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Washington Department of Revenue Property Tax Division

2016 Review of the Pierce County Board of Equalization



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Overview

Introduction

The Department of Revenue (Department) conducted an on-site interview with the Clerk of the Pierce County Board of Equalization (Clerk). The interview focused on the Pierce County Board of Equalization's (Board) processes and procedures.

Purpose

The primary purpose of this review by the Department is to assist the Board in their processes and procedures to ensure compliance with state statutes and regulations.

An effective review of the methods employed by the Board in administering the assessment appeal process will promote fair, timely, and uniform property tax assessments.

Scope of Review

The review is limited in scope. We reviewed administrative procedures for compliance with state statutes and regulations.

Information Reviewed

To complete our review, we gathered information about the administration of the Board through interviews, documents provided by the Clerk, and independent verification. The areas we reviewed included, but were not limited to:

- Petitions for appeal (2014 and 2015 assessment years)
- Hearing procedures
- Deliberation process
- Board orders
- Regular convened session
- Reconvening processes
- Publications, forms, literature, and website
- Board policies

Acknowledgment

We thank the Board and Clerk for their cooperation throughout our review. We commend the Board for their willingness to look at opportunities to improve the uniformity and administration of property tax.

Executive Summary

About this Review

The Department conducted an on-site visit to the Board's office. We interviewed the Board's staff about the processes and procedures used in hearing appeals.

Categories of Results

The Department has completed its review and grouped the results into two categories:

- The first category, *Requirements*, is of the greatest urgency for effective administration by the Clerk and the Board. A change is required to adhere to the law.
- The second category, *Recommendations*, requires the attention of the Board. The Department believes the Board could improve their performance and service to the public by making voluntary changes in procedures.

The Department based the requirements and recommendations contained in this report on our review of the administrative procedures employed, existing state statutes and regulations, and areas we saw opportunities to improve processes, procedures, and communication.

Results

The Department identified 7 requirements and 4 recommendations directed toward improving the Board's methods.

The items identified may be specific to the Clerk's duties, the Board's duties, county legislative authority duties, or they may have shared components of responsibility. A summary of these items follows.

Executive Summary, continued

Requirements

1. The Clerk is required to keep and publish a record of the Board's proceedings. .
2. The Clerk is required to keep confidential information in a separate sealed envelope.
3. The Clerk is required to attend all hearings and keep a record of the sessions.
4. A taxpayer is required to provide the Board with a copy of the Assessor's Notice of Value or other determination as proof of a timely filed petition for an appeal of valuation when the petition is filed after July 1 of the assessment year in question.
5. The Board is required to have clear, cogent, and convincing evidence before overruling the Assessor's presumption of correctness.
6. The Board is required to issue orders stating the facts, evidence and reason, on which their decision is based.
7. The Assessor is required to provide valuation information to the appellant and Board, such as the Assessor's Response, within 60 days of the request but at least 14 business days, excluding legal holidays, prior to the hearing.

Recommendations

1. The Department recommends the Board post the dates of the three required meetings during the regular session.
2. The Department recommends the Board develop a desk reference manual for the Board's administrative duties.
3. The Department recommends the Board accept taxpayer petitions as complete with the original petition form or a copy of the original petition form.
4. The Department recommends the Board states they will not accept additional evidence during the hearing and specify the amount of time the taxpayer and the Assessor have to present their arguments.

Requirements

For the items listed as *Requirements*, the Board must make changes in procedure to comply with law.

This section contains the items we identified in our interview.

Board Clerk's Record of Hearing

Requirement

The Clerk is required to keep and publish a record of the Board's proceedings.

What the law says

The law requires the Clerk to maintain a journal or record of the board of equalization's proceedings and orders. The record must be published in the same manner as other proceedings of the county legislative authority. (RCW 84.48.010 and WAC 458-14-095(5))

What we found

The eight petition files examined did not contain the Board Clerk's Record of Hearing as required by RCW 84.48.010. During our the interview, the Clerk stated there was no Record of Hearing form created and posted.

Action needed to meet requirement

The Board is required to take the following action:

- Complete the Board Clerk's Record of Hearing (REV 60 0002) and include it in each appeal file.
- Publish the Record of Hearing in the same manner as other county legislative authority proceedings.

The Record of Hearing form (REV 60 0002) is available by request from the Department.

Why it's important

The record serves as a public summary of the actions taken by a board for each hearing.

Confidential Evidence

Requirement

The Clerk is required to keep confidential information in a separate sealed envelope.

What the law says

Confidential evidence and testimony are exempt from public disclosure, and must be placed in an envelope which is sealed from public inspection, bears the notation “confidential evidence”, and the case number. (WAC 458-14-095)

What we found

During the interview, the Clerk stated she does not keep confidential evidence in a sealed envelope with “confidential evidence” written on it, however, the confidential evidence is scanned into the electronic file separate from the documents that are available for disclosure to the public.

Action needed to meet requirement

The Board is required to take the following action:

- Keep paper files containing confidential information in a sealed envelope and labeled with the notation “*confidential evidence*” and the case number.

Why it’s important

Proper handling of evidence and testimony ensures confidential information will not be disclosed inappropriately and instills taxpayer confidence in the Board.

Board Clerk's Hearing Attendance

Requirement

The Clerk is required to attend all hearings and keep a record of the sessions.

What the law says

The Board may appoint a clerk of the board to serve at the pleasure of the members of the board, and the clerk shall attend all sessions and keep the record. (RCW 84.48.028)

What we found

The reason given by the Clerk for not attending hearings is she would be unable to complete all the duties of her position. In addition, the Board Office would have to close to the public on Board hearing days to allow the Clerk to attend the hearings.

Action needed to meet requirement

The Board is required to take the following action:

- Have the clerk attend all hearings in order to keep an accurate record of of the proceedings and comply with statute.

Why it's important

A detailed and accurate record of the Board hearings provides transparency of the appeals process for taxpayers.

Timely Filed Petitions

Requirement

A taxpayer is required to provide the Board with a copy of the Assessor's Notice of Value or other determination as proof of a timely filed petition for an appeal of valuation when the petition is filed after July 1 of the assessment year in question.

What the law says

A petition of value may be accepted by the Board as long as it is filed timely, on or before July 1 of the assessment year or within 30 days, unless the county legislative authority has extended the appeal period up to 60 days, after the date the value change notice was mailed, whichever is later.

(RCW 84.40.038 and WAC 458-14-056)

What we found

It is unclear if three of the eight files reviewed were filed timely. They were submitted after July 1 of the assessment year in question and did not include a value change notice supporting the submission of the appeal after July 1.

The Clerk date stamps the petitions when received, but only retains copies of the envelopes including the postmark for those petitions that were not filed timely.

Action needed to meet requirement

The Board is required to take the following action:

- Require a copy of the Assessor's Notice of Value or other determination be provided with all petitions submitted after July 1 of the assessment year in question to assist in determining if the petition is timely filed. If the appellant does not provide this document with the petition, the Clerk is required to take the following actions:
 - Send the appellant a notice of incomplete petition asking for a copy of the value change notice. Be sure to provide a deadline in the notice as to when the appellant must reply.
 - Retain copies of the envelopes including the postmark for all petition files, both timely and untimely filed.

Why it's important

Proper documentation of complete and timely filed appeals assures both the assessor and the taxpayer due process.

Evidence – Clear, Cogent, and Convincing

Requirement

The Board is required to have clear, cogent, and convincing evidence before overruling the Assessor's presumption of correctness.

What the law says

The assessor enjoys a presumption of correctness in valuation appeals. The appellant must provide clear, cogent, and convincing evidence to overcome the presumption that the assessor's determination of property value is correct. (RCW 84.40.0301 and WAC 458-14-046)

What we found

In two of the eight petition files reviewed, the appellants did not provide any written market based evidence indicating the true and fair market value of the property. For example:

- The appellant provided a feasibility study, but the study did not include any reference to the true and fair market value of the property as of the assessment date in question.
- The appellant provided maps of the parcel including it in areas with potential for landslides, seismic activity, and erosion, however, there was no data included with the maps that addressed the true and fair market value of the parcel in question.

The Board ruled in favor of the appellants in each of the hearings listed. It is unclear to the Department what market-based evidence the Board used to overcome the Assessor's presumption of correctness.

Action needed to meet requirement

The Board is required to take the following action:

- In an appeal of valuation, the Board is required to make their decisions based upon the premise that the Assessor is presumed correct unless the appellant provides clear, cogent, and convincing evidence proving the Assessor's determination of value is incorrect.

Why it's important

Clear, cogent, and convincing evidence denotes a standard of proof that is less than beyond a reasonable doubt, but greater than a preponderance of evidence. "Highly probable" is another way to state this standard of proof. Statute puts the burden of proof on the appellant to overcome the assessor's valuation to maintain fair and equitable taxation for all taxpayers.

Board Orders

Requirement

The Board is required to issue orders stating the facts, evidence and reason on which their decision is based.

What the law says

Board orders must be on a form provided or approved by the Department and include the facts and evidence upon which the decision is made. (RCW 84.48.010 and WAC 458-14-116)

What we found

In one of the eight petition files reviewed, the Board stated their decision, but did not include the reason for the Board's decision in the order. The appellant or Assessor was not given any information indicating why the Board ruled in favor of the Assessor, as required by statute.

Action needed to meet requirement

The Board is required to take the following action:

- After there has been a hearing, the Board must issue an order that conveys the Board's decision, as well as the reason for the decision. Some examples are:
 - Why the proof of income documentation provided by the appellant did not support their argument in a petition to review a senior citizen/disabled person exemption or deferral determination.
 - Why the comparable sales are not appropriate.
 - Why the comparison of assessed values of other parcels did not demonstrate market value.

Why it's important

Including the reason for the Board's decision is required by statute, in addition, it promotes confidence in the taxpayer and assessor that the evidence each one provided was considered.

Publication - What to Expect After Filing Your Petition Document

Requirement

The Assessor is required to provide valuation information to the appellant and Board, such as the Assessor's Response, within 60 days of the request but at least 14 business days, excluding legal holidays, prior to the hearing.

What the law says

Valuation information, including comparable sales, must be provided to the taxpayer and the board within 60 days of the request but at least 14 business days, excluding legal holidays prior to the taxpayer's appearance before the board of equalization. The postmarked date is used to determine if the valuation information is exchanged timely. (WAC 458-14-066)

What we found

The Board's publication titled "What to Expect After Filing Your Petition" states the Assessor's written response must be "received at least 14 days before your hearing date", however, statute states the assessor's valuation information must be provided within 60 days of the request but at least 14 *business* days before the hearing.

Action needed to meet requirement

The Board is required to take the following action:

- Update the "What to Expect After Filing Your Petition" publication to say "the Assessor's written response must be provided within 60 days of the request but at least 14 *business* days before your hearing date.

Why it's important

A timely filed response from the Assessor allows all parties to the appeal process adequate time to prepare for the hearing.

Recommendations

For the items listed as *Recommendations*, the Department believes the Board could improve program compliance and service to the public by making voluntary changes in procedure.

This section contains the items we identified in our interview.

Regular Convened Sessions

Recommendation

The Department recommends the Board post the dates of the three required meetings during the regular session.

What we found

The Board currently holds three meetings as required by WAC 458-14-046, but currently are not publishing the dates.

Action recommended

The Department recommends the Board publish the dates of the three required meetings in the Assessor's Office, courthouse bulletin board, and newspaper, using form 64 0050 available by request from the Department.

Why it's important

Posting the Board's meeting dates serves as a public record and provides transparency of government process.

Desk Reference Manual

Recommendation

The Department recommends the Board develop a desk reference manual for the Board's administrative duties.

What we found

The Clerk utilizes the Department's County Board of Equalization Operating Manual, but does not currently have a desk reference manual.

Action recommended

The Department recommends the Board develop a desk reference manual, which may include policy information, which has specific step-by-step procedures on how to administer the duties of the Board.

The goal of a desk reference manual is to provide the tools necessary to perform the duties of the Board in an efficient and professional manner. The Board should follow such manual in all of its operations and procedures.

Why it's important

Desk reference manuals are useful for training staff, maintaining consistency within the office, and a good tool in preventing the loss of institutional knowledge.

Publication - Original Signiture on Taxpayer Petition

Recommendation

The Department recommends the Board accept taxpayer petitions as complete with the original petition form or a copy of the original petition form.

What we found

The Board's instructions on how to complete the "Petition to the Pierce County Board of Equalization for Review of Real Property Valuation Determination" states the petition must contain an original signature and date to be considered complete.

Action recommended

The Department recommends the Board accept petitions as complete with the original petition form or a copy of the petition form. Statute does not require an original signature for a complete petition.

Why it's important

Accepting all complete and timely filed petitions ensures the Board provides fair and equitable due process for all parties involved in the appeal process.

Hearing Opening Statement

Recommendation

The Department recommends the Board states they will not accept additional evidence during the hearing and specify the amount of time the taxpayer and the Assessor have to present their arguments.

What we found

The Board has created a statement that is read at the beginning of each hearing that includes introductions and an explanation of hearing protocol. The statement explains that the taxpayer and the Assessor will each have the opportunity to present their arguments but does not specify how much time each party is allowed.

During our interview the Clerk stated that no additional evidence is accepted at the time of the hearing, however, there was no reference to additional evidence in the introductory statement.

Action recommended

The Department recommends the Board:

- State at the beginning of each hearing that no additional evidence will be accepted from the taxpayer or Assessor.
- Specify a specific amount of time the taxpayer and the Assessor have to present their arguments during the hearing.

Why it's important

A statement of hearing protocol provides the taxpayer and the Assessor a clear understanding of the hearing process.

Next Steps

Prioritizing Requirements and Recommendations

Once the Clerk and Board receive a final copy of this review, the Department will (if requested) consult with them to prioritize the items listed in the report.

Follow-up

The Department will follow up in six months to review the changes implemented. This will give the Board an opportunity to provide information to the Department about any issues encountered during the implementation process.

Questions

For questions about specific requirements or recommendations in our report, please contact:

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