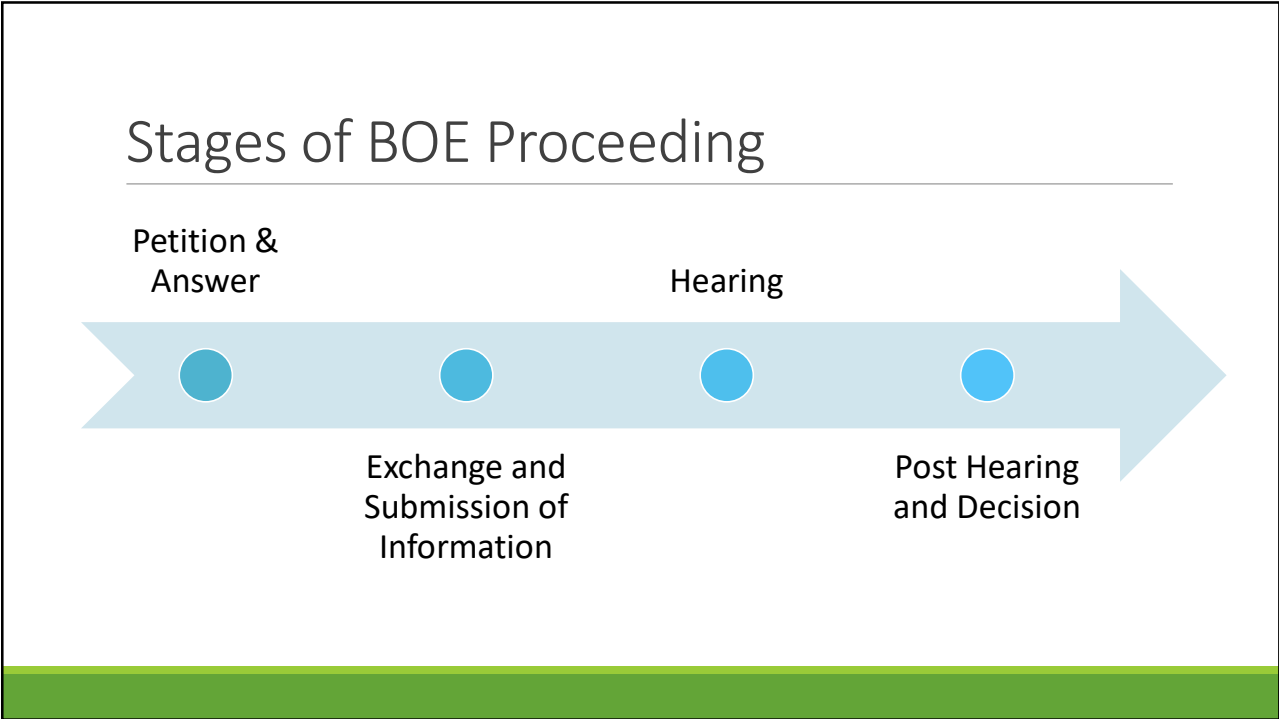
- [rpc-2019-06-04.pdf \(wsba.org\)](http://www.wsba.org/rpc-2019-06-04.pdf)

### Attorney General Opinions:

- <https://www.atg.wa.gov/ago-opinions>

### Board of Tax Appeal Decisions

- <http://bta.state.wa.us/>



# Petition and Response

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# BOE: Petition and Response

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Has the BOE done its part to timely provide you a copy?



Who to assign?



Is petition properly completed and timely filed? WAC 458-14-056.



Gather documents



Does petition request information? See WAC 458-14-066(2)

## BOE: Petition and Response (cont.)

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### Review valuation

- Are there any factual errors? Data collection, clerical?
- Do you have any belief the valuation is inaccurate?

### Review petition

- What is the property owner's concern or basis for dispute

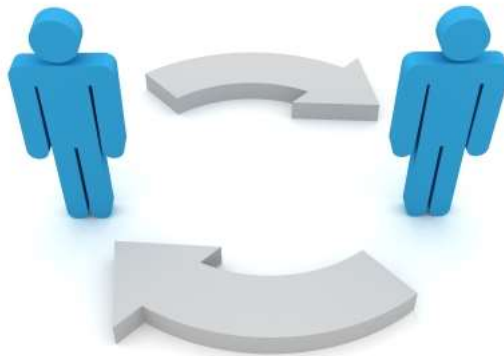
### Determine if:

- An informal meeting is appropriate
- Mistakes happen – a wrong assessment should be corrected.

### Will you do a response?

## BOE: Exchange of Information

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## BOE: Exchange of Information

---

### ASSESSOR

#### Initial Information

Notice of Valuation & Response

60-21 days before

All other valuation information

- Upon request by the taxpayer
  - In Petition
  - "Reasonable time before hearing"

New evidence in support

20 or less days

Seek permission/stipulation

### TAXPAYER

#### Initial Information

Petition

21 days before

Additional information

New evidence in support

20 or less days

Seek permission/stipulation

## BOE: Exchange of Information (cont.)

---

Beyond Initial Information.

Unlike "discovery" at the BTA.

Scope (WAC 458-14-005 and WAC 458-14-066)

- **If requested, all valuation information**, including comparable sales, used in establishing the taxpayer's property valuation.
- All relevant evidence related to property valuation. Any item of evidence which makes the existence of relevant facts more or less probable.

## BOE: Exchange of Information (cont.)

---

Does “all valuation information” include the following items of evidence (if it exists):

- Parcel, characteristics and Final Assessed Value? YES
- Documentary Evidence (WAC 458-14-005)? YES
- Comparable sales? YES
- Approaches used? YES
- Mass appraisal model? YES
- Mass appraisal formula? YES
- Geographic data or maps? YES
- Initial determinations of value? YES
- Notes or logs from onsite inspection of property? YES
- Your procedures for collecting and maintaining data? Probably
- Data accuracy standards and quality control procedures? Probably

## BOE: Exchange of Information (cont.)

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(4) **Failure to comply.** If either the assessor or taxpayer does not comply with the requirements of this rule, the board may take any of the following actions:

(a) If there is no objection by either party, consider the new evidence provided by either party and proceed with the hearing;

(b) If there is an objection by either party to the failure of the other party to comply with the requirements of this rule, the board may:

- (i) Refuse to consider evidence that was not timely submitted;
- (ii) Postpone the hearing for a definitive time period designated by the board, to provide the parties an opportunity to review all evidence; or
- (iii) Proceed with the hearing but allow the parties to submit new evidence to the board and to the other party after the hearing is concluded.

## BOE: Submission of Information

The assessor and taxpayer must be provided notice of the hearing date by the clerk of the board at least twenty-two business days before the hearing date, unless the clerk and the parties agree on a shorter time period.

Some Boards will provide a date in advance for evidence submissions.

All relevant materials in evidence should be submitted by the time of the hearing. See WAC 458-14-087.

## BOE Hearing

Assessor is presumed correct.

- Should I attend?

Conducted in hearing room

Sign-in sheet

Oath of Truthfulness (anyone who will testify)

Opening Remarks by BOE

Opening statements (can be waived)

Presentation of evidence

Closing Argument

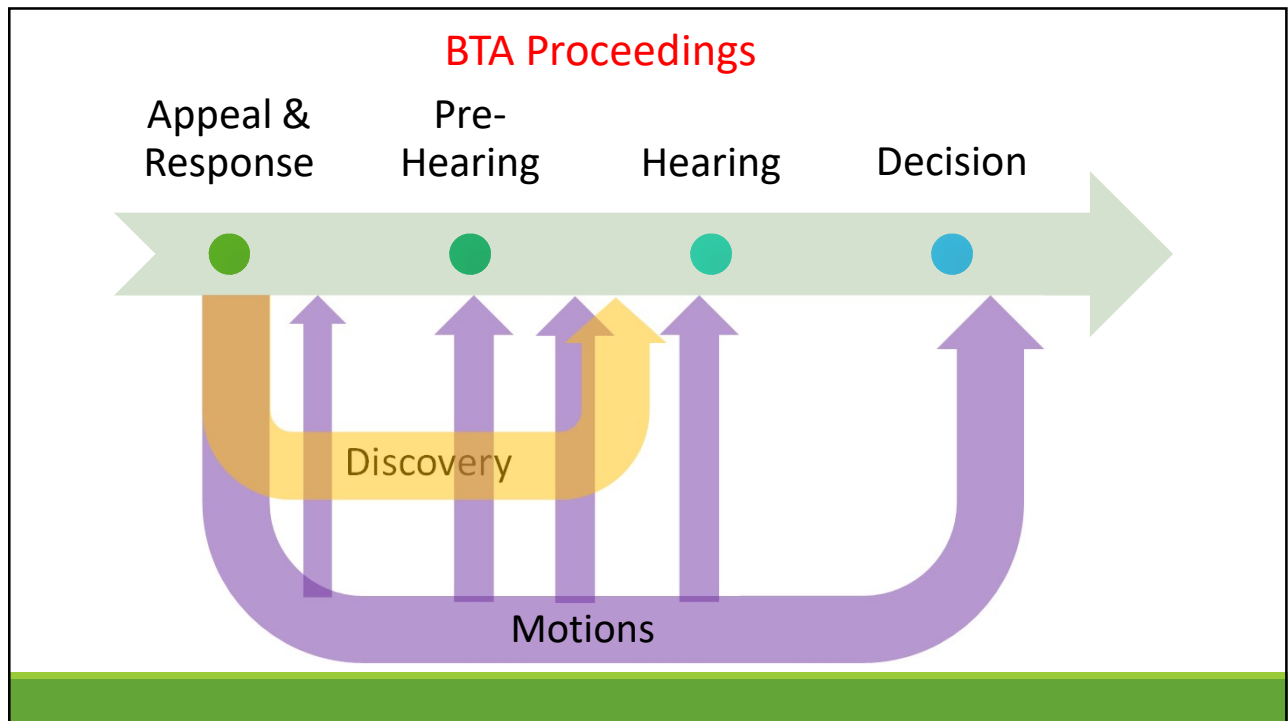


# BOE Decision

Board Decision		
	Assessor's Certified Value	Board of Equalization Determination
Land Value	500000	500000
Improvements	345510	345510
Total Value	845510	845510

<input checked="" type="checkbox"/>	Value Sustained
<input type="checkbox"/>	Assessor's New Recommendation
<input type="checkbox"/>	Value Adjusted





# BTA: Procedural Basics

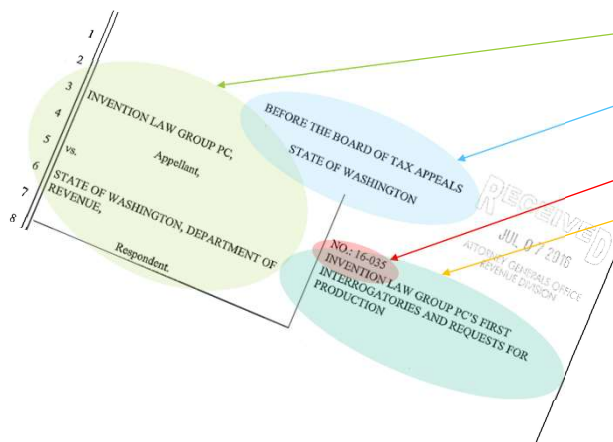
**Caption** – provides identifying information about the document and the case it is being filed and served in.

**Appearances** – A notice which provides who represents the party in a particular case, and where they can be served. WAC 456-10-210; WAC 456-10-215; WAC 456-10-220; WAC 456-10-300; WAC 456-10-310(2)(h)

**Service** – the procedure by which one party in a lawsuit gives legal notice of something (the appeal, the document being filed, or discovery being delivered). WAC 456-10-410 (1).

**Proof of Service** – sufficient evidence which serves as the proof that a document was served. WAC 456-10-410 (2).

## The Caption



The case name.

The court/board where the action is pending.

The docket number.

The document title (for example, a defendant might title initial interrogatories as "Defendant's First Set of Interrogatories to Plaintiff").

# Appearances

## IN A SEPARATE NOTICE OF APPEARANCE

13 TO: Clerk;  
 14 AND TO: Appellant and its Representative, DAVID PERKINS  
 15  
 16 PLEASE TAKE NOTICE that ROBERT W. FERGUSON, Attorney General for the State  
 17 of Washington, ANDREW KRAWCZYK, KELLY OWINGS, Assistant Attorneys General, and  
 18 DAVID M. HANKINS, Senior Counsel, without waiving objection as to the sufficiency of  
 19 service of process or jurisdiction of this Board, hereby enter their appearance as attorneys for the  
 20 Respondent State of Washington, Department of Revenue, in the above-entitled action. You are  
 21 hereby requested to serve all further pleadings herein upon said Respondent at the Office of the  
 22 Attorney General at the address given below.  
 23  
 24

## WITHIN THE NOTICE OF APPEAL

Appellant's telephone or message telephone number: ( )		E-mail (if providing an email, you agree to receive mail in correspondence by email.)	
Representative Name David A. Perkins		Firm or Company Name, Bar Number and State Duff & Phelps, LLC, WA CPA 26703	
Representative Mailing Address 10100 Santa Monica Blvd., Ste. 1100		City Los Angeles	State CA
Representative Daytime or Message Telephone Number (424) 249 - 1766		Representative E-Mail (By providing an email, you agree to receive WSRTA correspondence by email.) david.perkins@duffandphelps.com	

FOR ASSESSOR USE ONLY - If Assessor is Filing, Please Provide Name & Address of Taxpayer

# Service

All notices, pleadings, exhibits, correspondence specific to an appeal

- personal, by first-class, registered, or certified mail; by fax and same-day mailing of copies; or by commercial delivery company.
- When completed?
- Can you do electronic service?
  - o - only by agreement, get it in writing.

Dear Counsel:

Washington's General Rule 30(b)(4) allows parties to agree to electronic service of documents. The purpose of this letter is to request your consent to use electronic service via electronic mail as the standard means of serving documents in this case, without the necessity of mailing or using legal messengers to deliver paper documents. There may be times when the size of documents or other concerns dictate use of a non-electronic form of service, but the expectation would be that the parties would serve most pleadings and discovery electronically. Service of pleadings would be accomplished by sending an email to counsel and to a designated legal assistant before 5:00 p.m. Pacific Time on the due date. If a party desires a paper copy of a document served electronically, one will be provided by the other party upon request.

If you agree to mutual service via electronic mail as outlined above, please sign the statement below, provide your email address and that of any professional staff you wish to be copied, and return this letter to us, either by mail or electronically in pdf format.



Sincerely,

I agree to use of electronic service in this case:

Your Name, Your Title  
(###) ###-#### YourEmail@email.com|

\_\_\_\_\_  
Print name:  
Email Address:

Please copy the following:  
Other person's Name, Other person's title  
TheirEmail@email.com  
And Otheremailsyouwantcopied@email.com

Please copy the following:  
Name:  
Title:  
Email Address:



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**PROOF OF SERVICE**

I certify that I served a copy of this document, via U.S. Mail, postage prepaid, through Consolidated Mail Services, on the following:  
Attorney General of Washington  
Revenue Division  
7141 Clearwater Drive SW  
PO Box 40123  
Olympia, WA 98504-0123  
I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 5 of JULY, 2016, at Bellevue, WA.



Example:  
Proof of  
Service

# The Appeal and Response

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Commencing the appeal. WAC 456-10-300

Contents of notice of appeal. WAC 456-10-310

- In property tax cases, the parcel number of the property under appeal, the year for which the valuation has been determined, the full value as determined by the local board of equalization, and a declaration of true and fair value as alleged by the appellant; and

Deadlines for submitting the notice of appeal. WAC 456-10-315

- Appeals from a county board of equalization pursuant to RCW 84.08.130, thirty days from the mailing of the decision.

Date & manner of submitting the notice of appeal. WAC 456-10-325

- Hand delivery
- Electronic submission – at risk of sender

Response. WAC 456-10-335

# Discovery

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## Civil Discovery

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“Parties may obtain discovery regarding any matter, not privileged, *which is relevant to the subject matter involved in the pending action*, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of the other party, . . .

## Discovery at the Board of Tax Appeals

- The Board adopts statutes and court rules regarding pretrial procedures including discovery to the extent not in conflict with Board rules. WAC 456-10-501(1).
- The Board may limit discovery on its own motion or by motion of any party, considering criteria set forth in WAC 456-10-001. WAC 456-10-501(3).
- “The board may decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by [CR 26-37]. The board may condition use of discovery on a showing of necessity and unavailability of other means. In exercising such discretion, the board will consider the criteria set forth in RCW 34.05.446 [Administrative Procedures Act].” WAC 456-10-501(3).

# Discovery vs. Information Exchange

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Why is there discovery at the BTA? Why not just share information like BOE?

BTA proceedings are de novo – allow for presentation of evidence and arguments that were not presented at the BOE or previously considered.

You CAN use what was presented at the BOE.

- But parties have the ability to seek more information through discovery because the BTA rules specifically incorporate the discovery rules. WAC 456-10-501.

Do we have to do discovery? Yes, unless a party moves for protective order.

# Discovery at the BTA

---

Don't ignore discovery!

It can be time intensive, sometimes used to annoy or harass.

*You* can also use it to get more information!

SO you should know what discovery is, how it works, and when/how to seek help from

-the Board of Tax Appeals

-Your County Prosecuting Attorney



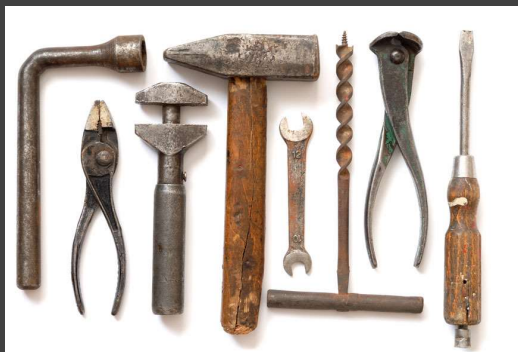
# General Provisions Governing Discovery

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- CR 26(a): Discovery methods described
- CR 26(b): Discovery scope and limits – multiple parts
- CR 26(c): Protective orders
- CR 26(d): Sequence and timing of discovery
- CR 26(e): Supplementation of responses
- CR 26(f): Discovery conference
- CR 26(g): Signing discovery requests & responses; certification
- CR 26(h): Use of discovery materials
- CR 26(i): Motions; conference of counsel
- CR 26(j): Access to discovery materials under RCW 4.24

# Discovery Tools

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CR 33: Interrogatories

CR 34: Requests for documents and electronically stored information

CR 36: Requests for admission

CR 30: Depositions upon oral examination

CR 32: Use of depositions in court proceedings

## A Rule to Keep in Mind

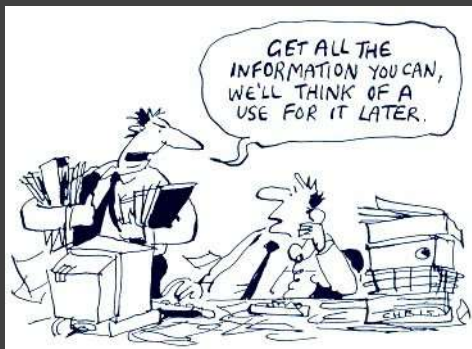
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CR 29: Unless the court orders otherwise, the parties may by written stipulation

- (1) provide that depositions may be taken before any person, at any time or place, upon any notice and in any manner . . . and
- (2) *modify the procedures provided by these rules for other methods of discovery.*

## Written Discovery: Interrogatories and Requests for Production (ROGS & RFPS)

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- Interrogatory: a written question put by one party to another party in a case which must be answered
- Request for Production: request for documents, electronically stored information, or tangible items
- BOTH are used to gain relevant information from the other party
- Clarify facts and help to determine in advance what facts will be presented at any hearing in the case.

Refer to Templates in Reference Materials



## Your obligation to respond

Parties are under the obligation to respond to discovery requests that are not otherwise objectionable.

-**Answer** based on *all information within the party's control* (includes information known by the party's agents, party's representatives(s) or supplied to the party by others)

-Or **seek a protective order** under CR 26(c)

-Failure to respond may be excused "if the party failing to act has applied for a protective order as provided by Rule 26(c)."

-If you don't respond, the other party can move to compel

ROGS & RFPS:  
How to draft  
answers and  
responses

Put objections first – no general objections!  
Specify objections to each request.

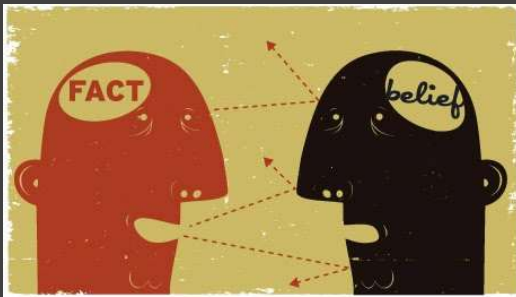
... but still generally answer where possible.

For ROGs: work with subject matter expert to  
answer accurately

Answer fairly, but as concisely as is reasonably  
possible

Option to produce business records.  
CR 33(c).

# Requests for Admission (RFA)



Requests for admission: written requests from one party to another party during discovery that generally require the responding party to formally admit or deny either:

- The truth of straightforward facts.
- The authenticity of specified documents in a lawsuit.

RFA's CANNOT be combined with Interrogatories and Requests for Production in the same document.

RFA: 30 day timeline or else... !

The matter is admitted unless, within 30 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney.



## How to Respond to RFAs

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Option 1: Do nothing (do not respond)

-If so, the matter is deemed admitted and the propounding party can rely on the admission. *Melby v. Hawkins Pontiac, Inc.*, 13 Wn. App. 745, 537 P.2d 807 (1975).

Option 2: Admit.

Option 3: Deny, note however an evasive denial may be deemed an admission.

Option 4: File a motion with the Board to limit discovery and get an order before 30 days have elapsed.

## What is a Deposition?

---

The pre-trial taking of an oral statement of a witness.

- Under oath.
- Preserved by a court reporter.
- Sometimes preserved by video.



## Who, When and Where?

---

### Who can be Deposed?

- Any party may take the testimony of any person, including another party.
- Witnesses can be compelled to attend by using a subpoena (Rule 45).

### Who can attend?

- Court reporter.
- The Witness.
- Opposing counsel – for all parties.
- Sometimes a witness's attorney.
- Parties
  - Excluding other persons can be a tricky business.

### When can I take a Deposition?

- Before the discovery cutoff date, set by the BTA.
- No discovery after the cutoff without BTA approval.

### Where is it Held?

- Your Office
- Opponent's office
- Court reporter's Office
- Other

## Why take Depositions?

---

### Most common purposes:

- ❖ To find out what a witness knows,
- ❖ To preserve that witness' testimony.

The intent is to learn all of the facts before the trial, to avoid surprises.

- A deposition does not always involve favorable testimony.
  - You need to know damaging information before trial;
  - you want to know about problems in advance.

## How to Note a Deposition

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- Must give reasonable notice
    - In writing not less than 5 days before
    - Notice to every party & deponent
    - By mail or any means reasonably likely to provide actual notice
  - What does the notice contain?
    - Time and place of deposition (including manner of access for remote depositions)
    - Name and address of each person to be examined
- Subpoena?
- For a non-party deponent, you may need to serve a subpoena in accordance with CR 45 to compel attendance
  - No need to subpoena a party
- \*Refer to Template in Reference Materials

## General Limitations on Discovery

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## Objection: Irrelevance

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- Not a particularly useful limitation in responding to discovery, because information sought need only be relevant to the subject matter, not necessarily the issues in dispute
- Example of irrelevant discovery: a city could not discover plaintiff's socioeconomic status and litigation history in a PRA case. *Lakewood v. Koenig*, 160 Wn. App. 883 (2011)
- “Reasonably calculated” language remains in state rule even though it was removed from federal rule

## General Limitations: Privilege

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- Under CR 26, documents sought must be relevant and *not privileged*
- Common privileges: attorney-client privilege, work product

## General Limitations: Unreasonably Cumulative or Duplicative

---



Where taxpayer has already been provided the same information.

## General Limitations: Timing/Procrastination

---

Discovery cutoff date

ROGs and RFPs must be served sufficiently ahead of time to be answered before cutoff

Discovery should be requested far enough in advance that it is useful in a hearing



## General Limitations: Unduly Burdensome or Expensive

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- Unduly burdensome or expensive, taking into account the needs of the case, amount, limitations on parties, resources, and importance of issues



Motions

---



## What is a Motion?

---

It is a request for a order or ruling from the Board.

- “Any application for an order or ruling or a request for relief from any provision of this chapter is a motion.” WAC 456-10-510

Examples:

- A request to limit discovery / motion for a protective order.
- A motion for summary judgment.
- A request for relief from a Board imposed deadline.

## Motions?

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Like Discovery, motions are discouraged in informal cases.

The preferred method is having a request facilitated through contacting the other party.

- Contact the Board Clerk/Executer

Board Rules permit motions, so formalized motions happen.

## WAC 456-10-510 Requirements

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Every motion, *unless made during hearing*, shall be in writing and shall include the following:

A statement of the relief or order sought;

The reason for the relief or order;

A statement that the moving party has made a good faith effort to confer with the other party to resolve the subject matter of the motion;

The amount of time needed for argument; and

Shall include **proof of service** pursuant to WAC 456-10-410.

**Caption and signature.** All motions shall contain the docket number assigned to the appeal by the board and be signed by the party or the representative..

## Statement of Relief Sought

---

Tell the board in simplest terms what you want.

### I. RELIEF REQUESTED

The Department requests the Board issue an order directing Appellant \_\_\_\_\_ to turn over answers and responses to the Department's First Interrogatories and Request for Production by a specific date. The Department further requests Board continue the proceedings in this matter to allow the Department sufficient time to complete discovery, and dismiss the matter if \_\_\_\_\_ fails to comply with its order by the specified date.

## The Reason For The Relief or Order

---

May need to explain some facts to educate the Board on what occurred.

This most often occurs with a statement of the facts relevant to your request without argument (argument comes later).

The discovery responses were not received by July 1st, and \_\_\_\_\_ did not follow up on the status as stated in his response. \_\_\_\_\_ Decl., ¶5. Counsel for the Department then sent an email setting up a CR 26(j) conference the following week to discuss Taxpayer's failure to provide responses to the discovery requests. Id., ¶6, Ex. C. The Department received no response or out of the office email from \_\_\_\_\_. Id., ¶6. The Department called at the time indicated, and \_\_\_\_\_ was unavailable. Id., ¶7. Counsel for the Department spoke to \_\_\_\_\_'s paralegal who indicated he had been away on vacation since earlier in the month. Id. The paralegal set up a new time for the CR 26(j) conference on July 24, 2019 at 11am. Id. |

## The Reason For The Relief or Order (cont.)

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Any facts should be supported by a declaration made under penalty of perjury, which is filed with the motion. The Declaration may testify as to facts which occurred or authenticate documents.

5. On July 11, 2019, I sent an email to \_\_\_\_\_ to setup a call. Attached as Exhibit C is a true and correct copy of my email. I did not receive a response to my email.

6. On July 17, 2019, at 1:00 pm I called \_\_\_\_\_. He was unavailable and my call was directed to his paralegal, who indicated \_\_\_\_\_ had been on vacation since early July. His paralegal scheduled a call for July 24, at 11:00 am.

7. As of the date I sign this declaration, I have not been served with responses to the discovery propounded on \_\_\_\_\_ on April 17, 2019.

I hereby declare under penalty of perjury under the laws of Washington that the foregoing is true and correct.

DATED this \_\_\_\_ day of August, 2019, in Tumwater, Washington.

\_\_\_\_\_

# The Reason For The Relief or Order (cont.)

In a separate argument section

Should set forth the applicable law you want the BTA to apply

Should state each conclusion you want the Board to reach.

Provide your reasoning, including how the facts applied to the applicable law reach that conclusion.

#### IV. AUTHORITY AND ARGUMENT

The Board adopts the statutes and court rules regarding pretrial procedures in civil cases in superior courts of the State of Washington. WAC 456-09-510. Pursuant to those rules, on June 17, 2019, the Department propounded discovery upon \_\_\_\_\_. The rules provide that a party served with discovery shall serve a copy of the answers, responses and objections, within 30 days after the service. CR 33, 34, \_\_\_\_\_'s answers and responses are several months tardy.

Under CR 26(j) and WAC 456-10-501, a party may request an order to compel discovery after attempting in good faith to confer and resolve the discovery dispute. The Department has complied with the good faith requirement. Department made several attempts to obtain the discovery. The parties have held a CR 26(j) conference. \_\_\_\_\_ has twice promised to provide discovery by a particular date, and \_\_\_\_\_ did not deliver the discovery by either of the dates it promised to do so.

Under CR 37, the Department may apply for an order to compel discovery. The Board has no authority to order monetary sanctions for failure to comply with a discovery order; however, under CR 37(b)(2)(C), the Board may dismiss the proceeding if an appellant fails to comply with the order by providing a complete answer and response to discovery. Here an order compelling discovery with the consequence of dismissal for failure to comply is appropriate. \_\_\_\_\_ has missed its deadline, and did not deliver discovery on either of the dates it indicated discovery would arrive. It has also not proactively updated the Department on the status of discovery unless prompted by the Department. The board should grant the order.

# Moving Party Made A Good Faith Effort to Confer and Resolve

A good faith effort means:

Good Faith Effort – means a “diligent and honest effort” from the perspective of a reasonable person under the same set of facts or circumstances

Confer and Resolve – means the person making the motion has:

- Made a good faith effort to talk to the other party’s representative about what they need from the board with the other side BEFORE going to the Board.
- If the other side is reached, then a reasonable opportunity to resolve the matter?
- What if the other party is disagreeable?
- What if the parties confer and have agreement on how to resolve the matter but still need the board to do something (e.g., change the deadlines)

# Motion for Summary Judgment

---

A motion for summary judgment is a motion filed by one of the parties seeking to obtain a judgment on all or part of the case in a summary fashion.

The party moving for summary judgment must demonstrate that there are “no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law.”

What this means is that the undisputed facts presented in a particular case entitle one side to win because of the existing law relating to that issue.

In support of the motion for summary judgment, a party is allowed to use all of the information obtained during the discovery phase of the lawsuit, including, without limitation, deposition testimony, answers to interrogatories and answers to requests for production. The parties may also utilize affidavits from experts to support the motion or opposition to the motion for summary judgment.

# Pre-hearing Conference

---

Rare in Informal Property Tax Appeals

WAC 456-10-500; WAC 456-09-540. Purpose:

- Can we simplify issues?
- What kind of briefing does the board need?
- Do we need to institute limits?
- Set dates for:
  - Exchanging documentary evidence, briefs, motions, etc.
- Decisions memorialized in an order



## Common Items in Pre-Hearing Order

---

Typically issued without a prehearing conference in Informal Property Tax Appeals

Typically sets deadlines for:

- Disclosing witnesses
- Discovery cutoff
- Stipulated facts
- Proposed exhibits and documentary evidence
- Brief submission deadlines
- Pretrial motion deadlines
- Motions for summary judgment

Instructions that you need to follow

Hearing date and location

## Pre-Hearing Submission of Evidence and Briefing

---

Do by deadlines. Failure to do so may mean Board rejects your submittal.

Most advocates in informal property tax matters do not do formal (legal style) briefing. Instead they typically provide:

- Informal write-ups of evidence and arguments

So:

- this does not need to be on pleading paper.
- But provide caption with correct title document and file a proof of service on all submittals.

# Hearing

---

Conducted in hearing room

Sign-in sheet

Recording

Opening Remarks by BTA,

Any prehearing issues that need to be resolved

Oath of Truthfulness (anyone who will testify)

Opening statements (can be waived)

Presentation of evidence

Closing Argument



# Opening Statement

---

Identify where the disputes between you and the Taxpayer that the BTA should resolve.

Explain what evidence you intend to present showing why the dispute will come out in your favor.

Briefly state the conclusion you wish the Board to reach:

- the Assessor requests, the BTA (affirm/reverse) the (BOE's order)
- the Assessor requests, the BTA (affirm) the Assessor's determination of value.

# Examination of Witnesses

---

## **Direct Examination**

Representatives can ask witnesses to identify demonstrative evidence, such as documents and to explain what they saw, heard, or did in relation to the case.

The presiding officer can stop repetitive questioning and prevent a representative from asking leading questions, which imply, suggest, or prompt the witness to give a particular answer. If the representative is leading the witness, then the other party can object to the question.

## **Cross Examination**

After a representative completes the direct examination, the other representative gets to cross-examine the witness. The representative may ask leading questions during cross-examination.

## **Redirect Examination**

Following cross-examination of the witness, the plaintiff's attorney has an opportunity to ask the witness follow-up questions regarding topics discussed during the cross examination.

# Examination of Witnesses (Cont.)

---

## **Tips for Direct Examination**

Prepare your witnesses in advance to give complete and descriptive testimony.

Don't script questions, use an outline, in logical order, either chronological or one that places the most important facts first or last.

Provide a little bit of background information that tie into what they will testify about (age, address, occupation, how long with assessor's office, etc.)

Use simple language and short, precise questions to get the witness to tell the story

## **Tips for Cross Examination**

Need for cross examination is limited at BTA.



## Preparation of Witnesses

---

Witnesses should wait to prepare until they receive instructions.

Preparation may include:

- Reviewing key documents
- Reviewing the discovery responses
- Having the witness speak to others with knowledge
- Prepare the witness for the difficult questions
- Preparing your witness may require multiple check-ins to make sure they are doing the work required.



## Closing Statement

---

Summarize the evidence presented both in exhibits and testimony and provide how you wish to apply the presented facts to the law.

- All property must be valued at 100% market value. The market comparables we submitted and testimony of the appraiser confirm that the Assessor valued the property at 100% market value
- The taxpayer bears the burden of proving with clear, cogent and convincing evidence that there was an error in assessed value. RCW 84.40.030 provides the evidence this board considers is evidence of value. At the hearing today taxpayer failed to provide any evidence which meets that definition.

State the Conclusion you wish the Board to Reach (again)

- the Assessor requests, the BTA (affirm/reverse) the (BOE's order)
- the Assessor requests, the BTA (affirm) the Assessor's determination of value.

# BTA Decision

---

DOCKET NO. 21071  
PARCEL NO. 99900407800 (MANUFACTURED HOME)

VALUATION OF THE ASSESSOR		VALUATION OF THE COUNTY BOARD		CONTENDED VALUATION OF THE OWNER		VALUATION OF THE BOARD OF TAX APPEALS	
Land:	N/A	Land:	N/A	Land:	N/A	Land:	N/A
<u>Impr:</u>	<u>\$57,500</u>	<u>Impr:</u>	<u>\$40,000</u>	<u>Impr:</u>	<u>\$40,000</u>	<u>Impr:</u>	<u>\$57,500</u>
Total:	\$57,500	Total:	\$40,000	Total:	\$40,000	Total:	\$57,500

# 2024

## BOE/ BTA Q&A PANEL

### Guest Speakers:

#### **CALLIE BARRETT**

#### **ASSISTANT ATTORNEY GENERAL**

recently joined the Revenue and Finance Division of the Attorney General’s Office after clerking for Justice Owens at the State Supreme Court. She currently advises the property tax division of the Department of Revenue and represents the Department in several cases before the Board of Tax Appeals and Superior Court.

#### **ANDREW KRAWCZYK**

#### **ASSISTANT ATTORNEY GENERAL**

joined the Revenue and Finance Division of the Attorney Generals Office in 2013 after several years in private practice. For over a decade, he has advised the property tax division of the Department of Revenue and represented the Department in numerous cases before the Board of Tax Appeals and Superior Court.

#### **MELISSA “MO” OLIVAS**

#### **CP&A SUPERVISOR**

started with the Department of Revenue in 2020 as a Valuation Advisory Appraiser, before moving into her current role as the County Performance and Administration Supervisor in 2023. Prior to the Department, Mo was with the Grant County Assessor Office for 14 years, the last 5 as the Chief Appraiser. During her years at both the county and with the Department, Mo has presented to both the county Board of Equalization and the State Board of Tax Appeals.

#### **ASHLEIGH PALMER**

#### **APPEALS & LEVIES SPECIALIST**

started with the Department of Revenue last spring serving as the Appeals and Levies Specialist. Ashleigh has over 9 years of paralegal experience, assisting in preparing cases before various legal venues including the Board of Tax Appeals, Superior Court and the Court of Appeals.

#### **ROSS PETERSEN**

#### **EXECUTIVE DIRECTOR**

joined the WSBTA in December 2018. He holds B.A.s in History and Political Science, with a specialization in Law & Society from the University of California, Los Angeles, and a J.D. from Vermont Law School. He is a member of the Washington State Bar and is admitted to practice before the United States District Court for the Western District. He previously worked as a Civil Deputy Prosecutor and as a private practice attorney and trained mediator. Prior to entering the legal field, Ross worked for the Washington State Public Disclosure Commission.

# **Legal Fundamentals, Rules & Procedures – Reference Materials**

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*2024 BOE/BTA Training for Assessors*

*November 5, 2024 Tumwater*

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# IAAO: Standard On Assessment Appeal

# Standard on Assessment Appeal

Approved July 2016

## **International Association of Assessing Officers**

This standard replaces the January 2014 *Standard on Assessment Appeal*. IAAO assessment standards represent a consensus in the assessing profession and have been adopted by the Executive Board of the International Association of Assessing Officers (IAAO). The objective of the IAAO standards is to provide a systematic means for assessing officers to improve and standardize the operation of their offices. IAAO standards are advisory in nature and the use of, or compliance with, such standards is voluntary. If any portion of these standards is found to be in conflict with national, state, or provincial laws, such laws shall govern. Requirements found in the *Uniform Standards of Professional Appraisal Practice (USPAP)* also have precedence over technical standards.

## **Acknowledgments**

At the time of the 2016 revision (approved July 2016) the Technical Standards Subcommittee was composed of Alan Dornfest, AAS, Subcommittee Chair, Josh Myers, Carol Neihardt (associate member); Wayne Forde, August Dettbarn, Bill Marchand, and Chris Bennett, staff liaison. The chair of the Research and Standards Committee was Doug Warr.

## **Revision Notes**

Revisions were limited to section 5 in July 2016.

Minor revisions were to Sections 4.0, 4.1, and 7.0 were approved in January 2014.

Published by  
International Association of Assessing Officers  
314 W 10th St  
Kansas City, Missouri 64105-1616

816/701-8100  
fax: 816/701-8149  
<http://www.iaao.org>

ISBN 978-0-88329-220-4

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Published in the United States of America.



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# Standard on Assessment Appeal

## 1. Scope

This standard provides broad guidance for property assessment appeals initiated by taxpayers. It does not address specific instances as required by local laws and regulations, nor does it apply to appeals between taxing districts and assessment agencies or between different levels of assessment agencies (e.g., local versus state). This standard is not intended to recommend a single-model appeal procedure applicable to all assessment jurisdictions. Rather it suggests the features of a simple, understandable, responsive, cost-conscious appeal system that will be effective in addressing assessment inequities. The recommendations contained in this standard should be considered in the context of the entire property tax system. For example, the recommendations in Section 6 concerning the timing of assessment notices and appeal filings should be viewed in the context of providing sufficient time for the appeal process without unduly delaying tax collections or restricting appellants' rights.

In this standard, the term *assessor* means any local, state, or provincial authority that has primary responsibility for assessment of property. The term *property owner* signifies the person or entity liable for property taxes. It is understood that a representative or agent may be acting on behalf of the property owner during an appeal.

## 2. Introduction

Assessment appeals are an important component in the assessment process. Appeals provide an opportunity for property owners to meet with the assessor to inquire about their assessments and to learn about assessment and appeal procedures. In the case of disputes about assessments, an appeal system should provide opportunities for both informal meetings with the assessor and formal hearings before independent bodies to resolve disputed issues and thus assure the public that assessments are correct, fair, and equitable.

Key to any assessment appeal system is an open and transparent process that relies on a clearly written set of procedures and provides due process.

## 3. Structure of the Recommended Appeal System for Locally Assessed Property

There are two aspects of an assessment appeal: matters of valuation or fact, such as the amount of an assessment, and matters of law, such as interpretation of statutes. Matters of valuation or fact should be addressed at the administrative level, with the state or provincial property tax tribunal the final resort for administrative appeals.

For locally assessed property, the appeals system should consist of

1. Informal appeal
2. One or more levels of formal appeal
3. Court of law.

At each of these levels, the appeal body should publish and make available deadlines, operating procedures, rules, and regulations so that all parties understand what is required of them and how the appeal will be conducted.

The second level of appeal is handled by administrative or quasi-judicial appeal boards and tribunals, which are concerned primarily with the accuracy of assessments for specific classes of properties, taxpayers, or areas. These boards and tribunals should provide a broad base of expertise to determine individual assessments.

Further appeals of the legality of an assessment are dealt with by the courts assigned jurisdiction over matters of law. An appeals system should direct taxpayers to the appropriate court and explain the procedures for filing an appeal.

### 3.1 Informal Review by the Assessor

Property owners may seek informal review of an assessment notice for the following reasons:

- Factual error, that is, a data collection or clerical error
- Equity and uniformity claim of discriminatory level of assessment
- Belief that the valuation is inaccurate
- Exemption, classification, or assessment limitation.

An objection on any of these grounds may not technically be an appeal but should be stated in writing (or in an acceptable electronic substitute) and dated. All requests for an informal hearing should be recorded and acknowledged so that the property owner does not inadvertently lose the right to appeal because of lack of timeliness.

The appeal process should begin with an informal consultation between the assessor and the property owner in order to

- Identify and document errors
- Review the equity and uniformity of assessment

## STANDARD ON ASSESSMENT APPEAL—2016

- Determine what issues (facts) the parties to a valuation dispute can agree on, such as
  - Clarification of the property owner’s concern or basis for dispute
  - Property characteristics
  - Property boundaries, use, or classification
  - Gross and net income and other relevant financial data
  - Particulars of a sale
  - Construction costs
- Identify and clarify the basis for an exemption or assessment limitation claim.

This informal consultation may, at the option of the property owner, be a face-to-face meeting, telephone conference, or correspondence by mail, fax, or electronic mail. An informal consultation allows both parties to consider their positions before a formal appeal is filed. The informal process is highly recommended because it allows a large number of property owners to obtain information, state their grievances, and resolve their appeals in a simple, low-cost manner. At this level, the property owner should be able to receive information and provide responses to broad requests. Strict confidentiality of information must be maintained as required by statute, rules and regulations, and specific operating procedures. The property owner or representative should be provided with a copy of the jurisdiction’s confidentiality policy to prevent misunderstandings concerning what is and what is not protected as confidential.

After this informal review, the assessor’s office should notify the property owner of its findings and provide information about the next level of review and the forms required to file a formal appeal.

The property owner who decides to file a formal appeal should be required to state the grounds of the appeal in writing on an appeal form or in a letter documenting the relief desired. This document and any written decision resulting from the informal appeal, if available, should be prerequisites to any further appeal.

### 3.2 The Local or Regional Appeal Board

The local or regional appeal board should serve as the first level of formal appeal for the following purposes:

- Determine property value or classification
- Rule on equity or uniformity issues
- Consider claims for property tax exemption.

For matters within its authority, the board may initiate an investigation into assessments or practices that merit review by an outside authority. Such investigations should be undertaken only after records have been reviewed and the assessor’s decisions or actions provide

compelling evidence that an investigation is warranted. A mechanism should be made available for reporting the outcomes of investigations to the public.

Procedures should be established requiring disclosure of all issues and principal arguments before the formal hearing convenes.

After this level of review, the appeal board should notify the property owner of its findings and provide information about the next level of review and the forms required for filing a formal appeal.

The property owner who decides to appeal to the next level should be required to state the grounds of the appeal in writing on an appeal form or in a letter documenting the relief desired. This document and the written decision resulting from the local or regional appeal, if available, should be prerequisites to any further appeal.

### 3.3 The State or Provincial Property Tax Tribunal

The state or provincial property tax tribunal should be the final administrative arbiter for individual appeals. However, unresolved legal and appraisal issues may be appealed to the courts. For efficiency, state or provincial property boards may constitute the only level of formal appeal before appeal to the courts.

After this level of review, the appeal board should notify the property owner of its findings and provide information about the next level of review and the forms required for filing a formal appeal

The property owner who decides to appeal to the next level should be required to state the grounds of the appeal in writing on an appeal form or in a letter documenting the relief desired. This document and the written decision resulting from the local or regional appeal, if available, should be prerequisites to any further appeal.

### 3.4 The Courts

When administrative remedies including arbitration have been exhausted, taxpayers and agencies may appeal to the courts unresolved matters of law and fact, such as interpretation of statutes, eligibility for exemptions, or the jurisdiction of appellate boards and tribunals, as well as unresolved questions of value.

## 4. Structure of the Recommended Appeal System for Centrally Assessed Property

For those property valuations or assessments completed by a central assessment agency, such as railroads, telecommunications properties, and public utilities, the authority for review is different than that for local assessment appeals. However, the general structure of a system that promotes informal review and then formal

appeal, if necessary, should be similar to that recommended in Section 3 for locally assessed property.

The general aspects of an appeal of an assessment for centrally assessed property are the same as those for locally assessed property: matters of fact, valuation, uniformity, classification, and matters of law.

Matters of fact, classification, valuation, and uniformity should be reviewed at an informal level of appeal between the taxpayer and the assessment agency. Efforts should be made to resolve the issues or errors of fact at an informal conference to eliminate further appeal or litigation to a higher administrative or tax appeal court.

Matters of law should be reviewed by state boards of appeal, boards of equalization, or tax tribunals. At each of these levels, the appeal body should publish operating procedures or rules and regulations and make them readily available to taxpayers, so all parties understand what is required of them and how the appeal will be conducted. These levels of appeal should be chiefly concerned with the accuracy of assessments, use of generally accepted appraisal methods, proper allowance of exemptions, and the uniformity of assessments. Boards and tribunals should use a broad base of expertise to evaluate assessment and valuation procedures.

#### 4.1 Central Assessment Appeal Board

The central assessment appeal board should serve the following purposes:

- Provide for a direct appeal from the assessing agency's final decision on the assessed value of a company or property
- Provide a direct avenue for review of disputes on equity or uniformity issues
- Examine claims for property tax exemptions
- Initiate a review of the contested issues relating to the property under litigation. Such review should be undertaken in the form of a *de novo* hearing based on written and oral testimony.

The board should maintain a complete transcript of the proceedings with all exhibits attached. The board should hold a hearing within a reasonable amount of time because funds paid in protest are unavailable to the general budget or to the taxpayer, who may be entitled to a refund. In many instances, central assessment appeals can carry forward for many months or years depending upon the nature and complexity of the case. Every effort should be made to achieve timely resolution.

#### 4.2 The Courts

When all administrative remedies at the central assessment board or hearing board level have been exhausted and taxpayers or agencies need further legal relief on unresolved issues of law or questions of mixed

law and fact, such as the interpretations of statutes, applications of rules and regulations, and calculations of amended or upheld valuations, the taxpayers or agencies may appeal to the courts. These may be district courts, appellate courts, or the supreme court of the state or province. In some instances, the final level of review may be the highest court of the land. Final decisions set precedents that may be followed to avoid re-trial of the same issues.

#### 4.3 Information To Be Provided Prior to Hearings

Prior to any hearing at the administrative hearing level, the appellant should provide the central assessment agency with a statement outlining unresolved issues to be raised at the hearing. This may be done by using standardized appeals forms or an appeal format adopted by the central assessment agency. Specific procedures should be established for disclosure of all issues, principal arguments, and evidence before the formal hearing convenes.

#### 5. Qualifications and Training of Appeal Board and Tribunal Officials

Tribunals and appeal boards should comprise individuals such as real estate appraisers, real estate brokers, mortgage loan officers, public accountants, and lawyers, who have knowledge of property tax principles, laws, and ratio studies. To exercise these duties, board members should attend formal training on the duties of the board or tribunal, and demonstrate competency.

A review and appeal board or tribunal at any level should have the authority to adjust individual assessments and may have the authority to broadly adjust assessments and assessment levels within a jurisdiction.

A member of an appeal board or a state or provincial tax tribunal who has a conflict of interest, a personal bias or prejudice, or an interest in a property, either apparent or not, must disclose the conflict and may, upon his or her own volition or at the request of an appellant, a respondent, or the assessor, be recused from hearing a specific appeal or appeals.

#### 6. Notification and Appeals

The appeal procedure should provide adequate time for property owners to inquire informally about their assessments and to file informal protests with the assessor and for the assessor to render a written decision on each such appeal. Time also should be provided for property owners to file formal appeals of those decisions with the appeal board and for the board to act on all such appeals. All appeals to the board should be decided, if possible, before tax bills are issued. However, the period provided for appeals should not be so long as to delay tax collections unreasonably. Appeals

on complex properties, such as those assessed by the state or province, may require more time than a typical appeal period; thus, tax collection may have to proceed based upon the appealed value or on the amount of value not in dispute.

### **6.1 Notice of Assessment**

When an assessment is changed, a notice of assessment that identifies the property, the property owner, the estimated market value, and the assessed value of the property should be mailed to each property owner.

The assessment notice should include material briefly explaining the appeal procedure. The property owner should be required to outline the reasons for objecting to or questioning the assessment. Adequate time from the date of mailing of the notice should be allowed for receipt of the objections. Objections received after this time limit should not be considered, unless the property owner shows just cause under statutory extension provisions.

The assessor should be given adequate time to respond to the objection by reviewing assessment records, inspecting the property, and interviewing the property owner. All results (decisions or withdrawals) should be sent in writing to all parties in all cases. With the written decision, the assessor should include appropriate forms for appeal to the local or regional appeal board.

### **6.2 The Local or Regional Appeal Board**

The property owner should be allowed adequate time from the date of mailing of the written decision to appeal that decision to the local or regional tax appeal board. The local or regional tax appeal board should establish a timely schedule for hearings of either the record or a de novo case. Rules and regulations should advise a property owner or taxpayer of the type of case to be heard. After a hearing, the local or regional appeal board should be required to send a written decision to the parties and include the appropriate forms for appeal to the state or provincial property tax tribunal.

### **6.3 The State or Provincial Property Tax Tribunal**

The property owner or taxpayer should be allowed adequate time from the date of mailing of the decision of the local or regional appeal board to appeal that order to the state or provincial property tax tribunal. The state or provincial property tax tribunal should establish a timely schedule for hearings.

### **7. The Hearing**

The hearings of the boards or tribunals should be open to the public, and a complete transcript should be made of all proceedings. Notification of the hearing time and place should include the time allotted to the case and a brief explanation of procedures and rules of evidence.

To expedite appeals, boards, regardless of size, should have the option of sitting in smaller panels or of having appeals heard by a single board member, or master. Further, if the appeal warrants, the panel could request that the materials be put into an expedited written briefing by the parties. A final decision would still reside with the entire board.

The assessor or appropriate assessing personnel should provide, under oath, copies of the original assessment, ratio study data, if applicable, and a copy of any previous decision. Witnesses should be allowed to provide expert testimony in support of the assessing jurisdiction's actions.

Once under oath, the property owner should be given adequate time to explain why the decision should be altered. This explanation may be supported with written evidence and the testimony of expert witnesses.

An oral decision, if possible, can be given at the hearing or the matter can be reserved and a written decision provided after consideration. An oral decision would, of necessity, have to be followed by a written decision. Decisions should be rendered within a reasonable amount of time from the conclusion of the hearing. Timeliness of decisions is critical to all involved, especially if the decision is subject to further appeal.

Assessor Reference  
Manual Chapter on  
Appeals

# CHAPTER 11 – Appeals

## 11.1 Board of Equalization

- [RCW 84.08.020](#) Additional powers – To advise county and local officers – Books and blanks – Reports.
- [RCW 84.08.060](#) Additional powers – Powers over county boards of equalization – Reconvening – Limitation on increase in property value in appeals to board of tax appeals from county board of equalization.
- [RCW 84.08.130](#) Appeals from county board of equalization to board of tax appeals – Notice.
- [RCW 84.40.020](#) Assessment date — Average inventory basis may be used — Public inspection of listing, documents, and records.
- [RCW 84.40.038](#) Petition county board of equalization – Limitation on changes to time limit – Waiver of filing deadline – Direct appeal to state board of tax appeals.
- [RCW 84.40.150](#) Sick or absent persons – May report to board of equalization.
- [RCW 84.40.320](#) Detail and assessment lists to board of equalization.
- [RCW 84.48.010](#) County board of equalization – Formation – Per Diem – Meetings – Duties – Records – Correction of rolls – Extending taxes – Change in valuation, release or commutation of taxes by county legislative authority prohibited.
- [RCW 84.48.014](#) County board of equalization – Composition of board – Appointment – Qualifications.
- [RCW 84.48.018](#) County board of equalization – Chairman – Quorum.
- [RCW 84.48.022](#) County board of equalization – Meetings.
- [RCW 84.48.026](#) County board of equalization – Terms – Removal.
- [RCW 84.48.028](#) County board of equalization – Clerk – Assistants.
- [RCW 84.48.032](#) County board of equalization – Appraisers.
- [RCW 84.48.034](#) County board of equalization – Duration of order.
- [RCW 84.48.036](#) County board of equalization – Annual budget.
- [RCW 84.48.038](#) County board of equalization – Legal advisor.
- [RCW 84.48.042](#) County board of equalization – Training school.
- [RCW 84.48.046](#) County board of equalization – Operating manual.
- [RCW 84.48.065](#) Cancellation and correction of erroneous assessments and assessments on property on which land use designation is changed.
- [RCW 84.48.140](#) Property tax advisor.
- [RCW 84.48.150](#) Valuation criteria including comparative sales to be made available to taxpayer – Change.
- [WAC 458-14-001](#) Boards of equalization – Introduction.
- [WAC 458-14-005](#) Definitions.

<a href="#"><u>WAC 458-14-015</u></a>	Jurisdiction of county boards of equalization.
<a href="#"><u>WAC 458-14-025</u></a>	Assessment roll corrections not requiring board action.
<a href="#"><u>WAC 458-14-026</u></a>	Assessment roll corrections agreed to by taxpayer.
<a href="#"><u>WAC 458-14-035</u></a>	Qualifications of members – Term – Organization of board – Quorum – Adjournment – Alternate and interim members.
<a href="#"><u>WAC 458-14-046</u></a>	Regularly convened session – Board duties – Presumption – Equalization to revaluation year.
<a href="#"><u>WAC 458-14-056</u></a>	Petitions – Time limits – Waiver of filing deadline for good cause.
<a href="#"><u>WAC 458-14-066</u></a>	Requests for valuation information – Duty to exchange information – Time limits.
<a href="#"><u>WAC 458-14-076</u></a>	Hearings on petitions.
<a href="#"><u>WAC 458-14-087</u></a>	Evidence of value – Admissibility – Weight.
<a href="#"><u>WAC 458-14-095</u></a>	Record of hearings.
<a href="#"><u>WAC 458-14-105</u></a>	Hearings – Open sessions – Exceptions.
<a href="#"><u>WAC 458-14-116</u></a>	Orders of the board – Notice of value adjustment – Effective date.
<a href="#"><u>WAC 458-14-127</u></a>	Reconvened boards – Authority.
<a href="#"><u>WAC 458-14-136</u></a>	Hearing examiners.
<a href="#"><u>WAC 458-14-146</u></a>	Conflicts of interest.
<a href="#"><u>WAC 458-14-156</u></a>	Training seminars.
<a href="#"><u>WAC 458-14-160</u></a>	Continuances – Ex parte contact.
<a href="#"><u>WAC 458-14-170</u></a>	Appeals to the state board of tax appeals.
<a href="#"><u>WAC 458-14-171</u></a>	Direct appeals to board of tax appeals.

### Other References

<a href="#"><u>AGO 1971, No. 37</u></a>	Taxation – Property – Counties – Meetings – Public – Attendance by public at sessions of a county board of equalization.
<a href="#"><u>AGO 1971, No. 31</u></a>	Taxation – Real property – Application of tax exemption provided under Chapter 288, Laws of 1971, 1st Ex. Sess., to heirs or grantees of a tax exempt property owner.
<a href="#"><u>AGO 1972, No. 23</u></a>	Taxation – Real property – Exemption – Elderly – Sale to noneligible grantee – Portion of tax to be paid.
<a href="#"><u>AGO 1973, No. 16</u></a>	Offices and officers – County – Board of equalization – Taxation – Jurisdiction of county board of equalization to increase property tax valuation without notice.
<a href="#"><u>AGO 1977, No. 21</u></a>	Districts – Diking – Elections – Eligibility of contract purchasers to vote in diking district elections.
<a href="#"><u>AGO 1986, No. 3</u></a>	Counties – Assessor – Taxes – Valuation of property – Presumption of correctness.
<b>Court of Appeals Division No. 1</b>	University Village v. King County - Total Market Value



## Court Cases

Island County on Assessment Ratios v. Dept. of Revenue (1972) 81 W2d 193, 500 P2d 756.  
Niichel v. Lancaster (1982) 97 W2d 620, 647 P2d 1021.

## 11.2 Board of Tax Appeals

<a href="#">RCW 82.03.010</a>	Board created.
<a href="#">RCW 82.03.020</a>	Members – Number – Qualifications – Appointment.
<a href="#">RCW 82.03.030</a>	Terms – Vacancies.
<a href="#">RCW 82.03.040</a>	Removal of members – Grounds – Procedure.
<a href="#">RCW 82.03.050</a>	Operation on part time or full time basis – Salary – Compensation – Travel expenses.
<a href="#">RCW 82.03.060</a>	Members not to be candidate or hold public office, engage in inconsistent occupation nor be on political committee – Restriction on leaving board.
<a href="#">RCW 82.03.070</a>	Executive director, tax referees, clerk, assistants.
<a href="#">RCW 82.03.080</a>	Chairman.
<a href="#">RCW 82.03.090</a>	Office of board – Quorum – Hearings.
<a href="#">RCW 82.03.100</a>	Findings and decisions – Signing – Filing – Public inspection.
<a href="#">RCW 82.03.110</a>	Publication of findings and decisions.
<a href="#">RCW 82.03.120</a>	Journal of final findings and decisions.
<a href="#">RCW 82.03.130</a>	Appeals to board – Jurisdiction as to types of appeals – Filing.
<a href="#">RCW 82.03.140</a>	Appeals to board – Election of formal or informal hearing.
<a href="#">RCW 82.03.150</a>	Appeals to board – Informal hearings, powers of board or tax referees – Assistance.
<a href="#">RCW 82.03.160</a>	Appeals to board – Formal hearings, powers of board or tax referees – Assistance.
<a href="#">RCW 82.03.170</a>	Rules of practice and procedure.
<a href="#">RCW 82.03.180</a>	Judicial review.
<a href="#">RCW 82.03.190</a>	Appeal to board from denial of petition or notice of determination as to reduction or refund – Procedure – Notice.
<a href="#">RCW 82.03.200</a>	Appeals from county board of equalization – Evidence submission in advance of hearing.
<a href="#">RCW 84.08.060</a>	Additional powers — Power over county boards of equalization — Reconvening — Limitation on increase in property value in appeals to board of tax appeals from county board of equalization.
<a href="#">RCW 84.08.130</a>	Appeals from county board of equalization to board of tax appeals – Notice.
<a href="#">WAC 456-09</a>	Formal hearings – Practice and procedure.
<a href="#">WAC 456-10</a>	Informal hearings – Practice and procedure.

### 11.3 Other Appeals

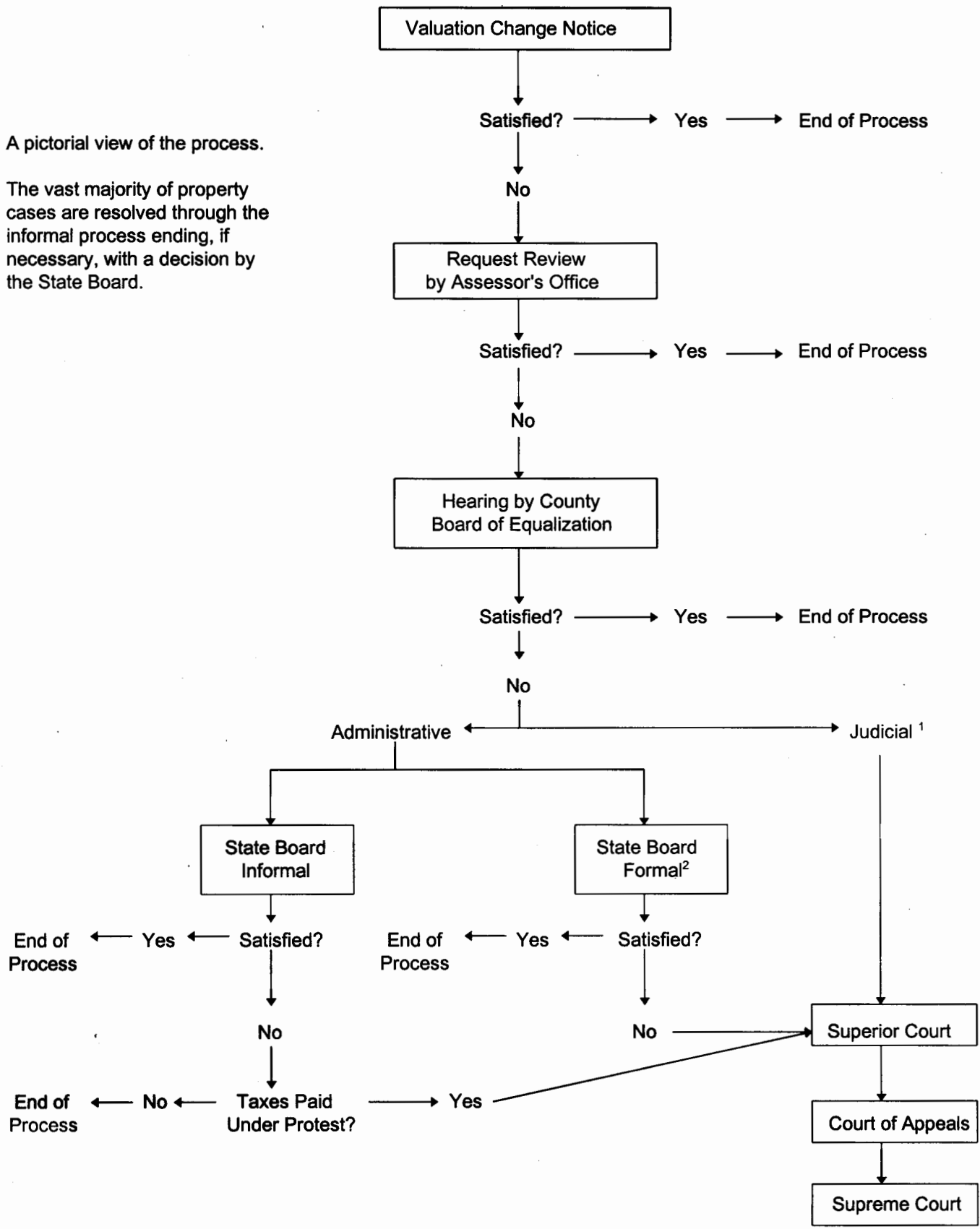
<a href="#">RCW 84.08.140</a>	Appeals from levy of taxing district to department of revenue.
<a href="#">RCW 84.12.340</a>	Hearings on assessment, time and place of.
<a href="#">RCW 84.14.070</a>	Processing – Approval – Denial – Appeal
<a href="#">RCW 84.16.100</a>	Hearings, time and place of.
<a href="#">RCW 84.26.130</a>	Appeals from decisions on applications. (Historic property.)
<a href="#">RCW 84.33.130</a>	Forest land valuation – Application by owner that land be designated and valued as forest land – Hearing – Rules – Approval, denial of application – Appeal.
<a href="#">RCW 84.34.035</a>	Applications for current use classification – Approval or denial – Appeal – Duties of assessor upon approval.
<a href="#">RCW 84.34.108</a>	Removal of classification – Factors – Notice of continuance – Additional tax – Lien – Delinquencies – Exemptions.
<a href="#">RCW 84.36.385</a>	Residences – Claim for exemption – Forms – Change of status – Publication and notice of qualifications and manner of making claims.
<a href="#">RCW 84.36.812</a>	Additional tax payable at time of sale – Appeal of assessed values.
<a href="#">RCW 84.36.850</a>	Review – Appeals.
<a href="#">RCW 84.38.040</a>	Declaration to defer special assessments and/or real property taxes – Filing – Contents – Appeal.
<a href="#">RCW 84.40.039</a>	Reducing valuation after government restriction – Petitioning assessor – Establishing new valuation – Notice – Appeal – Refund
<a href="#">RCW 84.70.010</a>	Reduction in value – Abatement – Formulas – Appeal.
<a href="#">WAC 458-53-210</a>	Appeals.

# Protesting Your Valuation Flow Chart

# PROTESTING YOUR VALUATION

A pictorial view of the process.

The vast majority of property cases are resolved through the informal process ending, if necessary, with a decision by the State Board.



<sup>1</sup> Taxes must be paid under protest. RCW 84.68.020. WAC 458-18-215.

<sup>2</sup> Legal (attorney) and technical (appraiser) advisors recommended.

# Sample BOE Taxpayer Petitions

Kari

FORM A

TAXPAYER PETITION TO THE ISLAND COUNTY BOARD OF EQUALIZATION FOR REVIEW OF REAL PROPERTY VALUATION DETERMINATION

2011

For BOE Office Use Only Case No.: BE11-132760

Send to: Island County Board of Equalization PO Box 5000 Coupeville, WA 98239-5000

THE APPEAL PROCESS IS COMPRISED OF TWO STEPS: FILING THIS PETITION AND SUBMITTING EVIDENCE TO SUPPORT YOUR APPEAL. This petition, Form A, must be filed or postmarked WITHIN 30 days after the date of mailing of the Assessment Notice, change of value notice or other determination notice.

ALL ITEMS IN SECTIONS 1-3 MUST BE COMPLETED AND LEGIBLE (Please Print or Type)

1. Parcel Number: R32918-374-2370 Account # 132760 Owner: Useless Bay Golf & Country Club Inc. Mailing Address For All Correspondence Relating To Appeal: Street Address: 5725 Country Club Drive City, State, Zip Code: Langley, WA 98260-8303 Daytime Phone No.: (360) 321-9559 Name of Petitioner or Authorized Agent: Bill Davis, General Manager

2. Specific reasons why you believe the assessed valuation does not reflect the true and fair market value. (The assessor is, by law, presumed to be correct. You must prove that the appraised valuation is not the true and fair market value (RCW 84.40.0301)). The SALES OF LIKE PROPERTIES are considered. The assessed value of other properties, the percentage of assessment increase, personal hardship, the amount of tax, and other matters unrelated to the market value cannot be considered. SEE FORM B INSTRUCTIONS FOR THE TYPES OF EVIDENCE THAT MAY BE CONSIDERED

Per new Owner, Holmes Harbor purchase price in arms length transaction was +460,000 +/- - Golf Course, Restaurant & buildings.

If this petition concerns income property, you must attach a statement of income and expenses for the past two years and copies of leases or rental agreements.

Table with 2 columns: Description and Value. Row 1: LAND \$ 6,835. Row 2: IMPROVEMENTS \$ 70,243. Row 3: TOTAL \$ 77,078.

4. The undersigned petitions the Board of Equalization to change the valuation of the property described above as shown on the Assessment Roll for 2011 for taxes payable in 2012. I hereby certify I have read this Petition and that it is true and correct to the best of my knowledge.

This 27th day of October, 2011 (year)

Signature of Taxpayer or Agent

I request the information the Assessor used in Valuing my property.

5. Power of Attorney: If power of attorney has been given, the taxpayer must so indicate by signing the statement below or attaching a signed power of attorney.

The person whose name appears as authorized agent has full authority to act on my behalf on all matters pertaining to this appeal.

Signature of Petitioner (Taxpayer)

RECEIVED

OCT 27 2011

AS EDITED BY THE ICBOE 2011 GEN SVCS ADMIN

TAXPAYER PETITION TO THE ISLAND COUNTY BOARD OF EQUALIZATION FOR REVIEW OF REAL PROPERTY VALUATION DETERMINATION

For BOE Office Use Only Case No.: BE16-60276 Date Received:

Send to: Island County Board of Equalization PO Box 5000 Coupeville, WA 98239-5000

THE APPEAL PROCESS IS COMPRISED OF TWO STEPS: FILING THIS PETITION AND SUBMITTING EVIDENCE TO SUPPORT YOUR APPEAL. This petition, Form A, must be postmarked or filed by 30 days after the date of mailing of the Assessment Notice, change of value notice or other determination notice.

A copy of the most recent assessed value notice, such as a "Change of Value Notice", must be attached to this petition form. YOUR EVIDENCE SHOULD BE SUMMARIZED ON FORM B AND EITHER SUBMITTED WITH FORM A, OR AT A LATER TIME PER INSTRUCTIONS ON FORM B. Please carefully read the instructions on the back of these forms. ALL ITEMS IN SECTIONS 1-3 MUST BE COMPLETED AND LEGIBLE (Please Print or Type)

1. Property Identification #: 60276-R23008-16.5-3680 Owner: KELLY M. SWEENEY FRANCES SWEENEY Mailing Address For All Correspondence Relating To Appeal: Street Address: PO BOX 7 City, State, Zip Code: GREENBANK, WA 98253 Daytime Phone No.: 360-678-3350 Name of Petitioner or Authorized Agent: KELLY M. SWEENEY FRANCES SWEENEY

2. Specific reasons why you believe the assessed valuation does not reflect the true and fair market value. (The assessor is, by law, presumed to be correct. You must prove that the appraised valuation is not the true and fair market value (RCW 84.40.0301)). The SALES OF LIKE PROPERTIES are considered. The assessed value of other properties, the percentage of assessment increase, personal hardship, the amount of tax, and other matters unrelated to the market value cannot be considered. SEE FORM B INSTRUCTIONS FOR THE TYPES OF EVIDENCE THAT MAY BE CONSIDERED 1) RECENT SALES OF COMPARABLE PROPERTIES POINT TO A DIFFERENT FAIR MARKET VALUE OF OUR PROPERTY. 2) A RECENT FEE APPRAISAL, DONE SPECIFICALLY FOR OUR PROPERTY AFTER OUR GRANT DEED OF CONSERVATION EASEMENT TO THE WHIOBEY CAMANO LAND TRUST WAS IN PLACE POINTS TO A DIFFERENT FAIR MARKET VALUE FOR OUR PROPERTY.

If this petition concerns income property, you must attach a statement of income and expenses for the past two years and copies of leases or rental agreements.

Table with 3 rows: I estimate the value of the subject property to be: LAND \$ 105000, IMPROVEMENTS \$ 117402, TOTAL \$ 222402

4. The undersigned petitions the Board of Equalization to change the valuation of the property described above as shown on the Assessment Roll for 2016 for taxes payable in 2017. I hereby certify I have read this Petition and that it is true and correct to the best of my knowledge. This 28th day of JUNE, 2016 (year) Kelly M. Sweeney Signature of Taxpayer or Agent I request the information the Assessor used in Valuing my property.

5. Power of Attorney: If power of attorney has been given, the taxpayer must so indicate by signing the statement below or attaching a signed power of attorney. The person whose name appears as authorized agent has full authority to act on my behalf on all matters pertaining to this appeal. Signature of Petitioner (Taxpayer)

RECEIVED JUN 28 2016 GEN SVCS ADMIN AS EDITED BY THE ICBOE 2016

# Answer to BOE Petition



# ASSESSOR'S ANSWER TO REAL PROPERTY PETITION

To the \_\_\_\_\_ County Board of Equalization

Petition No: \_\_\_\_\_

In accordance with the provisions of Chapter 84.48 RCW, I, \_\_\_\_\_,  
County Assessor, do hereby respectfully petition the County Board of Equalization to sustain the assessor's true and fair value of the following described property as shown on the assessment rolls for the year \_\_\_\_\_ at that amount shown in Item 2 of this form.

**1. Parcel number or legal description of property:**

**2. Assessor's true and fair value:**

Land:	_____	\$
Improvements:	_____	\$
Minerals:	_____	\$
TOTAL	_____	\$ 0

**3. General description of property: (Land area, type buildings, use, etc.)**

- A. Address of location: \_\_\_\_\_  
B. Land size: \_\_\_\_\_  
C. Zoning and use: \_\_\_\_\_  
D. Brief description of buildings: \_\_\_\_\_

**4. Purchase price of property: \$ \_\_\_\_\_ (List only if sale occurred within last 5 years)**

Date of purchase: \_\_\_\_\_ Terms: \_\_\_\_\_

**5. Has property been offered for sale?  Yes  No When and how long? \_\_\_\_\_**

Listed with broker?  Yes  No Asking price: \$ \_\_\_\_\_

**6. Has the property been appraised by other than county assessor?  Yes  No When? \_\_\_\_\_**

By whom? \_\_\_\_\_ Purpose of appraisal: \_\_\_\_\_  
Appraised value: \$ \_\_\_\_\_ (If needed, attach separate sheet for further evidence.)

**7. If income property such as hotel, motel, commercial rental, service station, leased or rented farm, attach statement of income and expense for past two years and copy of lease or rental agreement.**

**8. Recent sales of comparable or similar property:**

- |                      |                                |
|----------------------|--------------------------------|
| (1) Parcel No: _____ | Description of Property: _____ |
| Sale Price: _____    | \$                             |
| Date of Sale: _____  |                                |
| Recording No: _____  |                                |
| (2) Parcel No: _____ | Description of Property: _____ |
| Sale Price: _____    | \$                             |
| Date of Sale: _____  |                                |
| Recording No: _____  |                                |
| (3) Parcel No: _____ | Description of Property: _____ |
| Sale Price: _____    | \$                             |
| Date of Sale: _____  |                                |
| Recording No: _____  |                                |

9. Attached are the following maps, pictures, letters, appraisals, or other data to substantiate the present full market value of the property as stated in Item 2.

Exhibit No.	Brief Description of Exhibit
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

10. Alternate sales comparison approach

Subject	Comparables		
	1	2	3
Sale Price .....	\$ _____	\$ _____	\$ _____
Plus and Minus			
Dollar Adjustments:			
1. Location	\$ _____	\$ _____	\$ _____
2. Age & Condition	\$ _____	\$ _____	\$ _____
3. Type	\$ _____	\$ _____	\$ _____
4. Size & No. Rooms	\$ _____	\$ _____	\$ _____
5. Basement	\$ _____	\$ _____	\$ _____
6. Mechanical Equip.	\$ _____	\$ _____	\$ _____
7. Garage	\$ _____	\$ _____	\$ _____
8. Site	\$ _____	\$ _____	\$ _____
9. Date of Sale	\$ _____	\$ _____	\$ _____
10. Terms	\$ _____	\$ _____	\$ _____
<b>TOTAL Net Adjustments.....</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>
Indicated Market Value of Subject:	\$ _____	\$ _____	\$ _____

**Explanation of Adjustments**

**I hereby certify that to the best of my knowledge and belief the information entered on this petition is a true and fair presentation of the facts relating to this appeal.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_  
 \_\_\_\_\_, \_\_\_\_\_ (year)  
 \_\_\_\_\_ Assessor  
 \_\_\_\_\_ Deputy

To ask about the availability of this publication in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users, please call (360) 705-6718. For tax assistance, call (360) 534-1400.



**ISLAND COUNTY ASSESSOR**

*Mary Engle*

1 NE 7th St  
 P.O. Box 5000  
 Coupeville, WA 98239-5000  
 www.islandcounty.net

Coupeville: (360) 679-7303  
 So. Whidbey: (360) 321-5111  
 Camano Island: (360) 629-4522  
 Fax Number: (360) 240-5565

**ASSESSOR'S ANSWER TO REAL PROPERTY PETITION**

TO THE ISLAND COUNTY BOARD OF EQUALIZATION.

BOE Petition No.:

<b>BE 11-132760</b>

In accordance with the provisions of Chapter 84.48 RCW, I **Mary Engle, Island County Assessor**, do hereby respectfully petition the Island County Board of Equalization to use the **recommended** true and fair value of the following described property as shown on the assessment rolls for the year 2011, at that amount shown in item 2 of this form.

<p><b>1. Parcel number or legal description of property:</b></p> <p>Parcel No.: <b>R32918-374-2370</b>                      Account No.: <b>132760</b></p> <p>Name: <b>Useless Bay Golf &amp; Country Club Inc.</b></p> <p>Address: <b>5725 Country Club Dr.</b></p> <p>City, St: <b>Langley, WA</b>                                      Zip: <b>98260-8303</b></p>	<p><b>Notes:</b></p> <p><u>Appellant states the Holmes Harbor Golf Course purchase price is an arms length transaction for \$460,000.00 including improvements. The Holmes Harbor Golf Course was purchased in lieu of foreclosure and is considered unqualified per state law. Holmes Harbor Golf Course had not conducted business for approximately 2 years prior to sale.</u></p>
--	---

2. Assessor's True and Fair Value:		
<i>Petitioner's Estimate of Value</i>	<i>Assessor's Original Estimate of Value</i>	<i>Recommended Value</i>
Land: \$ 6,835	Land: \$ 363,550	Land: \$ 229,220
Buildings \$ 70,243	Buildings \$ 301,500	Buildings \$ 301,500
Other Features <span style="background-color: #cccccc; border: 1px solid black; display: inline-block; width: 100px; height: 15px;"></span>	Other Features <span style="background-color: #cccccc; border: 1px solid black; display: inline-block; width: 100px; height: 15px;"></span>	Other Features <span style="background-color: #cccccc; border: 1px solid black; display: inline-block; width: 100px; height: 15px;"></span>
<b>TOTAL: \$ 77,078</b>	<b>TOTAL: \$ 665,050</b>	<b>TOTAL: \$ 530,720</b>

**Amended**

**Amended**

**Amended**

*Karin Burns*  
 2/3/2012



**Useless Bay Golf & Country Club**

**Cost Approach**

5 holes, practice green

zoned rural residential

Land size, 33.05 acres

Per Marshall & Swift, Section 67 page 1

**Class I:** Minimal quality, simply developed, budget course on open natural or flat terrain, few bunkers, small tees & greens. Cost range per hole, \$62,750.00 - \$86,000.00

<u>Number</u> <u>of holes</u>	<u>Price</u> <u>Price per hole</u>	<u>Total</u>
5	\$60,300.00	\$301,500.00

**Total amount for holes: \$301,500.00**

**Land Value:** Further study of this parcel reveals it contains 13.05 acres of swamp/marsh.

\$400.00 x 13.05 = \$5,220

\$5,220.00

\$11,200.00 x 20 = \$224,000

\$224,000.00

**Land Valuation total: \$229,220.00**

The Appellant's land value is \$11,222.00 per acre. No qualified sales exist which fall within the land size category of 30 acres and above. 10 acre sales are available within the vicinity of the appellant. Each sale represents 20.5% of the total acreage of the appellants. Sales of larger acre properties historically sell less per acre; each sale has been reduced by 20.5% per acre for adjustment purposes.

Please see comparable sales/property grid

Comp #1 land value from sale is \$15,97700 per acre. Deducting the 20.5% size adjustment leaves \$12,702.00 per acre.

Comp #2 land vlaue from sale is \$14,766.00 per acre. Deducting the 20.5% size adjustment leaves \$11,668.00 per acre.

**Total Cost Approach Value: \$530,720.00**



# Sample BOE Stipulation



1 NE 7th St
P.O. Box 5000
Coupeville, WA 98239-5000
www.islandcountywa.gov

Coupeville: (360) 679-7303
So. Whidbey: (360) 321-5111
Carnano Island: (360) 629-4522
Fax Number: (360) 240-5565

ASSESSMENT ROLL CORRECTIONS TO WHICH THE TAXPAYER AGREES

Completion of this form will withdraw your petition from the Island County Board of Equalization.

This is to notify the Island County Board of Equalization that the assessor and taxpayer have signed this agreement as to the true and fair value of the taxpayer's property. The value upon which they agreed is the value as of January 1 of the year in which the property was last revalued by the assessor, in accordance with the revaluation cycle approved by the Department of Revenue.

Table with 3 columns: Taxpayer Information, BOE Petition No., Geo ID, Property Identification Number.

Table with 4 columns: Category, Assessor's determination of Value, Actual true and fair Value, Differences.

PREPARED BY: Cindy Arklin

REASON FOR CHANGE OF VALUE

Due to the restrictions in the Conservation Easement, determined the land portion was valued too high. Site visit warranted increasing the valuation of the residence, due to the 2010 metal roof and maintenance.

Handwritten signatures of Kelly M. Sweeney and Frances Sweeney

9/1/2016
Date Signed

Handwritten signature of Mary Engle and 'Authorized for Mary Engle'

August 29, 2016
Date Signed

RECEIVED stamp

SEP 06 2016 stamp

Island County Assessor

# Sample BOE Order



**ORDER OF THE ISLAND COUNTY BOARD OF EQUALIZATION**

The Board of Equalization for Island County, having been properly convened and having considered all of the evidence presented by the parties in this appeal, hereby rules for the determination below for the **2016 Assessment Year** for taxes payable in 2017.

TEEL JR, NORCROSS  
 4638 STRAWBRIDGE LANE  
 LANGLEY, WA 98260

Parcel # R33033-228-4100	Case # BE16-622972
--------------------------	--------------------

**Board Decision**

	Assessor's Certified Value	Board of Equalization Determination
Land Value	500000	500000
Improvements	345510	345510
Total Value	845510	845510

<input checked="" type="checkbox"/>	Value Sustained
<input type="checkbox"/>	Assessor's New Recommendation
<input type="checkbox"/>	Value Adjusted

This Board has a goal in all of its hearings to acquire sufficient, accurate evidence to support a determination of true and fair value as of the assessment date. The following criteria have been applied to achieve this goal:

The property in question is high bluff property with a residence in the Langley area. The Petitioners purchased this property in 2015 for \$840,000. Both the Assessor and the Petitioners have presented comparable sales, and their presentations have two sales in common.

The Petitioner contends that they overpaid for their property in view of some features such as a steep slope that they were unaware of at the time of purchase and a limitation of their view by trees on a neighboring property. In addition, the Petitioner says that they measured their residence room by room and came up with a different square footage than that utilized by the Assessor. The Petitioner points out that a larger parcel nearby is not assessed for significantly more than their parcel, and note that they encountered difficulty in obtaining information on comparable sales through either the county database or the MLS.

A valuation of a residence for the property tax purposes must be based on sales of the subject or similar properties. Such sales are available in this case, and even if the sale of the subject property itself is disregarded, the Board finds no substantial and significant error in the adjustments made to the comparable sales to justify a conclusion that the Assessor's valuation is clearly wrong. An assessment of a

neighboring property is not a sale, and the Board had no ability in fact or in law to make conclusions on the market value of the subject property based on the assessments.

A significant error in square footage of improvements is indeed an error that should result in modification of a valuation. However, in this case the Assessor also personally took the measurements he utilized for the valuation. The Assessor also notes that the property listing of the 2015 sale placed the square footage at slightly higher than his own measurements. Under the circumstances, the Board is unable to make a finding of fact that the square footage calculations of the Assessor are clearly in error.

On the difficulties encountered by the Petitioner in assessing comparable properties, the Board cannot assist the Petitioner other than to point out that an appeal of this decision requires an entirely new presentation of evidence and thus provides an opportunity to try again should they decide to do so.

By: *Lynn Peterson*  
Island County Board of Equalization

Date of mailing: *23 SEPT 2016*

**NOTICE**

This Order may be appealed to the State Board of Tax Appeals by filing a Notice of Appeal with them at PO Box 40915, Olympia, WA 98504-0915, within thirty days of the mailing of this order. The BTA can be contacted at (360) 753-5446 or at [www.bta.state.wa.us](http://www.bta.state.wa.us). The notice of appeal form (BTA 100) is available either from your Island County Website ([www.islandcountywa.gov](http://www.islandcountywa.gov)), the Island County Board of Equalization, the County Assessor or the Washington State Board of Tax Appeals.

Distribution: Island County Assessor's Office  
Petitioner  
Board of Equalization Case file  
Case BE16-622972

# Informal Property Tax Appeal Form



Address 1110 Capitol Way South, Suite 307 (P.O. Box 40915) Olympia, WA 98504-0915  
 Telephone (360) 753-5446 | Toll-Free (844) 880-8794 | Fax (360) 586-9020  
 Email [bta@bta.wa.gov](mailto:bta@bta.wa.gov) | Website [bta.wa.gov](http://bta.wa.gov)

## Informal Property Tax Appeal

Under Chapter 456-10 WAC, I appeal the decision of the \_\_\_\_\_ County Board of Equalization under Petition Number \_\_\_\_\_, assessment year \_\_\_\_\_ with taxes payable in \_\_\_\_\_ (the next year), for parcel number \_\_\_\_\_.

Property Address: \_\_\_\_\_

For WSBTA Use Docket Number

**\*\*\*You must attach a copy of the Board of Equalization order that is being appealed\*\*\***

Type of Appeal
----------------

- |  |  |  |                                      |
|--|--|--|--------------------------------------|
| <input type="checkbox"/> Residential/Condo | <input type="checkbox"/> Mobile Home       | <input type="checkbox"/> Exemption         | <input type="checkbox"/> Reconvene   |
| <input type="checkbox"/> Commercial        | <input type="checkbox"/> Vacant Lot        | <input type="checkbox"/> Open Space        | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Apt/Condo Complex | <input type="checkbox"/> Personal Property | <input type="checkbox"/> Timber/Forestland |                                      |

Value Set by the County Board
Land \$ _____
Improvements/Buildings \$ _____
Personal Property \$ _____
<b>Total \$ _____</b>

Appellant's Estimate of Value
Land \$ _____
Improvements/Buildings \$ _____
Personal Property \$ _____
<b>Total \$ _____</b>

Reasons for Appeal (Please be specific. Use attachment if necessary): \_\_\_\_\_

<b>Appellant Name</b>	Appellant/Representative Signature		
Appellant Mailing Address	City	State	Zip Code
Appellant Daytime or Message Telephone Number (      )	E-Mail (By providing an email, you agree to receive WSBTA materials and correspondence by email.)		

<b>Representative Name</b>	Firm or Company Name; Bar Number and State		
Representative Mailing Address	City	State	Zip Code
Representative Daytime or Message Telephone Number	Representative E-Mail (By providing an email, you agree to receive WSBTA correspondence by email.)		

**FOR ASSESSOR USE ONLY – If Assessor is Filing, Please Provide Name & Address of Taxpayer**

Taxpayer Name	Telephone and/or Email if known		
Mailing Address – Street or Box Number	City	State	Zip Code



Address 1110 Capitol Way South, Suite 307 (P.O. Box 40915) Olympia, WA 98504-0915  
 Telephone (360) 753-5446 | Toll-Free (844) 880-8794 | Fax (360) 586-9020  
 Email [bta@bta.wa.gov](mailto:bta@bta.wa.gov) | Website [bta.wa.gov](http://bta.wa.gov)

## Informal Property Tax Appeal Instructions

Use this form to appeal property valuations, county administered exemptions, open space and timber/forestland designations and taxes, and reconvene requests.

The appeal will be an **informal** appeal governed by the rules published in [WAC 456-10](#).

Send this completed form along with a **copy** of the County Board of Equalization order you are appealing to the WSBTA by one of the methods below. Do not send evidence at this time.

**U.S. Mail** P.O. Box 40915  
Olympia WA 98504-0915

**Delivery** 1110 Capitol Way South  
Suite 307  
Olympia WA 98504

**Fax** (360) 586-9020

**Email** [bta@bta.wa.gov](mailto:bta@bta.wa.gov)

Fax or E-mail transmittals must be received before 5 p.m. Electronic files received after that time are deemed received on the next business day. The time of receipt of an electronically filed document is the time shown by the WSBTA's fax or e-mail system.

The WSBTA will send a copy of your appeal and the County Board of Equalization order to the opposing party.

### What's Next?

The WSBTA will mail or email you a letter acknowledging receipt of your appeal. The letter will include a **prehearing order** identifying the dates for submitting your evidence and briefing. Follow the terms of the prehearing order.

The letter will also include your docket number. You **must** reference your docket number in all future communication regarding your appeal.

**If you have provided an email address, you will receive all correspondence by email.**

Please ensure [bta@bta.wa.gov](mailto:bta@bta.wa.gov) is a permitted address in your spam filters.

### Public Disclosure Notice:

Under the provisions of RCW Chapter 42.17 and WAC Chapter 456-12, information and materials submitted to the WSBTA are considered public records and are available for public inspection and copying.

### Questions?

If you have questions concerning this form, or would like to request this form in an alternate format, contact WSBTA.

For more information, visit our web site at <http://bta.wa.gov>.

# Response to Informal Appeal Form



Address 1110 Capitol Way South, Suite 307 (P.O. Box 40915) Olympia, WA 98504-0915  
 Telephone (360) 753-5446 | Toll-Free (844) 880-8794 | Fax (360) 586-9020  
 Email [bta@bta.wa.gov](mailto:bta@bta.wa.gov) | Website [bta.wa.gov](http://bta.wa.gov)

## Response/Statement of Value – Informal – Property Valuation

<b>WSBTA Docket No.</b>

I respond to the Notice of Appeal of petition/appeal number \_\_\_\_\_ of the \_\_\_\_\_ County Board of Equalization for taxes due for Assessment Year \_\_\_\_\_ payable in \_\_\_\_\_ (the following year), as follows:

**Property Owner:** \_\_\_\_\_

**Property Address:** \_\_\_\_\_

**Parcel Number** \_\_\_\_\_

Value Set by the County Board		Respondent(s) Estimate of Value	
Land	\$ _____	Land	\$ _____
Improvements/Buildings	\$ _____	Improvements/Buildings	\$ _____
Personal Property	\$ _____	Personal Property	\$ _____
<b>Total</b>	<b>\$</b> _____	<b>Total</b>	<b>\$</b> _____

Short statement supporting Respondent's value: (use attachment if necessary)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

<b>Respondent Name</b>	Respondent/Representative Signature		
Respondent Mailing Address	City	State	Zip Code
Respondent Daytime or Message Telephone Number (     )	E-Mail ( <b>By providing an email, you agree to receive correspondence by email.</b> )		

<b>Representative Name</b>	Firm or Company Name; Bar Number and State		
Representative Mailing Address	City	State	Zip Code
Representative Daytime or Message Telephone Number	Representative E-Mail Address		

If you would like to request this form in an alternate format, contact the Board of Tax Appeals at 360-753-5446 (voice/TDD).

## INSTRUCTIONS

1. Serve this Response by U.S. mail or personal delivery to the other parties to this appeal and sign the Proof of Service Certification below. See WAC 456-10-410 for information on service requirements.

2. Submit this Response/Statement of Value to the WSBTA by:

Fax: 360-586-9020  
Email: [bta@bta.wa.gov](mailto:bta@bta.wa.gov)  
US Mail: P.O. Box 40915  
Olympia, WA 98504-0915  
Delivery: 1110 Capitol Way South, Suite 307  
Olympia WA 98504

Do not include evidence with your response. You will have the opportunity to present your evidence at a later time requested by the Board of Tax Appeals. For additional information, see Chapter 456-10 of the Washington Administrative Code, or visit the WSBTA's website at: <http://bta.wa.gov>.

If you have provided an email address, you will receive all correspondence by email. Please add [bta@bta.wa.gov](mailto:bta@bta.wa.gov) to your spam filter.

**Public Disclosure Notice:** In accordance with RCW Chapter 42.17 and WAC Chapter 456-12, information and materials submitted to the Board of Tax Appeals are considered public records and are available for public inspection and copying.

## PROOF OF SERVICE CERTIFICATION

**If the Taxpayer is filing this Response:**  
I certify that I mailed or delivered a copy of this Response to the \_\_\_\_\_ County Assessor.

**If the County Assessor is filing this Response:**  
I certify that I mailed or delivered a copy of this Response to the taxpayer.

**If any other parties are involved in this Appeal:**  
I certify that I mailed or delivered a copy of this Response to the following parties, whose name, address, and telephone number are as follows:

Name	Address	Telephone Number
_____	_____	( ) _____
_____	_____	( ) _____
_____	_____	( ) _____
_____	_____	( ) _____
<b>Signature of Respondent or Representative</b>		<b>Date</b>

/ /



# BTA Stipulation Form



Address 1110 Capitol Way South, Suite 307 (P.O. Box 40915) Olympia, WA 98504-0915  
 Telephone (360) 753-5446 | Toll-Free (844) 880-8794 | Fax (360) 586-9020  
 Email [bta@bta.wa.gov](mailto:bta@bta.wa.gov) | Website [bta.wa.gov](http://bta.wa.gov)

### STIPULATION AGREEMENT

The undersigned parties stipulate and agree to the following property values:

Docket	Assess Year	Parcel No.	Property Values			Total
			Land	Improvements	Personal Property	

The parties request that the Board issue an order for the above-stated values as the final decision for the docket number(s) shown.

\_\_\_\_\_  
**Appellant Name:**

\_\_\_\_\_  
**Respondent Name:**

\_\_\_\_\_  
**Appellant Representative:**

\_\_\_\_\_  
**Respondent Representative:**

\_\_\_\_\_  
**Appellant or Representative Signature:**

\_\_\_\_\_  
**Respondent or Representative Signature:**

\_\_\_\_\_  
**Date:**

\_\_\_\_\_  
**Date:**

Submit to the WSBTA by:      Fax:      360-586-9020  
    Email:      [bta@bta.wa.gov](mailto:bta@bta.wa.gov)  
    US Mail:      P.O. Box 40915  
                         Olympia, WA 98504-0915  
    Delivery:      1110 Capitol Way South, Suite 307  
                         Olympia WA 98501

The WSBTA will issue a final decision as requested and send to all parties.

# BTA Sample Decision

THE BOARD OF TAX APPEALS  
STATE OF WASHINGTON

STEPHEN J. DREW, Thurston County Assessor,	)	
	)	
Appellant,	)	Docket Nos. 90601, 90602, and 91641
	)	
v.	)	RE: Property Tax Appeal
	)	
PAUL MINKER,	)	CORRECTED PROPOSED DECISION
	)	
Respondent.	)	
	)	

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This matter came before Bill G. Pardee, Tax Referee, presiding for the Board of Tax Appeals (Board), on February 26, 2019, in an informal hearing pursuant to the rules and procedures set forth in chapter 456-10 WAC (Washington Administrative Code). Jeanne-Marie Wilson, Appraisal Analyst, represented the Appellant, Stephen J. Drew, Thurston County Assessor (Assessor). The Respondent, Paul Minker (Owner), represented himself.

The Board heard the testimony, reviewed the evidence, and considered the arguments made on behalf of both parties. The Board now makes its decision as follows:

VALUATION FOR ASSESSMENT-YEAR 2014  
DOCKET NO. 90601  
PARCEL NO. 63550015500 (LAND WITH SHED)

VALUATION OF THE ASSESSOR	VALUATION OF THE COUNTY BOARD	CONTENDED VALUATION OF THE OWNER	VALUATION OF THE BOARD OF TAX APPEALS
Land: \$51,500	Land: \$37,000	Land: \$37,000	Land: \$51,500
<u>Impr: \$1,300</u>	<u>Impr: \$1,300</u>	<u>Impr: \$1,300</u>	<u>Impr: \$1,300</u>
Total: \$52,800	Total: \$38,300	Total: \$38,300	Total: \$52,800

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VALUATION FOR ASSESSMENT-YEAR 2014  
DOCKET NO. 90602  
PARCEL NO. 99900407800 (MANUFACTURED HOME)

VALUATION OF THE ASSESSOR	VALUATION OF THE COUNTY BOARD	CONTENDED VALUATION OF THE OWNER	VALUATION OF THE BOARD OF TAX APPEALS
Land: N/A	Land: N/A	Land: N/A	Land: N/A
<u>Impr: \$57,700</u>	<u>Impr: \$42,500</u>	<u>Impr: \$42,500</u>	<u>Impr: \$57,700</u>
Total: \$57,700	Total: \$42,500	Total: \$42,500	Total: \$57,700

VALUATION FOR ASSESSMENT-YEAR 2015  
DOCKET NO. 91641  
PARCEL NO. 99900407800 (MANUFACTURED HOME)

VALUATION OF THE ASSESSOR	VALUATION OF THE COUNTY BOARD	CONTENDED VALUATION OF THE OWNER	VALUATION OF THE BOARD OF TAX APPEALS
Land: N/A	Land: N/A	Land: N/A	Land: N/A
<u>Impr: \$57,500</u>	<u>Impr: \$40,000</u>	<u>Impr: \$40,000</u>	<u>Impr: \$57,500</u>
Total: \$57,500	Total: \$40,000	Total: \$40,000	Total: \$57,500

ISSUE

The issue in this appeal is the January 1, 2014, true and fair market value of a land parcel improved with a shed located at 918 Tipsoo Ln N in Rainier, Washington, and the January 1, 2014, and January 1, 2015, true and fair market value of a double-wide manufactured home located thereon.<sup>1</sup>

<sup>1</sup> APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 137-138 (6<sup>th</sup> ed. 2015), defines *manufactured home* as: “A factory-built house manufactured under the Federal Manufactured Home Construction and Safety Standards Act, commonly known as the *HUD Code*.” This is distinct from a *mobile home* that the same reference defines at page 147 as: “A factory-built house on a permanent chassis constructed prior to the enactment of the HUD Code on June 15, 1976.” Given that the subject factory-built house was built in 1986, it is by definition a manufacture home.

## PROCEDURAL HISTORY

The Assessor assigned the subject land parcel, with shed, and the subject double-wide manufactured home the values shown in the tables above. The Owner appealed the Assessor's values to the Thurston County Board of Equalization (County Board), which reduced the Assessor's values. The Assessor now appeals to this Board, asking the Board to reinstate his original assessed values. The Owner contends the values shown above.

## FACTS AND CONTENTIONS

The subject land parcel measures 1.03 acres and is improved with a shed that is 96 square feet in size. The subject double-wide manufactured home is an average-quality, average-condition, single-family residence built in 1986. The subject is located in the Mountain View Estates subdivision. The subject has 1,568 square feet of total living area, all above-grade living area (AGLA). The subject has a detached garage that measures 672 square feet, an open-porch that is 1,316 square feet in size, and a wood deck that measures 460 square feet.

### Owner's Evidence and Arguments

#### 2014

In support of a reduced 2014 value for the subject land parcel and the subject manufactured home, the Owner submits two sales of vacant-land parcels for comparison to the subject land parcel with shed and the subject manufactured home:

- a. Owner's Sale No. 1 is the August 5, 2013, sale of 957 Tipsoo Loop, a 1.25-acre parcel, for \$33,487.
- b. Owner's Sale No. 2 is the October 12, 2012, sale of 925 Tipsoo Loop, a 1.25-acre parcel, for \$37,000.

The Owner states that the location of the subject is less than desirable because the City of Rainier does not maintain the roads or provide the necessary services for the subject's neighborhood. The Owner notes that he has a neighbor with in excess of 20 cars on his property. The Owner explains that the subject manufactured home is not a stick-built home, and because of this, it is difficult for him to insure the subject or to use the subject as collateral for a loan. The Owner also explains that the City of Rainier has an easement located along the back of his property for a drainage ditch, but the City does not maintain it, causing the back of the Owner's

property to become extremely wet. The Owner notes that the subject manufactured home sits on a higher point on the land and is not affected by the lack of drainage of the ditch.

### 2015

In support of a reduced 2015 value for the subject manufactured home, the Owner submits four sales of vacant-land parcels for comparison to the subject:

- a. Owner's Sale No. 3 is the same as Owner's Sale No. 1.
- c. Owner's Sale No. 4 is the March 19, 2014, sale of 957 Tipsoo Loop (the same property as that in Owner's Sale Nos. 1 and 3) for \$21,500.
- d. Owner's Sale No. 5 is the same as Owner's Sale No. 2.
- e. Owner's Sale No. 6 is the June 11, 2014, sale of 809 Tipsoo Loop, a 1-acre parcel, for \$18,000.

The Owner reiterates the same arguments for 2015 as he did in 2014, which are summarized above.

### Assessor's Evidence and Arguments

### 2014

In support of his 2014 value for both the subject land parcel and the subject manufactured home, the Assessor submits four sales for comparison to both the subject land parcel and the subject manufactured home:<sup>2</sup>

- a. Assessor's Sale No. 1 is the January 29, 2014, sale of 7124 183<sup>rd</sup> Ave SW for \$130,000, with an adjusted sale price of \$116,550.<sup>3</sup> The property is an average-quality, average-condition, double-wide, single-family manufactured home built in 1992. The property has 1,144 square feet of total living area, all AGLA. It also has a 440 square foot open porch and a 100 square foot enclosed porch. The property has a total lot size of 1.32 acres and is located 17.57 miles from both subject.
- b. Assessor's Sale No. 2 is the November 13, 2013, sale of 15019 Turner Rd SE for \$133,500, with an adjusted sale price of \$115,850. The property is an average-quality, average-condition, double-wide, single-family manufactured home built in

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<sup>2</sup> Ex. A1-9 and Ex. A2-2 (Docket Nos. 90601 and 90602).

<sup>3</sup> The Assessor calculates the adjusted sale price for his comparable sales by making adjustments for differences in characteristics between the comparable sale and the subject, and for location, in order to arrive at the total net adjustment that is either subtracted from or added to the sale price.

1999. The property has 1,568 square feet of total living area, all AGLA. It also has an 8 square foot covered porch and a 16 square foot wood deck. The property has a total lot size of 1.83 acres and is located 3.49 miles from the subject.

- c. Assessor's Sale No. 3 is the December 30, 2013, sale of 17214 SW Shantra Ln for \$157,500, with an adjusted sale price of \$143,100. The property is an average-quality, average-condition, double-wide, single-family manufactured home built in 1984. The property has 1,792 square feet of total living area, all AGLA. It also has a 64 square foot covered porch and a 48 square foot open porch. The property has a total lot size of 1 acre and is located 18.77 miles from the subject.
- d. Assessor's Sale No. 4 is the September 12, 2012, sale of 959 Tipsoo Loop N for \$129,000, with an adjusted sale price of \$111,500. The property is an average-quality, very-good condition, double-wide, single-family manufactured home built in 1979. The property has 1,792 square feet of total living area, all AGLA. It also has a 447 square foot open porch. The property has a total lot size of 1.29 acres and is located on the same street as the subject.

The Assessor states that Assessor's Sale Nos. 2 and 4 are the best comparable sales because they are located closer to the subject than Assessor's Sale Nos. 1 and 3, and Assessor's Sale No. 4 was a sale of two separate parcel numbers, one for the manufactured home and one for the land parcel, similar to the subject.

The Assessor also submits a market-adjusted cost approach to value the subject land parcel with shed for 2014.<sup>4</sup> The Assessor relies on *Marshall & Swift* cost data, but makes adjustments to that data to reflect the local market. Under his cost approach, the Assessor estimates a total value for the subject land of \$42,919, after making a downward adjustment for the fair neighborhood appeal of the subject's neighborhood<sup>5</sup> and a positive adjustment for a sewer. After applying a 1.20 neighborhood adjustment for the land, the final value for the subject land is 51,500. The Assessor estimates a replacement cost new less depreciation (RCNLD) of \$1,519 (depreciation being 7 percent)<sup>6</sup> for the shed that accompanies the subject

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<sup>4</sup> Ex. A1-2 (Docket No. 90601).

<sup>5</sup> This adjustment totaled \$7,221.

<sup>6</sup> The depreciation at issue for both the 2014 and 2015 assessment years is solely due to physical deterioration, but not functional obsolescence or economic (i.e., external) obsolescence. The Assessor explains that, for improvements built in 1995 forward, the effective year-built and the actual year-built will be the same. But for improvements like the subject that are older than 1995, assuming they are adequately maintained, the effective year-built will generally



land.<sup>7</sup> After applying 0.87 neighborhood adjustment for the shed (detached structure),<sup>8</sup> the final value for the shed is \$1,300.<sup>9</sup> This results in a total final value for the subject land, with shed, of \$52,800.<sup>10</sup>

The Assessor also submits a market-adjusted cost approach to value the subject manufactured home for 2014.<sup>11</sup> The Assessor again relies on *Marshall & Swift* cost data, but he makes adjustments to that data to reflect the local market. Under his cost approach, the Assessor estimates a RCNLD for the subject manufactured home of \$66,267 (depreciation being 50 percent).<sup>12</sup> After applying a 0.87 neighborhood adjustment for the subject manufactured home (building), the final value for the subject manufactured home is \$57,700.<sup>13</sup>

The Assessor asserts that both the subject manufactured home and subject land parcel with shed are one economic unit as defined in the *The Dictionary of Real Estate Appraisal*,<sup>14</sup> and therefore properly valued as one aggregate unit. The Assessor notes that guidance issued by the Washington State Department of Revenue supports this economic unit approach to the valuation of manufactured homes not located in parks, but rather alone on land. As a result, the Assessor states that the final values he calculated under his cost approach for both the subject land parcel with shed and subject manufactured home should be combined since the Owner owns both, and the Assessor states:

[Assessor's Sale Nos. 1 through 4] are of manufactured homes on land. The best

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be a more recent year than the actual year-built, to facilitate straight line depreciation. The Assessor explains that although he pulls depreciation data from *Marshall & Swift*, he modifies such data to account for the local market and creates his own depreciation tables.

<sup>7</sup> Ex. A1-2 (Docket No. 90601).

<sup>8</sup> The Assessor's neighborhood adjustments are derived from sales regression analysis, separating land and improvement values.

<sup>9</sup> Ex. A1-2 (Docket No. 90601).

<sup>10</sup> Ex. A1-2 (Docket No. 90601).

<sup>11</sup> Ex. A1-2 (Docket No. 90601).

<sup>12</sup> Ex. A1-2 (Docket No. 90602).

<sup>13</sup> Ex. A1-2 (Docket No. 90602).

<sup>14</sup> APPRAISAL INSTITUTE, *THE DICTIONARY OF REAL ESTATE APPRAISAL* 72-73 (6<sup>th</sup> ed. 2015), defines *economic unit* as:

1. A portion of a larger (parent) parcel, vacant or improved, that can be described and valued as a separate and independent parcel. Physical characteristics such as location, accesses, size, shape, existing improvements, and current use are considered when identifying an economic unit. The economic unit should reflect marketability characteristics similar to other properties in the market area. In appraisal, the identification of economic units is essential in highest and best use analysis of a property.
2. A combination of parcels in which land and improvements are used for mutual economic benefit. An economic unit may comprise properties that are neither contiguous nor owned by the same owner. However, they must be managed and operated on a unitary basis and each parcel must make a positive economic contribution to the operation of the unit.

way to utilize these sales is to look at the overall value of the subject and the structures, since it is all in the same ownership. The total value of the land parcel with [shed and the manufactured home] is \$110,500.<sup>15</sup>

2015

In support of his 2015 value for the subject double-wide manufactured home, the Assessor submits three sales for comparison to the subject:<sup>16</sup>

- a. Assessor's Sale No. 5 is the July 18, 2014, sale of 902 Tipsoo Loop N for \$194,000, with an adjusted sale price of \$175,144. The property is a good-quality, excellent-condition, double-wide, single-family manufactured home built in 1982. The property has 1,456 square feet of total living area, all AGLA. The property has a total lot size of 1.21 acres and is located 0.12 miles from the subject.
- b. Assessor's Sale No. 6 is the February 24, 2015, sale of 16844 Canal Rd SE for \$200,000, with an adjusted value of \$116,279. The property is a good-quality, good-condition, double-wide, single-family manufactured home built in 1990. The property has 1,344 square feet of total living area, all AGLA. The property has a total lot size of 1.05 acres and is located 5.21 miles from the subject.
- c. Assessor's Sale No. 7 is the July 31, 2014, sale of 8725 Joyce Ct SE for \$115,000, with an adjusted sale price of \$169,707. The property is an average-quality, average-condition, double-wide, single-family manufactured home built in 1981. The property has 1,456 square feet of total living area, all AGLA. The property has a total lot size of 0.52 acres and is located 5.22 miles from the subject.

The Assessor notes that Assessor's Sale No. 5 is on the same street as the subject manufactured home, thereby eliminating any concerns the Owner has that the Assessor is not taking into consideration the subject manufactured home's neighborhood when valuing the subject.<sup>17</sup>

The Assessor submits a market-adjusted cost approach to value the subject manufactured home for 2015.<sup>18</sup> The Assessor again relies on *Marshall & Swift* cost data, but makes adjustments to that data to reflect the local market. Under his cost approach, the Assessor estimates a RCNLD for the subject manufactured home of \$62,511 (depreciation being 52

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<sup>15</sup> Ex. A1-6 (Docket Nos. 90601 and 90602).

<sup>16</sup> Ex. A1-13 (Docket No. 91641).

<sup>17</sup> Ex. A1-11 (Docket No. 91641).

<sup>18</sup> Ex. A1-2 (Docket No. 91640).

percent).<sup>19</sup> After applying a 0.92 neighborhood adjustment for the subject manufactured home (building), the final value for the subject manufactured home is \$57,500.<sup>20</sup>

Even though the Assessor did not appeal the subject land parcel's valuation for 2015, as he did in 2014, the Assessor states that, similar to his approach in 2014, he combines both the subject land parcel with shed and the subject manufactured home for valuation purposes because "they have the same owner and would likely sell together as one economic unit."<sup>21</sup> The Assessor states that, for 2015, the combined value of the subject land parcel with shed and the subject manufactured home is \$110,400.<sup>22</sup>

#### Owner's Rebuttal of Assessor's Evidence

The Owner asserts that many of the Assessor's comparable sales are located a long distance from the subject. The Owner states that any comparable sale that the Assessor provides that is located outside the Mountain View Estates subdivision where the subject is located is not a valid comparable sale. Unlike the subject, the Owner asserts that many of the Assessor's comparable sales include properties supported by paved road, adequate drainage, and adequate law enforcement.

The Owner agrees that the Assessor's calculation of RCNLD of the subject manufactured home is reasonable, but still would like the Board to affirm the lower value assigned by the County Board.

#### Assessor's Rebuttal of Owner's Evidence

The Assessor explains that Owner's Sale Nos. 1 through 6 are of bare land only.<sup>23</sup> The Assessor notes that Owner's Sale Nos. 1 (Owner's Sale Nos. 3) is a repossession and Owner's Sale No. 4 is a bank-owned sale, neither of which is an arm's-length transaction.<sup>24</sup> The Assessor adds that Owner's Sale No. 2 (Owner's Sale No. 5) is a valid sale but would need to be trended upward for market conditions because it occurred in 2012.<sup>25</sup> The Assessor states that, because Owner's Sale No. 6 occurred following a repossession, it is not considered an arm's-length

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<sup>19</sup> Ex. A1-2 (Docket No. 90602).

<sup>20</sup> Ex. A1-2 (Docket No. 90602).

<sup>21</sup> Ex. A1-10 (Docket No. 91641).

<sup>22</sup> Ex. A1-10 (Docket No. 91641).

<sup>23</sup> Ex. A1-11 (Docket No. 91641).

<sup>24</sup> Ex. A1-11 (Docket No. 91641).

<sup>25</sup> Ex. A1-11 (Docket No. 91641).

transaction.<sup>26</sup>

In response to the Owner's concerns about the immediate area surrounding the subject land parcel and the subject manufactured home (i.e., the neighborhood), the Assessor explains that the neighborhood as a whole is deemed fair, and a downward adjustment for that has been made to the subject land.<sup>27</sup> The Assessor also points out that included in his comparable sales are two sales (Assessor's Sale Nos. 4 and 5) on the same street as the subject, thereby eliminating any potential issues regarding not accounting for the subject's neighborhood.<sup>28</sup>

The remainder of the parties' evidence is contained within the record. The Board reviewed all of the evidence prior to rendering this decision.

#### APPLICABLE LAW

*General Principles of Property Valuation for Taxation Purposes.* Under Washington law, all property must be valued at "one hundred percent of . . . true and fair value." *True and fair value* is synonymous with *fair market value*,<sup>29</sup> which "is the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell."<sup>30</sup> In reaching fair market value, the appraiser must consider a property's highest and best use,<sup>31</sup> unless the use is prohibited "under existing zoning or land use planning ordinances or statutes or other government restrictions."<sup>32</sup> In the course of determining a property's value, assessors must allocate the value to the land and the structures, giving care that the sum of those values does not "exceed the true and fair value of the total property as it exists."<sup>33</sup>

Washington law, RCW 84.40.030(3), mandates that fair market value be derived using the sales comparison approach, allowing further consideration of the cost and income capitalization approaches. In the absence of a sufficient number of comparable sales, or when valuing a complex property, either the cost or income capitalization approach, or both, must be

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<sup>26</sup> Ex. A1-11 (Docket No. 91641).

<sup>27</sup> Ex. A1-11 (Docket No. 91641).

<sup>28</sup> Ex. A1-11 (Docket No. 91641).

<sup>29</sup> *Cascade Court Ltd. Partnership v. Noble*, 105 Wn. App. 563, 567, 20 P.3d 997 (2001) (observing that "[t]he phrase 'true and fair value in money' has been consistently interpreted to mean 'fair market value'").

<sup>30</sup> WAC 458-07-030(1).

<sup>31</sup> WAC 458-07-030(3).

<sup>32</sup> RCW 84.40.030(3)(a).

<sup>33</sup> RCW 84.04.090 defines *real property* as "the land itself . . . and all buildings, structures or improvements or other fixtures of whatsoever kind thereon." RCW 84.40.030(3)(c) "necessarily contemplates the potential adjustment of component values to keep their sum within a property's total assessed value." *University Village Ltd. Partners v. King County*, 106 Wn. App. 321, 326, 23 P.3d 1090 (2001).

used. The assessed values of other properties do not constitute relevant evidence of the subject property's market value, nor does the assessed value of the subject property from a previous or subsequent assessment year.<sup>34</sup> This is because the Board reviews the parties' evidence of market value, as it applies to the assessment date at issue and, in light of RCW 84.40.030 (which instructs that the market, income, and/or cost approaches to value are the appropriate methodologies on which to rely in valuing real property)<sup>35</sup> determines whether the taxpayer provides evidence sufficient to overcome assessor's presumption of correctness.

*Sales Comparison Approach.* In the sales comparison approach,<sup>36</sup> an appraiser arrives at the property's fair market value by considering sales of the property being appraised or sales of similar properties occurring within the past five years.<sup>37</sup> Among the key factors for determining whether a sale property and the subject property are "similar" are (1) location; (2) age, size, construction quality, and condition of improvements; and (3) special features of the site, such as view or waterfront.<sup>38</sup> Greater weight is accorded to properties most similar to the subject that sold closest to the assessment date.<sup>39</sup>

*Cost Approach.* The cost approach derives the subject property's value "by adding the estimated value of the site to the current cost of constructing a reproduction or replacement for the improvements and then subtracting the amount of depreciation."<sup>40</sup> The cost approach is well suited to the valuation of "new or nearly new improvements and properties that are not frequently exchanged in the market."<sup>41</sup>

*Burden of Proof.* Under RCW 84.40.0301, an assessor's original valuation of property is presumed correct, a presumption that applies solely to the assessor's valuation, not to any decision of a county board of equalization.<sup>42</sup> To prevail on appeal, a property owner must provide "clear, cogent and convincing evidence"<sup>43</sup> of assessor error. Washington courts have explained that the

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<sup>34</sup> *Matalone v. Hara*, BTA Docket No. 71193 (2010).

<sup>35</sup> The Board notes that a comparison of assessed values is not a component of any of these valuation methods.

<sup>36</sup> APPRAISAL INSTITUTE, *THE APPRAISAL OF REAL ESTATE* 377 (14<sup>th</sup> ed. 2013).

<sup>37</sup> RCW 84.40.030(3)(a).

<sup>38</sup> See *THE APPRAISAL OF REAL ESTATE*, *supra*, at 45, 366, 381.

<sup>39</sup> See WAC 458-14-087(4) (requiring the Board of Equalization to assign "[m]ore weight . . . to similar sales occurring closest to the assessment date which require the fewest adjustments for characteristics"). In some decisions, the Board has viewed as dissimilar a sale property that requires gross adjustments in excess of 25 percent of the sale price. See *Reef Adams, LLC v. Washam*, BTA Docket No. 70007, at 7 (2011).

<sup>40</sup> *THE APPRAISAL OF REAL ESTATE*, *supra*, at 47.

<sup>41</sup> *Id.*

<sup>42</sup> AGO 1986 No. 3, at 10.

<sup>43</sup> RCW 84.40.0301.

“clear, cogent, and convincing” standard requires “proof that is less than ‘beyond a reasonable doubt,’ but more than a mere ‘preponderance’”; evidence is “clear, cogent, and convincing” if it shows “that the fact in issue is ‘highly probable.’”<sup>44</sup>

*Authority of the Board of Tax Appeals.* To resolve property valuation appeals, the Board holds a *de novo*, or new, hearing and relies on the materials filed with the county board of equalization and any additional documents timely filed with the Board.<sup>45</sup> Consistent with RCW 84.40.030(1), the Board may uphold either party’s contended value or find a different value. Under RCW 84.08.060, however, “the board of tax appeals . . . shall not raise the valuation of the property to an amount greater than the larger of either the valuation of the property by the county assessor or the valuation of the property assigned by the county board of equalization.” Ultimately, the Board makes “such order as in its judgment is just and proper.”<sup>46</sup>

## ANALYSIS

The Owner must show by clear, cogent, and convincing evidence that the Assessor’s contended values are erroneous. The evidence before the Board does not meet this standard. As such, the Board concludes that the Owner has not met his burden of showing it is highly probable the Assessor overvalued the subject land parcel with shed for assessment-year 2014, or that the Assessor overvalued the subject manufactured home for assessment-years 2014 and 2015.

The Owner simply argues that the location of the subject land with shed and the subject manufactured home is less than desirable because the City of Rainier does not adequately maintain the roads in the Mountain View Estates subdivision, nor does it provide essential services for that neighborhood. The Owner also notes that one of his neighbors has an excess number of cars on their property. Finally, the Owner mentions a drainage ditch at the back of his property that he claims the City of Rainier has failed to maintain, causing excessive water to pool there on the property. In sum, the Owner requests that the Board lower the value of the subject property because of the general categories of external obsolescence he identifies above, even though the Owner provides no quantifiable market evidence to support his position.<sup>47</sup> In the

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<sup>44</sup> *Tiger Oil Corp. v. Yakima County*, 158 Wn. App. 553, 562, 242 P.3d 936 (2010) (quoting *Davis v. Dep’t of Labor & Indus.*, 94 Wn.2d 119, 126, 615 P.2d 1279 (1980), and *In re Welfare of Seago*, 82 Wn.2d 736, 739, 513 P.2d 831 (1973)).

<sup>45</sup> See *Ridder v. McGinnis*, BTA Docket No. 33754, at 4 (1988) (citing AGO 1986 No. 3, at 8-9); RCW 84.08.130(1).

<sup>46</sup> RCW 84.08.130(1).

<sup>47</sup> APPRAISAL INSTITUTE, *THE DICTIONARY OF REAL ESTATE APPRAISAL* 83 (6<sup>th</sup> ed. 2015), defines *external obsolescence* as: “A type of depreciation; a diminution in value caused by negative external influences and

absence of quantifiable market evidence of external obsolescence relevant to the subject property's specific geographic area (i.e., the Mountain View Estates subdivision),<sup>48</sup> and its possible impact on the subject's market value (either the subject land with shed or the subject manufactured home), the Board would be required to speculate, contrary to its role as the trier of fact.<sup>49</sup> Rather, the evidence in this matter supports the Assessor's position.

Consistent with the Assessor's position, the Board has historically treated manufactured homes situated on land as a single economic unit.<sup>50</sup> As such, Owner's Sale Nos. 1 through 6 are not comparable to the subject because they involved sales of vacant-land parcels, not properties improved with a manufactured home similar to the subject land parcel with the shed.

Assessor's Sale Nos. 2 and 4 both involve manufactured homes situated on land, as an economic unit, and have adjusted sale prices that range from \$112,000 to \$116,000. They also nicely bracket the Assessor's total 2014 value of the subject land parcel with shed and the subject manufactured home (\$110,500). Assessor's Sale No. 4 is also located on the same street as the subject, alleviating the Owner's concerns that the only true comparable sales are those located in the Mountain View Estates subdivision.

Assessor's Sale No. 5 is also located on the same street as the subject manufactured home and has characteristics very similar to the subject manufactured home and the subject land parcel with shed, with an adjusted sale price of \$175,144. The sale price far exceeds the Assessor's total 2015 value of the subject manufactured home and subject land parcel with shed (\$110,400) and the 2015 value of the subject manufactured home (\$57,500).

It's worth emphasizing that the Owner admits that the RCNLD that the Assessor used for the subject manufactured home for assessment-years 2014 and 2015 in his modified cost approach was reasonable.

In summary, for assessment-year 2014, the Board concludes the Owner has not met his burden to provide clear, cogent, and convincing evidence the Assessor overvalued the subject

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generally incurable on the part of the owner, landlord or tenant. The external influence may be either temporary or permanent." At page 134, the same reference defines *locational obsolescence*, a cause of external obsolescence (see APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 633 (14<sup>th</sup> ed. 2013)), as: "A loss in value due to proximity to something that changes value, such as a landfill or traffic. Locational obsolescence is usually incurable."

<sup>48</sup> See *Melody Peterson, Mason County Assessor v. Timothy and Diane Hoosier*, BTA Docket No. 89057, 92231 (2018) for examples of quantifiable market evidence supporting a reduction in value for external obsolescence.

<sup>49</sup> See *David H. Statham v. Linda Franklin, Clark County Assessor*, BTA Docket No. 68226 (2009).

<sup>50</sup> See *Phillip McLean v. Don McDowall, Grant County Assessor*, BTA Docket Nos. 55493-55495, at 3-4 (2001) ("That is the way such properties are bought and sold; that is the way they are valued in the marketplace."); *David J. Sitler v. Allen Taylor, Stevens County Assessor*, BTA Docket Nos. 70620-70622 (2010).

land parcel with shed. And for assessment-years 2014 and 2015, the Board concludes the Owner has not met his burden to provide clear, cogent, and convincing evidence the Assessor overvalued the subject manufactured home.

### DECISION

In accordance with RCW 84.08.130, the Board sets aside the determination of the Thurston County Board of Equalization for assessment-year 2014 as to the valuation of the subject land parcel with shed and for assessment-years 2014 and 2015 as to the valuation of the subject manufactured home, and orders the values as shown on pages one and two of this decision. The Thurston County Assessor and Treasurer are hereby directed that the assessment and tax rolls of Thurston County are to accord with, and give full effect to, the provisions of this decision.

DATED this 15<sup>th</sup> day of April, 2019.

BOARD OF TAX APPEALS



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WILLIAM PARDEE, Tax Referee

### Right of Review

Pursuant to WAC 456-10-730, you may file a written exception to this Proposed Decision. You must file the letter of exception with the Board of Tax Appeals within 20 calendar days of the date of mailing of the Proposed Decision. You also must serve a copy on all other parties. The written exception must clearly specify the factual and legal grounds upon which the exception is based. No new evidence may be introduced in the written exception, nor may a party or parties raise an argument that was not raised at the hearing.

The other parties may submit a reply to the exception within 10 business days. The Board will then consider the matter and issue a Final Decision. There is no reconsideration from the Board's Final Decision.

If a written exception is not filed, the Proposed Decision becomes the Board's Final Decision 20 calendar days after the date of mailing of the Proposed Decision.



## Interrogatories and Requests for Production Template

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BEFORE THE BOARD OF TAX APPEALS  
STATE OF WASHINGTON

v. Appellant,  
  
Respondent.

NO.  
[REDACTED]'S  
**INTERROGATORIES AND  
REQUESTS FOR PRODUCTION  
OF DOCUMENTS**

TO: Appellant;  
AND TO: Its attorneys, \_\_\_\_\_.

Pursuant to Washington Superior Court Civil Rules 26, 33, and 34 and WAC 456-09-510, you are served with Respondent \_\_\_\_\_'s set of interrogatories and requests for production of documents. Please answer these interrogatories and production requests within thirty (30) days of their service upon your representative. **These discovery requests are continuing in nature. In the event you discover further information that is responsive to these requests, please supplement your answers and responses in accordance with the Rules of Civil Procedure.**

Space has been provided following each interrogatory for the insertion of your response. If the space is insufficient for this purpose, please attach an additional page or pages.

1 **I. INSTRUCTIONS**

2 **A. Form of Production**

3 [Respondent] requests that you permit it to inspect and copy the documents and other  
4 materials described below. [Respondent] requests that this production for inspection and copying  
5 take place at the office [insert address], within 30 days of the date of service, or at such other time  
6 and place as you may arrange with the undersigned. Alternatively, you may provide [Respondent]  
7 with the requested documents in electronic form copied to a CD or via secure file transfer site and  
8 provided with your Answers and Responses.

9 Pursuant to CR 34(b)(2)(C), please produce electronically stored information in the  
10 following form:

- 11 • Emails and text messages: Searchable PDFs.
- 12 • Letters, memos, and similar documents, including drafts, created with word  
13 processing software such as Microsoft Word: Searchable PDFs.
- 14 • Spreadsheets and similar documents created with spreadsheet software such as  
15 Microsoft Excel: Native form as kept in the usual course of business.
- 16 • Other: Produce in native form as kept in the usual course of business.

17 Please produce the requested documents, whether originally stored in paper or  
18 electronic form, in electronic image form in the manner as described below. If certain  
19 documents are not susceptible to production in the format methods of production addressed  
20 below, contact the undersigned counsel to discuss alternative production requirements,  
21 concerns, formats, or methods.

22 Documents shall be produced according to the following formats:

- 23 1. Documents that are maintained in paper format shall be scanned images at 300  
24 DPI resolution, in text searchable PDF format that represents the full and complete information  
25 contained in the original document. Paper documents that contain fixed notes shall be scanned  
26 with the notes affixed, if it can be done so in a manner so as not to obstruct other content on the

1 document. If the content of the document is obscured by the affixed notes, the document and  
2 note shall be scanned separately. Documents shall also be produced with the associated OCR  
3 text. You are not required to ensure that the OCR is an exact duplicate of the contents of the  
4 image.

5         2. Each page of the produced document shall have a legible, unique page identifier  
6 (“Bates number”) electronically “burned” onto the image at a location that does not  
7 unreasonably obliterate, conceal, or interfere with any information from the source document.  
8 You must use a consistent prefix throughout the matter. Bates numbers shall consist of a short  
9 two to eight letter prefix representing your name, followed by 6 numbers (e.g. ABC000001).  
10 The prefix should include only letters, dashes or underscores. The prefix and number should  
11 not be separated by a space. Each page in the production is assigned a unique, incremental  
12 Bates number.

13         3. Filenames should be of the form: <Bates num>.pdf, where <Bates num> is the  
14 Bates number of the first page of the document. No other information should be provided in  
15 the image filenames, including confidentiality status. Filenames must be unique in the  
16 production, unless the content is identical.

17         Electronic documents should be produced in native format where the converted image  
18 format distorts or causes the information to be improperly displayed, or for which there is no  
19 visual representation. In the event native format documents are produced, in order to preserve  
20 the integrity of those native format documents, no Bates number, confidentiality legend or  
21 internal tracking number should be added to the content of the native document.

## 22 **B. Objections**

23         If you object to answering any interrogatory or request for production in whole or in part,  
24 state your objection and the factual and legal reasoning supporting the objection with particularity.  
25 If you object to answering only part of an interrogatory or request for production, specify the part  
26 to which you object and answer the remainder.

1 **C. Scope**

2 In your answers and responses to the discovery requests, please identify and include all  
3 documents, communications, records, data, and other information known to, or reasonably  
4 ascertainable by Appellant, and any and all its officials, officers, employees, agents, attorneys,  
5 investigators, and other persons acting in their representative capacities.

6 Unless otherwise stated or implied, these discovery requests cover the period from  
7 Date range of issue.

8 When an exact answer to an interrogatory is not known, state the best estimate  
9 available, state that it is an estimate, and state the basis for such estimate. If you do not know  
10 or cannot ascertain the answer or response to any of the discovery requests below, please state  
11 that affirmatively and explain why you are unable to provide an answer or response.

12 **D. Privilege**

13 If your objection to an interrogatory or request for production is based on privilege, state  
14 with particularity the nature and extent of the privileged matters. With respect to responsive  
15 documents that you contend contain information protected by a privilege, produce a PDF copy of  
16 the document, redacting only that portion that you contend is protected. In addition, if you claim  
17 that any document responsive to any of the requests for production is subject to a privilege, provide  
18 a log that states, for each such document:

19 (1) The basis for the claim of privilege;

20 (2) The type of document (e.g., letter, memorandum, contract, etc.), the date of the  
21 document, and the subject matter of the document;

22 (3) The name, address, and position of the author of the document and of any person  
23 who assisted in its preparation;

24 (4) The name, address, and position of each addressee or recipient of the document or  
25 any copies of it; and  
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1 (5) The present location of the document and the name, address, and position of the  
2 person having custody of it.

3 **E. Definitions**

4 Where a term is undefined in these definitions, the plain and ordinary meaning of the  
5 term applies. The following definitions apply to all interrogatories and production requests:

6 1. **“Complaint or Notice of Appeal”** refers to Appellant’s Notice of Appeal filed  
7 with the Board of Tax Appeals on date of filing.

8 2. **“Assessor”** refers to the \_\_\_\_\_.

9 3. **“Document”** means any written, recorded, or graphic matter, however produced  
10 or reproduced, that relates or refers, in whole or in part, to the subjects specified in the request. If a  
11 document has been prepared in several drafts, or additional copies have been made and the drafts  
12 or copies are not identical (or have undergone alteration by the addition or deletion of notations or  
13 other modifications), each non-identical copy is a separate “document.” The term “document”

14 includes, but is not limited to, the following: any corporate record (articles of incorporation,  
15 bylaws, minutes, corporate books, etc.), agreements, contracts, leases, books, bulletins, circulars,  
16 pamphlets, periodicals, letters, memoranda, files, handwritten notes, notes, reports, notices,  
17 records, statutes, codes, regulations, rules, telephone messages, journals, work sheets, invoices,  
18 sales slips, billing or credit statements, advertisements (including scripts, videotapes and  
19 recordings of same), studies, analyses, statements, bills, invoices, receipts, financial statements,  
20 ledgers, audits, tax returns, correspondence, summaries, interoffice communications, e-mails,  
21 electronic files, contracts, maps, drawings, working papers, charts, drafts, graphs, indices, tapes,  
22 microfilm, photographs, computer printouts, computer programs, or any other written, recorded,  
23 transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced.

24 4. **“Identify” a document** means:  
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1 (a) If a true and correct copy of the document is being produced, to provide sufficient  
2 information from which the specified request can be matched to the produced document, such as  
3 by use of Bates numbers; or

4 (b) If a true and correct copy of the document is not being produced, to provide the  
5 following: (i) its date or its date of preparation if not dated; (ii) the name and title of its author(s);  
6 (iii) the name and title of any person who signed the document; (iv) the names, titles and  
7 addresses of intended recipients; (v) the document's subject matter and title or heading; and  
8 (vi) the present or last known location of the original of the document (or, if that is not available,  
9 the most legible copy).

10 (c) Where an interrogatory requests identification of documents, all documents  
11 relating to the subject matter of the interrogatory should be listed individually, and not just  
12 representative documents that show what the interrogatory requests.

13 5. **“Person”** means any natural person, any business entity (whether incorporated or  
14 unincorporated), or any other entity.

15 6. **“Identify” a person** means to state the following: (a) his or her full name; (b) his  
16 or her job title; and (c) the present or last-known business address and phone number of the  
17 person. If an interrogatory requests identification of a current employee who may be contacted by  
18 Appellant's attorney of record, it is sufficient to provide the address and telephone number of that  
19 attorney in lieu of the person's address and telephone number.

20 Where an interrogatory requests the identity of persons having knowledge of a particular  
21 matter, please list all persons having such knowledge.

22 7. **“You,” “your,” “Appellant,” and “Company Name”** refers to the Appellant  
23 and its employees, agents, and representatives. Where a term is undefined in these definitions, the  
24 plain and ordinary meaning of the term applies.







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**REQUEST FOR PRODUCTION NO. 3:**

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 4:**

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 5:**

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 6:**

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 7:**

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 8:**

**RESPONSE:**

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[Signature on following page]

DATED this \_\_\_\_ day of October, 2024.

[Signature of advocate, title]

**CERTIFICATION**

The undersigned certifies that he or she has read the above responses and that they comply with the requirements in Superior Court Civil Rule 26(g).

ANSWERS AND RESPONSES DATED this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Attorneys for Appellant

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**VERIFICATION**

STATE OF WASHINGTON            )  
  ) ss.  
County of \_\_\_\_\_ )

The undersigned, being first duly sworn upon oath, deposes and states:

My title is \_\_\_\_\_ with **Appellant**. I have read the above answers to these interrogatories and production requests and I know the contents of the above answers and believe them to be true.

\_\_\_\_\_

SIGNED and SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_.  
My appointment expires: \_\_\_\_\_.

**PROOF OF SERVICE**

I certify that I served a copy of this document, via electronic service, per agreement, on the following:

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this \_\_\_\_ day of October, 2024, at \_\_\_\_\_, WA.

\_\_\_\_\_, Legal Assistant / Paralegal

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## Notice of Deposition Template

BEFORE THE BOARD OF TAX APPEALS  
STATE OF WASHINGTON

NO. \_\_\_\_\_

NOTICE OF DEPOSITION OF

v.

Appellant,

Respondent.

TO: [Deponent]

AND TO: Appellant and his attorneys, \_\_\_\_\_ and \_\_\_\_\_

PLEASE TAKE NOTICE that the deposition of \_\_\_\_\_ will be taken on oral examination before a court reporter commencing at \_\_\_\_\_ a.m. on [Day], [Date], at the [Location of Deposition/Remote access information if applicable]. You are hereby notified that [Deponent] is to appear at that time and place, and submit to a deposition under oath.

The deposition shall be taken pursuant to Washington Civil Rules and shall be subject to continuance or adjournment from time to time or place to place, if necessary, until completed.

DATED this \_\_\_\_ day of October, 2024.



**PROOF OF SERVICE**

I certify that I served a copy of this document, via electronic service, per agreement, on the following:

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this \_\_\_\_ day of October, 2024, at Tumwater, WA.

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## Deposition Subpoena Template

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Issued by the  
BOARD OF TAX APPEALS  
STATE OF WASHINGTON

NO.

**SUBPOENA FOR DEPOSITION**

Appellant,

v.

Respondent.

TO: [NAME OF DEPONENT],  
c/o [Counsel],  
[Counsel's Address],

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:	DATE AND TIME:
If Zoom/Videoconference, insert info:	METHOD OF RECORDING:
ISSUING OFFICER SIGNATURE AND TITLE  _____ [Assessor Advocate Name] Advocate for Respondent [Title] [Address]	DATE:

1 **PROOF OF SERVICE**

2 DATE SERVED

PLACE

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4 SERVED ON (PRINT NAME)

MANNER OF SERVICE

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6 SERVED BY (PRINT NAME)

TITLE

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8 **DECLARATION OF SERVER**

9  
10 I declare under penalty of perjury under the laws of the State of Washington that I am a  
11 suitable person over the age of 18, that the foregoing information contained in the Proof of  
Service is true and correct and that I served the above names as described in the Proof of  
Service.

12 Executed on \_\_\_\_\_  
DATE/PLACE

\_\_\_\_\_  
SIGNATURE OF SERVER

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14 \_\_\_\_\_  
ADDRESS OF SERVER

Pursuant to CR 45, Sections (c) & (d):

15 **(c) Protection of Persons Subject to Subpoenas.**

16 (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable  
17 steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall  
18 enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction,  
which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

19 (2)(A) A person commanded to produce and permit inspection and copying of designated books, papers,  
20 documents or tangible things, or inspection of premises need not appear in person at the place of  
production or inspection unless commanded to appear for deposition, hearing or trial.

21 (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection  
22 and copying may, within 14 days after service of subpoena or before the time specified for compliance if  
such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena  
23 written objection to inspection or copying of any or all of the designated materials or of the premises. If  
objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials  
24 or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If  
objection has been made, the party serving the subpoena may, upon notice to the person commanded to  
25 produce and all other parties, move at any time for an order to compel the production. Such an order to  
compel production shall protect any person who is not a party or an officer of a party from significant  
26 expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena  
if it:

- (i) fails to allow reasonable time for compliance;

1 (ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;  
2 (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or  
3 (iv) subjects a person to undue burden, provided that, the court may condition denial of the motion  
upon a requirement that the subpoenaing party advance the reasonable cost of producing the books,  
papers, documents, or tangible things.

4 (B) If a subpoena

5 (i) requires disclosure of a trade secret or other confidential research, development, or commercial  
information, or

6 (ii) requires disclosure of an unretained expert's opinion or information not describing specific events  
or occurrences in dispute and resulting from the expert's study made not at the request of any party, the  
court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or,  
if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material  
that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena  
is addressed will be reasonably compensated, the court may order appearance or production only upon  
specified conditions.

9 **(d) Duties in Responding to Subpoena.**

10 (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the  
usual course of business or shall organize and label them to correspond with the categories in the demand.

11 (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to  
12 protection as trial preparation materials, the claim shall be made expressly and shall be supported by a  
description of the nature of the documents, communications, or things not produced that is sufficient to  
13 enable the demanding party to contest the claim.