

P. O. Box 47471
Olympia, WA 98504-7471

Washington Department of Revenue Property Tax Division

2016 Review of the Skagit County Board of Equalization



Table of Contents

Overview.....	3
Executive Summary.....	4
Requirements	6
Confidential Evidence.....	7
Board Orders	8
Required Board Meetings.....	11
Record of Hearing.....	12
Regularly Convened Sessions	13
Complete and Timely Filed Petitions.....	14
Petitions Forms.....	16
Recommendations.....	17
Scheduling Board Hearings.....	18
Desk Reference Manual.....	19
Waiver of Filing Deadline for Good Cause.....	20
Track Petitions with Good Cause Waivers.....	21
Board of Equalization Website	22
Hearing Notice Letter	23
Order Issued Before Hearing	24
Next Steps	25

Overview

Introduction

The Department of Revenue (Department) conducted an on-site interview with the Clerk of the Skagit County Board of Equalization (Clerk). The interview focused on the Skagit 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 in 2014 through 2016 assessment years
- Hearing procedures
- Deliberation process
- Board orders
- Regular convened session
- Reconvening processes
- Publications, forms, literature, and website
- Board policies

Executive Summary

About this Review

On May 10, 2016, 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.

An administrative review of this type is prone to underscore problem areas even in a county that is doing well. Though we may have observed processes or procedures employed that could be considered "best practices," those items may not be reflected in this report.

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 seven requirements and seven 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 Board is required to keep confidential information in a separate envelope and sealed from public inspection. (WAC 458-14-095)
2. The Board is required to issue orders stating the facts and evidence upon which their decision is based and the reason(s) for the decision. (RCW 84.48.010 and WAC 458-14-116)
3. The Board is required to meet three times during the regular 28-day session. (RCW 84.48.010 and WAC 458-14-046)
4. The Clerk is required to keep and publish a record of the Board's proceedings. (RCW 84.48.010 and WAC 458-14-095(5))
5. The Board is required to request the approval of the county legislative authority to continue hearings after the regular 28-day convened session to hear timely filed petitions. (RCW 84.48.010 and WAC 458-14-046)
6. The Board must only accept complete and timely filed petitions. (RCW 84.40.038 and WAC 458-14-056)
7. The Board is required to provide the appellant a petition form prescribed or approved by the Department. (RCW 84.40.038 and WAC 458-14-087)

Recommendations

1. The Department recommends the Board does not delay scheduling hearings for the sole purpose of waiting for the Assessor to issue a response to the appellant's petition.
2. The Department recommends the Board develop a desk reference manual for the Board's administrative duties.
3. The Department recommends the Board inform the appellant their petition can be reinstated if the appellant meets one of the good cause reasons to waive the filing deadline.
4. The Department recommends the Board track the petitions they accept because of a good cause waiver request on the petition log.
5. The Department recommends the Board include the personal property, exemption, and current use petition forms on their website.
6. The Department recommends the Clerk include a statement explaining why multiple hearing notices are issued for the same appeal petition.
7. The Department recommends the Board not issue any orders before a hearing is complete.

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.

Confidential Evidence

Requirement

The Board is required to keep confidential information in a separate envelope and sealed from public inspection. (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, the Clerk stated that she does not maintain sealed files with confidential information. The files used by Board members during the hearing are shredded after the hearings and deliberations are complete. She was not aware of a need to save confidential information scanned into electronic format separate from the petition file. The Clerk stated files are scanned into Laserfische, the Clerk and the Skagit County Assessor’s Office (Assessor) have access to these files. It is unclear if others can access the files and we are concerned that they are not separate and sealed from public inspection.

Action needed to meet requirement

The paper file must be sealed and labeled with the notation “*confidential evidence*” and the case number. Confidential information in an electronic format must be saved in a separate file saved as “*confidential*” with 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 of equalization.

Board Orders

Requirement

The Board is required to issue orders stating the facts and evidence upon which their decision is based and the reason(s) for the decision. (RCW 84.48.010 and WAC 458-14-116)

What the law says

The order must be on a form provided by the Department or approved by the Department. The order must be well reasoned and state the facts and evidence used to make their decision.

What we found

The Board is issuing orders in a timely fashion on a customized form.

Out of the eight files reviewed, six files had completed hearings with orders written. Four out of six orders reviewed do not explain how the Board arrived at their decision.

All of the orders contain a version of the following statement:

“...motion duly made and seconded the Board unanimously overrules the assessor.”

This statement does not give the reader a well-reasoned explanation as to how the presumption of correctness was overturned by the Board.

A file reviewed contains:

- Two orders, one dated February 20, 2014, and the second dated February 27, 2015, for the same petition. Both orders are identical with the exception of the date of order and the mail date.
- The Assessor’s total value shown on the orders does not equal land plus improvements.
- It is unclear why there are two orders for the same petition. The second order does not indicate if it is a corrected order or not.

A file reviewed contains:

- A recommendation by the Assessor’s representative to lower the value of improvements based on the non-sale of property.
- The order lowers the land and improvement values with the statement “...found that knowledge of area, cap rates, expenses and recommendation support a change in the current assessed value as of 1/1/2014.”
- It is unclear whose knowledge was used to overrule the Assessor’s land value. It is unclear if that knowledge was shared during the hearing allowing all parties to rebut.

Board Orders, continued

A file reviewed contains:

- Four comparable property sales provided by the appellant, as well as a concern about the street noise, and the issue of a discrepancy in the square footage stated by the Assessor.
- The order states that during the hearing the Assessor representative agreed that there was an unfinished area included in the value that should be removed.
- The order does not reflect any adjustment to improvement value for this square footage error.
- It is unclear to the Department why the order does not reduce the improvement value due to the square footage discrepancy, yet reduced the land value.

A file reviewed contains:

- A stipulated agreement signed by the Assessor, but not by the appellant.
- Three comparable sales provided by the appellant.
- An order with the same true and fair market value as proposed by the Assessor in the stipulated value agreement.
- Without any explanation in the order, it is unclear why the sales provided by the appellant did not demonstrate the true and fair market value.

Action needed to meet requirement

A well-reasoned explanation of the Board's decision must be included in the order. For example:

- Why the comparable sales offered by the appellant were not considered comparable.
- Why the comparison of assessed values of other parcels did not demonstrate market value.
- Why the percentage of change between the current assessment year and the prior assessment year did not demonstrate market value.
- Why a private appraisal of another property was not considered as evidence in the appeal of the subject property.
- Why the appellant's comparable sales are more comparable to the subject property than the Assessor's comparables.
- Why a private appraisal of another property was not considered as evidence in the appeal of the subject property.
- Why the appellant's comparable sales are more comparable to the subject property than the Assessor's comparables.

For example, the summary may include:

The appellant (or assessor) offered four comparable sales ranging in dates from June 2014 to February 2016, with sales prices ranging from \$5,000 to \$11,000. The comparable sales are located near the subject property and are similar in size. The sales provided by the appellant convinced the board to reduce the value.

Board Orders, continued

Board orders must explain the reason for the change in value and the facts and evidence upon which the decision is based.

Why it's important

A well-written order will assist both parties of the appeal to understand the decision reached by the board of equalization. A well-reasoned decision stating the facts about the subject property and the evidence supplied by both the appellant and assessor indicates the board of equalization reviewed the evidence offered.

Required Board Meetings

Requirement

The Board is required to meet three times during the regular 28-day session. (RCW 84.48.010 and WAC 458-14-046)

What the law says

The board of equalization is required to meet on July 15 and may continue in session and adjourn from time to time during a period not to exceed four weeks, but shall remain in session no less than three days.

What we found

The Clerk stated the Board meets in July, but they have not regularly held the required three meetings.

Action needed to meet requirement

The Board must meet on July 15 and two more times during the 28-day session.

Why it's important

Boards of equalization must meet as required to publicly examine and equalize the assessments extended in the current year on the taxable property of the county and to correct all errors in valuation, description or qualities of property assessed by the assessor.

Record of Hearing

Requirement

The Clerk is required to keep and publish a record of the Board's proceedings. (RCW 84.48.010 and WAC 458-14-095(5))

What the law says

The statute 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.

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 the interview, the Clerk stated she was not aware of the form created by the Department or the requirement to post the Record of Hearing.

Action needed to meet requirement

The Clerk must complete the Board Clerk's Record of Hearing (REV 60 0002) and include it in each appeal file. The Clerk must publish the form in the same manner as other county legislative authority proceedings. The county legislative authority publishes their minutes on the internet. The Clerk must also post this information on the internet. We encourage the Clerk to use our form as required by statute.

Why it's important

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

Regularly Convened Sessions

Requirement

The Board is required to request the approval of the county legislative authority to continue hearings after the regular 28-day convened session to hear timely filed petitions. (RCW 84.48.010 and WAC 458-14-046)

What the law says

Boards of equalization meet on July 15 for a minimum of three days, but for no more than 28 calendar days. The county legislative authority may reconvene the board of equalization when the number of timely filed petitions exceeds 25, or 10 percent of the number of appeals filed in the preceding year, whichever is greater.

What we found

The Clerk stated that the Board has not requested the county legislative authority to reconvene the Board.

Action needed to meet requirement

The Board must request the authorization of the county legislative authority to be reconvened after their regular 28-day session when the number of timely filed petitions exceed 25, or 10 percent of the number of appeals filed in the preceding year, whichever is greater.

The Department recommends the authorization be in writing. *Notice of Approval to Hear Property Tax Appeals* (form REV 64 0049e) is available on Property Tax Resource website located by clicking on the following link <http://propertytax.dor.wa.gov/>.

Why it's important

Proper authorization to convene ensures that the county legislative authority is aware of the board of equalization's workload.

Complete and Timely Filed Petitions

Requirement

The Board must only accept complete and timely filed petitions. (RCW 84.40.038 and WAC 458-14-056)

What the law says

A timely filed appeal petition must be filed with the board of equalization on or before July 1 of the assessment year, or within 30 days, or up to 60 days if the county legislative authority adopts a longer time period.

A petition is considered complete when the following information is included:

- Account/parcel number.
- Owner, address, and phone number.
- Assessor's value and taxpayer's estimate of value.
- Specific reason why the petitioner believes the assessor's value does not reflect true and fair market value.
- Power of attorney.
- Signature of taxpayer and date signed.

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

One of the petitions reviewed does not appear to have a valid reason for the appeal. Two of the petitions reviewed appear to have been accepted after the filing deadline.

One of the petitions reviewed states the reason for the appeal is "house is in a flood plain." While this may be a factual statement, it does not offer any reason why the Assessor's true and fair market value is not correct.

An appellant signed a petition on July 1, 2015. The appellant noted on the petition that they had not received a revaluation notice from the Assessor for the 2016 assessment year. The Clerk's date stamp indicates the petition was received on August 1, 2015. It is unclear to the Department if the petition was mailed to the Board or if it was delivered in person. Based on the date stamp it appears the petition was not timely filed. Without the showing of good cause, the petition should have been denied, as it was not filed timely.

Complete and Timely Filed Petitions, continued

A petition reviewed was date stamped as being received by the Clerk on September 25, 2014. The petition does not contain a Revaluation Notice demonstrating the filing date was after July 1, 2014, or a request for a good cause waiver to accept the petition after the filing deadline.

Action needed to meet requirement

The Board must not consider petitions that are not properly completed. Incomplete petitions must be returned to the appellant with a letter explaining the reason the petition is not complete. An appropriate amount of time must be given to the appellant to complete the petition and return it to the Board. If a completed petition is not returned by the deadline, the petition must be rejected as incomplete. The appellant must be notified in writing of their appeal rights to the State Board of Tax Appeals.

If a petition is received after the appeal deadline, the petition must be returned with a letter explaining the allowable good cause reasons for waiving the filing deadline. If the appellant does not meet one of the allowable reasons, the Board must notify the appellant in writing that the petition is dismissed.

Why it's important

Properly administering petitions ensures equity and provides a fair process for the appellant and assessor.

Petitions Forms

Requirement

The Board is required to provide the appellant a petition form prescribed or approved by the Department. (RCW 84.40.038 and WAC 458-14-087)

What the law says

Appeals must be submitted to boards of equalization on either the form provided by the Department or a form approved by the Department.

What we found

The Board is using a customized petition form. The Board's customized Real Property Petition form used for Assessment Year 2015 displays incorrect information.

Box 4 on the form states:

Specific reasons why you believe the Assessor's value does not reflect the true and fair market value **as of January 1, 2014.**

The correct date for the assessment year is January 1, 2015. The date was corrected on the petition form used for the 2016 assessment year.

Action needed to meet requirement

The Board must submit customized petition forms to the Department for review and approval.

Why it's important

A petition must be submitted on the form provided by the Department or a form approved by the Department.

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.

Scheduling Board Hearings

Recommendation

The Department recommends the Board does not delay scheduling hearings for the sole purpose of waiting for the Assessor to issue a response to the appellant's petition.

What we found

During the interview, the Clerk stated she waits for the Assessor's response to the petition before she schedules hearings. She also stated she has scheduled a few hearings without receiving the Assessor's response.

Action recommended

The Board should not delay scheduling hearings due to not having the Assessor's response or waiting for additional supporting data from either the appellant or the Assessor. The Assessor is not statutorily required to offer a response to the appellant's petition.

Why it's important

The Board should maintain an appearance of independence and fairness. By waiting until a board receives the assessor's response to the petition, the appellant could perceive that the assessor has an undue influence over a board of equalization's hearing schedule.

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 have a desk reference manual. The Clerk stated there are some written instructions on how to use Laserfische.

Action recommended

Develop a desk reference manual, 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. The Board should follow such manual in all 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.

Waiver of Filing Deadline for Good Cause

Recommendation

The Department recommends the Board inform the appellant their petition can be reinstated if the appellant meets one of the good cause reasons to waive the filing deadline.

What we found

The Clerk stated that she returns petitions received after the filing deadline to the appellant. She does not inform them of the reasons for a good cause waiver, or their appeal rights. If the appellant calls her and asks for the petition to be accepted late, she may accept it depending on the reason given.

Action recommended

The Clerk should return late petitions with a letter explaining the allowable good cause reasons for waiving the filing deadline. If the appellant does not meet one of the good cause reasons, the Board must deny the petition. The decision to either accept or deny the appellant's request to waive the filing deadline is not appealable to the State Board of Tax Appeals. (WAC 458-14-056(3))

Why it's important

Properly administering petitions ensures equity and provides a fair process for the appellant and assessor.

Track Petitions with Good Cause Waivers

Recommendation

The Department recommends the Board track the petitions they accept because of a good cause waiver request on the petition log.

What we found

Currently the Clerk only tells the Assessor the good cause waiver if they ask her why a petition was accepted after the appeal deadline.

Action recommended

The Clerk should keep track of the petitions that are accepted late because of a good cause waiver on the petition log and indicate which reason the Board waived the filing deadline.

Why it's important

A board of equalization can consider only timely filed and complete petitions and should consistently and fairly adhere to the filing deadline. If a petition is accepted after the filing deadline, it is imperative to have a record of why the petition was accepted late so the assessor is aware of the good cause reason.

Board of Equalization Website

Recommendation

The Department recommends the Board include the personal property, exemption, and current use petition forms on their website.

What we found

The Board's website offers guidance on how to appeal your property assessment. Information on the website includes:

- Downloadable version of the Taxpayer Appeal form "Real Property Petition to the Skagit County Board of Equalization". This customized form includes an instruction page.
- The appeal deadline.
- Statute and rule reference for the Board of Equalization.
- The current members name and their appointment information.
- Location and mailing address.
- How to contact the clerk.

The site does not include the petition forms for appealing personal property assessments, exemption issues, or current use issues.

Action recommended

The Department recommends the Board include the option to download the:

- Personal Property Appeal form (REV 64 0076)
- Current Use Determination form (REV 64 0077)
- Exemption or Deferral Determination form (REV 64 0090)

If the Board does not use a customized appeal form for these purposes, a link to the Department's website should be added to the county website to provide access to these forms.

Why it's important

It is important that the appellant use the correct appeal form to notify a board of equalization and assessor of their concerns. Having all appeal forms available on the county website or link to the Department's website allows access to the correct appeal forms any time of day.

Hearing Notice Letter

Recommendation

The Department recommends the Clerk include a statement explaining why multiple hearing notices are issued for the same appeal petition.

What we found

A petition file reviewed contained a hearing notice dated February 16, 2016, with a hearing date of March 10, 2016, and another hearing notice dated April 6, 2016, with a hearing date of May 5, 2016.

The new hearing notice, file, or petition log do not indicate the hearing on March 10, 2016, was either rescheduled, canceled, or continued to May 5, 2016, so it is unclear why the second hearing notice letter was issued.

Action recommended

If a hearing is rescheduled, canceled, or continued, subsequent notices should include an explanation as to why multiple hearings have been scheduled.

Why it's important

It is important that the appellant and assessor understand why there has been a change in the hearing date, or if the hearing has been continued.

Order Issued Before Hearing

Recommendation

The Department recommends the Board not issue any orders before a hearing is complete.

What we found

A petition file reviewed contains an order for a hearing where the Board heard evidence by the appellant and Assessor at a hearing on March 10, 2016. The Board decided to table their decision until July 15, 2016. The Board wrote and signed the order on March 18, 2016, before they completed the hearing and deliberation.

The Clerk provided clarification that this was a unique circumstance and not common practice for the Board.

Action recommended

Orders should not be issued before the hearing is complete and the Board reaches a final decision on an appeal petition.

Why it's important

Parties must be given the opportunity to present their case and offer rebuttal during the hearing. An order cannot be issued until the hearing is concluded. Otherwise, the parties' right of due process is violated.

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 they encountered during the implementation process.

Questions

For questions about specific requirements or recommendations in our report, please contact the contributing staff member listed below:

County Review Auditor	Julie Herr	julieh@dor.wa.gov	(360) 534-1363
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For additional information contact:

Washington State Department of Revenue
Property Tax Division
PO Box 47471
Olympia, WA 98504-7471
(360) 534-1400
<http://dor.wa.gov>