

September 15, 2008

Building Permits in Relation to Adding Value of New Construction

Issue: Can an assessor put new construction on the rolls when there was never a building permit issued by the city or county?

RCW 36.21.080 provides as follows:

The county assessor is authorized to place any property that is increased in value due to construction or alteration for which a building permit was issued, or should have been issued, under chapter 19.27, 19.27A, or 19.28 RCW or other laws providing for building permits on the assessment rolls for the purposes of tax levy up to August 31st of each year. The assessed valuation of the property shall be considered as of July 31st of that year.

WAC 458-12-342 states as follows, in pertinent part:

(1) New construction covered under the provisions of RCW 36.21.070 and 36.21.080, and defined in WAC 458-19-005 (2)(q), shall be assessed at its true and fair value as of July 31st each year regardless of its percentage of completion. In instances when new construction continues after July 31 of any year, the increase in value of the property due to the new construction that occurs between August 1 of that year through July 31 of the following year is added to the assessment roll as 'new construction' in the following year. New construction as used in this section refers only to real property, as defined in RCW 84.04.090 and further defined in WAC 458-12-010, and also to improvements, as described in WAC 458-12-005(4), located on leased public land, for which a building permit was issued or should have been issued pursuant to chapter 19.27, 19.27A, or 19.28 RCW or other laws providing for building permits.

RCW 19.27.140 provides as follows:

A copy of any permit obtained under the state building code for construction or alteration work of a total cost or fair market value in excess of five hundred dollars, shall be transmitted by the issuing authority to the county assessor of the county where the property on which the construction or alteration work is located. The building permit shall contain the county assessor's parcel number.

So the question for the assessor is whether, even though the county or city does not issue permits for certain buildings or improvements, for example, unless the building exceeds a certain size or dimension, the assessor still has the ability to put the improvement or new construction on the assessment roll as "new construction" and use that value for levy purposes outside the one hundred one percent levy limit prescribed in chapter 84.55 RCW?

On the basis of RCW 36.21.080, the assessor has the ability to put new construction on the assessment roll, in accordance with the rule, if a building permit was issued or should have been issued. Since the assessor must be notified when a building permit is issued (when the cost or fair market value of the work exceeds \$500.00), the only question for the assessor is whether a building permit should have been issued but was not issued. In other words, even if no permit was issued by a city or county, if a permit was required under state law, then the assessor is authorized to put the "new construction" on the assessment roll.

Chapter 19.27 RCW is the State Building Code Act and adopts by reference The International Building Code, The International Residential Code, The International Mechanical Code, The International Fire Code, and with some exceptions, the Uniform Plumbing Code. RCW 19.27.031. Cities and counties are authorized to amend the state building code as it applies within their jurisdictions, but the minimum performance standards and the objectives described in the

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state code “shall not be diminished” (RCW 19.27.040), nor shall it result in “a code that is less than the minimum performance standards and objectives contained in the state building code.” RCW 19.27.060(1). Any amendment by a local jurisdiction that affects residential buildings, single or multifamily, must be first approved by the state building code council to be effective. RCW 19.27.060(1)(a). Also, cities and counties can exempt some existing buildings on an emergency basis, that are changed to provide housing for indigent persons. RCW 19.27.042. A county or city may limit the application of any portion of the state building code to exclude specified classes or types of buildings or structures according to use, except for single or multifamily residential buildings. RCW 19.27.060(3). However, the state building code council has no enforcement authority. Enforcement of the state building code is by the counties and cities. RCW 19.27.050.

Section 105.1 of the 2006 International Building Code provides, in part, as follows:

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Section 105.2 of the same Code provides some exemptions to the requirement of obtaining a building permit and states: “Permits shall not be required for the following: Building: 1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 square meters).”

Conclusion: The general requirement of the state building code is that any building that exceeds 120 square feet in size is required to have a building permit. (This size requirement may have been increased to 200 square feet in the most recent Code.) However, local jurisdictions are allowed to amend the state building code to some extent. One of those instances might be with respect to the size (square footage) of accessory buildings (not occupied by humans). So, if a local jurisdiction has legitimately passed an ordinance or resolution (that is, the local ordinance does not conflict with state law regarding building permits) that exempts certain buildings or structures from the need to obtain a building permit, then presumably the assessor would not be able to put that improvement on the assessment roll as new construction. Otherwise, the assessor is required to put it on the roll. It does not appear that a local jurisdiction has the authority to waive the state building code in any particular year.

Questions: If you have questions or need additional information, please contact Jim Winterstein at (360) 570-5880 or JimWi@dor.wa.gov.