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Washington Department of Revenue
Property Tax Division

**2011 Review
Of the
Grant County Board of
Equalization**



May 2012

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Overview

Introduction	<p>The Department of Revenue (Department) conducted an on-site interview with the Clerk of the Grant County Board of Equalization (Clerk). The interview focused on the Grant County Board of Equalization's (Board) processes and procedures.</p>
Purpose	<p>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.</p> <p>Once the Board and county legislative authority receive a final copy of this review, the Department will conduct a follow-up review after one year to review the implemented changes. This will give the Board and the county legislative authority an opportunity to provide information to the Department about any issues they encountered during the implementation process.</p>
Scope of Review	<p>The review is limited in scope. We interviewed the Clerk, and reviewed petition files for compliance with state statutes and regulations.</p>
Information Reviewed	<p>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):</p> <ul style="list-style-type: none">• Petitions for appeal (2010 assessment year for taxes payable in 2011)• Hearing procedures• Board orders• Board members and hearing examiners qualifications• Regular convened session• Reconvening processes• Publications, forms, literature, and website• Board policies

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Overview, Continued

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 Clerk and the Board. We note recommendations as being in the best interest of all parties. We believe if improvements in these areas can be made, it will improve service to the public.

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

In this section

The Department identified three requirements and four recommendations directed toward improving the Board's processes.

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. We have listed a summary of these items below.

Requirements

The Department identified three procedures that the Board and Clerk must change to comply with the law.

1. The Board is required to inform the appellant their petition can be reinstated if the appellant meets one of the good cause reasons to waive the filing deadline. (RCW 84.40.038 and WAC 458-14-056)
 2. The Board is required to have clear, cogent, and convincing evidence, before overruling the assessor's presumption of correctness during valuation appeals. (RCW 84.40.0301 and WAC 458-14-046)
 3. The Board is required to keep confidential information in a separate sealed envelope. (RCW 84.40.340, WAC 458-14-095)
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Results, Continued

**Recommend-
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To improve the performance of the Board, the Department identified the following four recommendations which require the attention of the Clerk and Board:

1. The Department recommends the Clerk does not delay scheduling hearings for the sole purpose of waiting for the issuance of the Assessor's Response to Petition by the Grant County Assessor's Office.
2. The Department recommends the Board develop a desk reference manual for the Board's administrative duties.
3. The Department recommends that the Board include the appeal form titled *Taxpayer Petition to the County Board of Equalization for Review of Senior Citizen/Disabled Persons Exemption or Deferral Determination* on their website.
4. The Department recommends that the Board create a procedure notifying appellants and the Grant County Assessor (Assessor) when they may be eligible to request the Board be reconvened following the issuance of a Board's order.

The following table lists the page number of the Department's findings.

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Waiver of Filing Deadline for Good Cause

Requirement The Board is required to inform the appellant their petition can be reinstated if the appellant meets one of the good cause reasons to waive the filing deadline. (RCW 84.40.038 and WAC 458-14-056)

What the law and rule say The appeal petition must be filed with the board on or before July 1 of the assessment year or within 30 days, or up to 60 days if a longer time period is adopted by the county legislative authority, whichever is later.

No late filing of a petition shall be allowed unless the appellant can show good cause to waive the filing deadline. A petition that is filed after the deadline without a showing of good cause must be dismissed by the board and returned to the petitioner. To reinstate the petition, the appellant must promptly show good cause for the board to waive the filing deadline. The board of equalization's decision to waive the filing deadline for good cause is not appealable to the State Board of Tax Appeals.

What we found The Clerk stated petitions submitted after the filing deadlines are returned to the appellant with a hearing denial letter. The denial letter, however, does not inform the appellant their petition can be reinstated if the appellant meets one of the good cause reasons to waive the filing deadline.

Recommendation to remedy The Board must return the petition with a letter explaining the allowable reasons for waiving the filing deadline. If the appellant does not meet one of the allowable reasons to waive the filing deadline, the Board must clearly state in writing that the petition has been dismissed.

Why is it important Properly administering petitions ensures equal and uniform treatment of Grant County stakeholders (taxpayers, taxing districts, and assessor) by the Board.

Clear, Cogent, and Convincing Evidence

Requirement The Board is required to have clear, cogent, and convincing evidence before overruling the assessor’s presumption of correctness during valuation appeals. (RCW 84.40.0301 and WAC 458-14-046)

What the law says The Assessor enjoys a presumption of correctness in valuation appeals. The statute requires clear, cogent, and convincing evidence to overcome the presumption that the assessor’s determination of property value is correct.

This means that the appellant disputing the value must provide the Board with sufficient evidence to show that it is highly probable the assessor’s value is incorrect.

The clear, cogent, and convincing evidence standard does not apply when:

- Values have been corrected;
- Valuation methods have been invalidated; or
- The issue before the Board is not a valuation issue.

What we found The Department reviewed five appeal files and listened to the audio CD of the hearing for Petition No. 2 and discovered the following:

Petition 1	<p>The appeal file did not include any evidence submitted by the appellant. The Board however, reduced the value from \$107,065 to \$94,285.</p> <p>The appellant’s justification to appeal the assessment is as follows:</p> <p><i>“Our building is a trailer not a park model. Mobile homes do not go up in value. Our land is very small as in the size of the foot print of our trailer and everything has gone down in value. We might be selling our property soon and have had an offer of \$70,000 after six months.”</i></p> <p>The appellant noted on the petition they would supply market information prior to their hearing. The property was sold in March of 2011, subsequent to the hearing, and neither party attended the hearing.</p> <p>The Board’s order states: <i>“We agree with the information presented in the petition and believe it adequately reflects the subject’s important value related characteristics. The taxpayer has provided sufficient evidence to overturn the assessor’s presumption of correctness. Therefore the Board</i></p>
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	<p><i>sets the value at \$94,285. The Board used the purchase price of \$71,000 x 6% appreciation for 3 years = \$12,780. Due to age of travel trailer, vs park model which are designed to be more livable.”</i></p>
<p>Petition 2</p>	<p>The appeal file did not include any comparable sales, valuation evidence, or documentary evidence submitted by the appellant. In general, the appellant offered the following verbal testimony:</p> <ul style="list-style-type: none"> • Properties in this area sold for inflated prices due to several factors. None of the parcels sold were on multi-level lots (ours). Limits who can buy. • We have no carport or garage. • We don't own our driveway access to drive down to our house. • Forty year old rockeries should lessen value due to freezing contraction showing obvious deterioration. • Terraced parcel on several levels. Limits the market value. No senior could purchase this property. • I am ok with the assessed value; however I am concerned with the amount of taxes. <p>The Assessor presented their response to the petition that included four comparable sales with a notation that indicate an upwards adjustment of 20 percent for the neighborhood.</p> <p>The Board reduced the assessed value from \$412,960 to \$392,960.</p> <p>The Board's order states: <i>“The taxpayer has provided sufficient evidence to overturn the assessor's presumption of correctness. Therefore, the Board sets the value at \$392,960 due to unique land features and the cost to cure for the rockery.”</i></p>
<p>Petition 3</p>	<p>On the petition form the appellant stated that his home is not located in the Ford Air subdivision. During the hearing the Board reduced the land assessment resulting in a total value reduction from \$131,910 to \$100,335.</p> <p>The subject property is a 2,160 square foot home, three bedrooms, and one bath, built in 1972 on seven acres.</p> <p>The appellant did not attend the hearing; however provided three sales listed on the petition as documentary evidence.</p> <p>The petitioners three most recent sales were :</p>

Parcel No.	Sale Price	Date of Sale
70762000	\$2,000	January 2006
70464000	\$52,950	October 2007
180741001	\$250,000	April 2008

According to the Board’s order, the Assessor stated the following during the hearing:

- The parcel is enrolled in the senior citizen exemption program and the 1 acre home site’s value is frozen.
- Sale A represents land only
- Sale B is outside the subject neighborhood
- Sale C is not a qualifying sale (reason is unknown)
- The parcel was revalued in the 2009 assessment year.
- The value did not increase for the 2010 assessment year.

The Board’s order states: *“The taxpayer has provided sufficient preponderance of evidence to overturn the assessor’s presumption of correctness based on location. The Board agreed to use a 1 year appreciation from 2008 to 2009 at 6% due to location of the subject property.*

Recommendation to remedy

The Board cannot overrule the Assessor’s value without clear, cogent, and convincing evidence that the value is incorrect. Moreover, the Board must use the criteria set forth in RCW 84.40.030 when reviewing the evidence of value, admissibility, and weight while determining market value.

The clear, cogent, and convincing evidence standard denotes a quantum of proof less than beyond a reasonable doubt but greater than a mere preponderance of the evidence.

The orders reviewed explain how the Board arrived at their decision; however two of the appeal files did not include any comparable sales, valuation evidence, or documentary evidence from the appellants. Thus it is unclear how the Assessor’s presumption of correctness was overruled.

Petition No. 3 Board order notes “the taxpayer has provided sufficient preponderance of evidence to overturn the assessor’s presumption of correctness.” State law requires the appellant to provide clear, cogent, and convincing evidence to overcome the Assessor’s presumption of correctness, not preponderance of evidence.

Petition No. 1 – It is unclear how the Board reached their conclusion to overturn the Assessor’s presumption of correctness. The petitioner did not provide any evidence and did not attend the hearing to offer verbal testimony.

Petition No. 2 – It is unclear how the Board reached their conclusion to overturn the Assessor’s presumption of correctness when there wasn’t any market evidence in the petition file from the appellant, nor did the appellant offer any verbal testimony as to what it would cost to cure the rockery issue. They also did not provide any sales of properties either with or without the unique land characteristics.

Petition No. 3 – It is unclear how the Board reached their conclusion to overturn the Assessor’s presumption of correctness when the appellant only provided the sale price, sale date, and parcel numbers of three sales. The appellant did not attend the hearing. The petition file did not include any comments as to why these transactions are similar to the subject parcel, nor were any adjustments offered to account for the time difference between the sale dates of January 2006, October 2007, and April 2008 and the assessment date in question, January 1, 2010.

Why is it important

By statute the assessor is presumed correct, unless the appellant provides clear, cogent, and convincing evidence to support a change in value. The goal of boards of equalization is to determine the true and fair market value of the subject property based on market evidence given to the board of equalization.

Confidential Evidence

Requirement The Board is required to keep confidential information in a separate sealed envelope. (RCW 84.40.340, WAC 458-14-095)

What the law says Confidential evidence and testimony is exempt from public disclosure and must be placed in an envelope which is sealed from public inspection and bears the notation "confidential evidence" and the case number.

What we found During the interview with the Clerk she stated that she retains petitions and evidence in file folders in a file cabinet. And she was not aware that confidential evidence should be kept separately and sealed from the public. However, after our interview she began separating out the confidential files which are now located in a locked cabinet.

Recommendation to remedy The Clerk must keep a separate file for all confidential evidence. The Department recommends the Clerk keep the confidential records according to statute.

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

Scheduling of Board Hearings

Recommendation The Department recommends the Clerk does not delay scheduling hearings for the sole purpose of waiting for the issuance of the Assessor's Response to Petition by the Grant County Assessor's Office.

What we found During the interview with the Clerk she indicated she waits to schedule a hearing until the Assessor provides their response to the appellant's petition. Moreover, the Clerk stated that she sends the petitioner the Assessor's response of valuation information prior to scheduling the hearing.

After reviewing the draft report and reading the Departments recommendation the Clerk stated that this process would be corrected for the subsequent hearings.

What our concern is By waiting until the Board receives the Assessor's Response to the Petition, appellants could perceive that the Assessor has an undue influence over the Board's hearing schedule.

Recommendation to remedy The Department recommends hearings should not be delayed in scheduling due to not having the Assessor's response. In fact, the Assessor is not statutorily required to offer a response to the taxpayer's petition.

The Department recommends the Clerk prepare hearing schedules according to procedures set up by the Board.

For example:

- Date petition was received
- Property location
- Property type (commercial, residential, land only)

The Department also recommends the Assessor provide the valuation information to the appellant rather than the board Clerk, unless the current arrangement is working for all parties.

Why is it important Waiting for a response from the Assessor before a hearing is scheduled does not demonstrate the separation between the Assessor's office and the Board.

Desk Reference Manual

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

What we found The Board does not currently have a desk reference manual. However, they do, at times, refer to the Department's Operations Manual for County Boards of Equalization. After reviewing the draft report and reading our recommendation the Clerk began collecting data and is in the process of creating a manual with samples of her correspondence.

What our concern is In the event of a short- or long-term staff absence, the duties, processes, and procedures of the Board are not documented.

Recommendation to remedy We recommend the Board develop desk reference manuals which may include policy information and 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.

Why is it important Desk reference manuals are useful for training staff and a good tool in preventing the loss of institutional knowledge.

Board of Equalization Website

Recommendation The Department recommends that the Board include the appeal form titled *Taxpayer Petition To the County Board of Equalization For Review of Senior Citizen/Disabled Persons Exemption or Deferral Determination* petition to their website.

What we found The Grant County website offers guidance concerning appealing property assessments. Information on the website includes:

- Property Tax Appeal Information
- Information concerning appeal deadlines
- Petition Instruction Cover Sheet
- Downloadable version of the Taxpayer Petition for Real Property form
- Downloadable version of the Taxpayer Petition for Current Use or Designated Forest Land Determination form
- Downloadable version of the Taxpayer Petition for Review of Personal Property Valuation Determination form
- How to contact the Board of Equalization
- What can I appeal
- Evidence
- The Hearing
- Taxes

The site does not include the petition form to appeal the exemption determination or status of a *Senior Citizen/Disabled Persons Exemption or Deferral Determination*.

After reviewing the draft report, and reading our recommendation, the Clerk stated that she would add this form to the website.

What our concern is Without access to the individual appeal forms, appellants may submit their appeal on an incorrect appeal form, limiting their ability to file a properly completed petition in a timely manner.

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Board of Equalization Website, Continued

Recommendation to remedy The Board's website contains a wealth of information. However, the Department recommends that the Board include the option of downloading the *Taxpayer Petition To the County Board of Equalization For Review of Senior Citizen/Disabled Persons Exemption or Deferral Determination* petition form. Alternatively, a link to the Department's website could be added to the county website allowing access to the forms.

Why is it important Having all appeal forms available on the county website or links to the Department's website allows access to appeal forms at any time of day.

Reconvene Boards

Recommendation The Department recommends that the Board create a procedure notifying appellants and the Assessor when they may be eligible to request the Board be reconvened following the issuance of a Board's order.

What we found The Board does not have a procedure in place to notify appellants and the Assessor when they may qualify to request the Board to be reconvened per WAC 458-14-127(3).

What our concern is Appellants and the Assessor may not be aware that they may be eligible to request the Board be reconvened following the issuance of a Board order under some circumstances.

Now that the Assessor uses an annual revaluation cycle, the Appellant or Assessor can request the Board be reconvened when the following circumstances apply:

- A timely appeal was pending before the Board when the subject property was revalued for an intervening year and the assessed value did not change;
 - No appeal was filed for the intervening year; and
 - A request for reconvening form is filed within 30 days of the Board's decision.
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Recommendation to remedy The Department recommends that the Board incorporate information concerning this type of request for reconvening either in their literature on their website, opening remarks, or in the Board's order.

Why is it important It is important to recognize, identify, and educate both the appellant and Assessor to certain conditions that may exist allowing the Board to be reconvened outside of the normal appeal process. Since this is a new reason why the Board can be reconvened, notification to the appellant and Assessor ensures a fair and open process for all parties.

Closing Statement

Goodwill

It is apparent that the Clerk and Board members take great pride in serving Grant County stakeholders. They are committed to providing uniform treatment while adjudicating disputes in a timely and professional manner. The Clerk is both organized and detailed.

We commend the Clerk, the Board, and the county legislative authority for their willingness to look at changes to improve the administration of the appeals process.

The Department is committed to the success of the Grant County Board of Equalization by ensuring the members and Clerk are in compliance with state statutes and regulations.
