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Washington Department of Revenue
Property Tax Division

**2011 Review
of the
Mason County Board of
Equalization**



ber 2011

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Overview

About the review

The Department of Revenue (Department) spoke with the Mason County Board of Equalization Clerk (Clerk) concerning practices of the Mason County Board of Equalization (Board), reviewed appeal files, and listened to the audio tapes of hearings. The Department also spoke with the Mason County Legislative Authority Clerk (CLA Clerk) concerning the posting of public documents. The review focused on the Board's processes and procedures.

The purpose of the review is to offer guidance to the Board and the Clerk while performing their duties within the compliance of the law. A copy of this report is being forwarded to the Board, county legislative authority, and State Auditor.

The Department's review focuses on requirements the Board and Clerk must take to be in compliance with the laws, rules, and recommendations to improve the Board's processes and procedures.

Purpose

The Department has received a large volume of questions and concerns from Mason County property owners after their 2010 assessment year appeal hearing with the Board. 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.

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.

Scope of Review

The review is limited in scope. We interviewed the Clerk and CLA Clerk, reviewed petition files, and listened to audio tapes of hearings for compliance with state statutes and regulations. We did not evaluate the individual decisions made by the Board.

Information Reviewed

To complete our review we:

- Inspected four appeal files;
 - Listened to the audio tapes of two hearings;
 - Interviewed the Clerk; and.
 - Interviewed the CLA Clerk.
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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 eight requirements and five recommendations directed toward improving the Board.

The items identified may be specific to the Clerk's duties and/or the Board's duties. We have listed a summary of these items below.

Requirements

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

A change is required to adhere to the law.

1. The Board is required to consider all applicable evidence submitted by the appellant and Assessor when determining market value of the subject property. (RCW 84.40.030 and WAC 458-14-087)
2. The Assessor and appellant must be provided notice of the hearing date at least 15 business days before the hearing, unless all parties agree to a shorter time period. (WAC 458-14-076)
3. The Board is required to issue orders stating the facts and evidence upon which their decision is based upon and the reason(s) for the decision. (RCW 84.48.010 and WAC 458-14-116)
4. The Clerk is required to keep a record of the Board's proceedings and publish the record. (RCW 84.48.010 and WAC 458-14-095)
5. The Board is required to only accept complete and timely filed petitions. (RCW 84.40.038, WAC 458-14-056)
6. The Board is required to use their discretion as to how to proceed with evidence submitted by the appellant or Assessor if the evidence is not submitted timely. (RCW 84.48.150 and WAC 458-14-066)
7. The Board is required to keep confidential information in a separate sealed envelope. (RCW 84.40.340 and WAC 458-14-095)
8. The Board is required to request approval of the county legislative authority to continue hearings after the regular 28-day convened session. (RCW 84.48.010 and WAC 458-14-046)

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Results, Continued

Recommendation

To improve the performance of the Board, the Department identified the following five recommendations which require the attention of the Clerk and Board:

1. The Department recommends the Clerk accurately tracks the postmark date of a petition or the date received if the petition was hand delivered. The date of the signature on the "Receipt of Petition" from the Clerk to the Appellant should not precede either the petition's postmark date or date received.
 2. 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 Mason County Assessor's Office (Assessor).
 3. The Department recommends the Board adjust the placement of the microphone(s) closer to the participants during the hearing and track the starting time of each hearing on the audio tape.
 4. The Department recommends the Clerk maintain a log of all petitions submitted by Appellants, whether they are completed petitions or incomplete petitions. If the petition is not complete, the log must reflect when the petition was returned, the reason why the petition was returned, and the new due date the petition must be returned to the Board.
 5. The Department recommends that the Board include the Personal Property, Exemption, and Current Use petition forms on their website.
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Evidence

Requirement **The Board is required to consider all applicable evidence submitted by the appellant and Assessor when determining market value of the subject property. (RCW 84.40.030 and WAC 458-14-087)**

What the law says

Sales, cost, or income are the different approaches that can be used to determine market value.

Sales Approach -- Only arms-length transactions made within five years of the petition can be considered during the appeal. Any sale that occurred prior to or after the assessment date in question must be adjusted to its value as of January 1 of the assessment year. Sales occurring closest to the assessment date, sales that require fewer adjustments for characteristics, and sales in the same geographical area of the subject property should be given more weight when determining market value.

Cost Approach – This approach indicates the depreciated cost of improvements.

Income Approach – Income capitalization determines the market value of the subject property based on anticipated income from the subject property or similar property. Consideration must be given to agreements made that may restrict rental income.

If there is not a significant number of sales of similar property in the general area of the subject property, the cost approach to valuation should be used when determining market value.

What we found The Clerk stated the Board does not give any weight to sales submitted by appellants that occurred outside of Mason County when determining market value of the subject property.

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Evidence, Continued

**Recommend-
ation to remedy**

The Board must consider all applicable evidence provided to them during the appeal and determine how much weight to give the evidence when determining market value.

The Board is not limited to the use of sales that occurred within the county of the subject property. RCW 84.40.030 specifically references the use of sales of similar property in the geographical area in which the subject property is located. It is acceptable appraisal practice to use sales from other counties that have the same general property characteristics. Sales closer to the subject parcel should be given more weight than sales further away from the subject in making the Board's decision on market value.

The Board cannot exclude sales that occurred outside of Mason County based solely on their location when determining market value.

**Why is it
important**

The goal of boards of equalization is to determine the true and fair market value of the subject property during an appeal. To do this, the Board must examine all evidence submitted and determine the weight to be placed on that evidence in making their decision. Discarding evidence based solely on the fact the sale occurred in another county is not a valid reason.

Hearing Notice

Requirement	The Assessor and appellant must be provided notice of the hearing date at least 15 business days before the hearing, unless all parties agree to a shorter time period. (WAC 458-14-076)
What the law says	The clerk of the board of equalization must notify the assessor and appellant of the hearing at least 15 business days before the hearing, unless all parties agree to a shorter time period.
What we found	<p>The Receipt of Petition letter the Clerk sends to the appellant states they will receive a notice of hearing two to three weeks prior to the hearing.</p> <p>A hearing notice letter in one of the appeals files examined was addressed to the appellant, dated January 14, 2011. The hearing was held February 2, 2011. This indicates the appellant was given notice of the hearing 13 business days before the hearing instead of 15 business days as required by rule.</p> <p>The letter was only addressed to the appellant; thus, it is unclear when the Assessor was notified of the hearing.</p> <p>The letter did not indicate all parties agreed to a hearing notification time less than 15 business days.</p>
Recommendation to remedy	<p>The Clerk must provide notice of the hearing to both the Assessor and appellant at least 15 business days prior to the hearing.</p> <p>The language in the “Receipt of Petition” letter must be updated to reflect notification of the hearing will be issued at least 15 business days prior to the hearing. The notification must be sent to the appellant and Assessor at least 15 business days prior to the hearing.</p> <p>Following the initial interview the Clerk updated the Receipt of Petition letter to reflect the hearing notice letter will be issued three to four weeks prior to the hearing.</p>
Why is it important	RCW 84.148.150 requires assessors to supply the appellant with comparable sales they used in determining the true and fair market value at least 14 business days prior to the hearing. WAC 458-14-066 requires assessors to exchange their market evidence with the appellant and Board at least 14 business days prior to the hearing, and the appellant must exchange their market evidence with the Assessor and Board at least seven business days prior to the hearing. Without proper notice of the hearing date, neither party may be able to comply with these requirements.

Board Orders

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

What the law says The Board's order must be on a form provided by the Department or approved by the Department. The order must state the facts and evidence upon which the decision is based upon and the reason(s) for the decision.

What we found The Board is using a customized order form that meets the standards required by the Department.

 The orders reviewed summarize the facts and evidence supplied by the appellant and Assessor.

 The orders reviewed do not explain how the Board arrived at their decision. The statement that the burden of proof was not met or clear, cogent, and convincing evidence was not provided does not offer a reason for the decision made.

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Board Orders, Continued

Recommendation to remedy

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 dates of the comparable sales are not appropriate.
- Why the percentage of change between the current assessment year and the prior assessment year did not demonstrate market value.
- Why the appellant's private appraisal did not demonstrate the market value of the subject property as of the assessment date in question.
- 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 the appellant's cost to cure estimates demonstrate a different market value.
- Why the photos submitted by the appellant or Assessor did or did not convince the Board an adjustment due to view was appropriate.

The summary of evidence could be expanded without going into specific details. For example, the summary may include:

- The appellant (or Assessor) offered four comparable sales ranging in dates from June 2009 to February 2010, with sales prices ranging from \$240,000 to \$265,000.
- The subject property consists of 1.00 acre and a 1,200 square foot single family dwelling built in 1961, with a 300 square foot attached garage.

Following our initial interview, the Board of Equalization Chairman stated one of the board members will be writing a more detailed Board's order.

Why is it important

A well written Board order will assist both parties of the appeal to understand the decision reached by the Board. A well reasoned decision stating the facts about the subject property and the evidence supplied by both the appellant and assessor indicates the Board reviewed the evidence offered and listened to the arguments made during the hearing.

Board Clerk's Record of Hearing

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

What the law says The law requires the board clerk to maintain a journal or record of the board's 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 appeal files examined did not contain the Board Clerk's Record of Hearing (form REV 60 0002). This form records the following information:

- Petition Number
- Taxpayer's name and contact information
- Subject parcel number
- Hearing date
- Board members present at hearing
- Market value determined by the board or other decision by the board
- Recorded on tape number
- Time the hearing started and ended
- Signature of chairperson or designee and date

All of this information, excluding the time the hearing started and ended, was included within a variety of documents in the individual appeal files, but not summarized as required in RCW 84.48.010.

The Clerk stated she is unaware if the record is published. The CLA Clerk is responsible for publishing their documents.

The CLA Clerk stated she is unaware of this document. She noted the county legislative authority's agenda is posted on a bulletin board within the county courthouse and on the county website. The agenda action sheet is posted on the same bulletin board, and the minutes are posted on the county website. She indicated the Board Clerk's Record of Hearing could also be posted either on the bulletin board and/or the county website.

Recommendation to remedy The Clerk must complete the Board Clerk's Record of Hearing form (REV 60 0002). This record must also be published in the same manner as other county legislative authority proceedings.

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Board Clerk's Record of Hearing, Continued

Why is it important

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

Complete and Timely Filed Petitions

Requirement **The Board is required to only accept complete and timely filed petitions. (RCW 84.40.038 and WAC 458-14-056)**

What the law says The sole method of appealing an assessor's determination to a board of equalization, as to valuation of property, or as to any other types of assessor determinations is by means of a properly completed and timely filed taxpayer petition. 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.

A petition is properly completed 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 and date of signature

Without this information, the petition for review should not be considered.

A petition is properly completed when all relevant questions on the form provided or approved by the Department have been answered. The answers must contain sufficient information or statements to apprise the board of equalization and the assessor of the reasons of the appeal.

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.

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Complete and Timely Filed Petitions, Continued

What we found A petition reviewed states for the following reason why they believe the assessor's value does not reflect true and fair market value:

“Does not correspond with historic average rate increase in previous years. There is no carport or any buildings on the property.”

This statement does not offer the Board or the Assessor enough information as to why the subject property is not valued at true and fair market value. The comparison of historic increases does not offer any insight as to the market value of the subject property as of the assessment date in question. The statement, “There isn't a carport or any buildings on the property,” also does not indicate why the Assessor's total assessed value is incorrect.

The Clerk stated petitions submitted after the filing deadline are returned to appellants with a hearing denial letter. The denial letter 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 Any petition not properly completed must not be considered by the Board. Incomplete petitions must be returned to the appellant with an appropriate letter explaining the situation. 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 within the timeline given, the petition must be rejected as incomplete. The appellant must be notified in writing of their appeal rights to the Washington State Board of Tax Appeals.

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 it is important Properly administering petitions ensures equity and uniform treatment of Mason County stakeholders (taxpayers, taxing districts, and Assessor).

Exchange of Valuation Information

Requirement **The Board is required to use their discretion as to how to proceed with evidence submitted by the appellant or Assessor if the evidence is not submitted timely. (RCW 84.48.150 and WAC 458-14-066)**

What the law says Valuation information supplied by the assessor to the appellant and board s of equalization must be submitted at least 14 business days prior to the hearing. Valuation information supplied by the appellant to the assessors and boards of equalization must be submitted at least seven business days prior to the hearing.

If these deadlines are not met, the boards of equalization may consider the following options:

- Consider the new evidence if no one objects.
 - Refuse to consider the evidence if either party objects.
 - Postpone the hearing for a definite time period determined by the board of equalization to provide the parties an opportunity to review the evidence.
 - Proceed with the hearing, enter the new information into the official record, and allow the parties time to comment on the evidence after the hearing is concluded, but before the order is issued.
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What we found The Clerk stated the Board allows new evidence to be entered into the official record if the information is received at least five business days before the hearing.

The Clerk also stated she asks the Assessor, prior to the hearing, if they object to information not timely filed by the appellant.

Recommendation to remedy During the hearing, the Board chairman must ask if either party objects to accepting market evidence not submitted timely. The Board must use their discretion as to how to proceed with the market evidence not filed timely based on the objections made by the appellant or Assessor during the hearing.

Why is it important It is important that all parties involved in the hearing have time to review the written information submitted for the hearing and be given the opportunity to rebut such information.

Confidential Information

Requirement	The Board is required to keep confidential information in a separate sealed envelope. (RCW 84.40.340 and 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	The Clerk stated she does not keep a separate file of confidential information. She also stated copies of possible confidential information used by the individual Board members during the hearing are shredded after the hearing.
Recommendation to remedy	<p>The Clerk must keep a separate file for all confidential evidence. The file must be sealed and labeled with the notation of the case number and confidential evidence.</p> <p>Following our initial interview, the Board has requested a lock for their filing cabinet in which confidential information is stored and will label confidential information accordingly.</p>
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.

Regular Convened Session

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

What the law says Boards of equalization must meet on July 15 for a minimum of three days but for not more than 28 calendar days. The county legislative authority may reconvene the board of equalization when petitions filed exceed 25 or 10 percent of the number of appeals filed in the preceding year, whichever is greater.

What we found The Clerk stated the Board had not requested the county legislative authority to reconvene the Board.

The CLA Clerk stated the county legislative authority has not authorized the Board to continue with hearings after the regular 28-day convened session during the last three years that she worked with the county legislative authority.

Recommendation to remedy The Board must request the authorization of the county legislative authority to be reconvened after their regular 28-day session. The Department recommends the authorization is in writing. *Notice of Approval to Hear Property Tax Appeals* (form REV 64 0049e) is available on the internet at www.dor.wa.gov.

Following our initial interview the Board has implemented this requirement following the 2011 regular convened session.

Why is it important Proper authorization ensures that the county legislative authority is aware of the Board's workload.

Tracking Received Petitions

Recommendation The date of the signature on the Receipt of Petition letter from the Clerk to the appellant should not precede either the postmark date the petition was mailed or date the petition was received if the petition was hand delivered to the Board.

What we found A petition reviewed has a received date stamp of November 5, 2010, by the Board of County Commissioner's Office. The Receipt of Petition letter from the Clerk to the appellant was signed November 3, 2010. The dates on these two documents conflict with one another. Thus, it is unclear when the petition was received.

What our concern is The date of the signature on the Receipt of Petition letter should not predate the postmark date the petition was mailed or the date the petition was hand delivered to the Board.

An accurate record must be maintained reflecting whether or not a petition was timely filed with the Board or not. Only timely filed petitions can be considered by the Board.

In this particular case, the revaluation notice was mailed to the appellant October 9, 2010. It appears the petition was timely submitted to the Board within the 30-day appeal period based on the November 3, 2010, or November 5, 2010, dates. If the dates in question had been a few days later, someone may question if the petition was filed timely or not.

Recommendation to remedy The date the Receipt of Petition letter is signed should be after the postmark date the petition was mailed or date the petition was hand delivered to the Board.

The inclusion of the statement "the petition was filed timely" in the Receipt of Petition letter would clearly identify to the reader that the appellant met the deadline to appeal the Assessor's decision.

The inclusion of the postmark date on the envelope or date received, if hand delivered, and last day to file the petition timely in the letter further clarifies to the reader the petition was filed timely.

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Tracking Received Petitions, Continued

Why is it important

Only timely filed and completed petitions can be considered by the Board, tracking the accurate postmark date on the envelope or accurate date received stamp is imperative. When dates on documents conflict with each other someone may question if the petition was timely filed.

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 Mason County Assessor's Office.**

What we found In the Receipt of Petition letter the Board sends to the appellant, it states a hearing will be scheduled once the Assessor has issued their response to the appellant petitions.

The Clerk also stated she schedules hearings when an appraiser within the Assessor's office has issued a minimum of six Assessor's Response to the Petition.

What our concern is By waiting until the Board receives the Assessor's Response to the Petition, someone could perceive this as the Assessor is controlling the Board's hearing schedule.

Recommendation to remedy The Department of Revenue understands the desire of the Board to work with the Assessor in grouping similar appeal hearings together, but the Board must also consider the appellant's right to a timely hearing. The hearing schedule should not be based on the existence of the Assessor's Response to the Petition. In fact, the Assessor is not statutorily required to offer a response to the petition.

The Department recommends the Clerk schedule hearings according to procedures set by the Board. For example:

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

Audio Tape Recording System

Recommendation **The Department recommends the Board adjust the placement of the microphone(s) closer to the participants during the hearing and track the starting time of each hearing on the audio tape. (WAC 458-14-095)**

What we found The Board uses a Sony cassette player to tape their hearings. Multiple hearings are recorded on one cassette tape. Each tape is numbered sequentially.

It was difficult to hear some of the party's statements due to the background noise.

A start time for each hearing on the tape was not recorded.

What our concern is It was difficult to hear some participants during the hearing. The audio tape is an important document of the appeal file and should be audible.

When multiple hearings are on the same cassette tape, it is difficult to locate the starting point of a new hearing without any notation as to where each hearing starts and ends.

Recommendation to remedy Adjusting the placement of the microphone(s) near the participants of the hearing may help in the quality of the audio recording. You may want to consider adding a comment in the Board's opening statement reminding the participants to speak clearly and at an appropriate volume.

It is also recommended that the start time of the hearing on the tape is tracked for easy access to a particular hearing within the tape.

Why is it important The audio tape is part of the official record of the hearing and subject to public document requests. The audio tape must be audible.

Appeals Log

Recommendation **The Department recommends the Clerk maintains a log of all petitions submitted by appellants, whether they are completed petitions or incomplete petitions. If the petition is not complete, the log must reflect when the petition was returned, the reason why the petition was returned, and the new due date in which the petition must be returned to the Board.**

What we found The Clerk stated incomplete petition packets are returned to the appellants without being entered into their appeals log.

What our concern is Without tracking incomplete petitions returned to the appellants, the Board does not have a record of those appeals to deny a hearing if the completed petition is not returned within the timeline allowed by the Board.

Recommendation to remedy The Clerk must enter all petitions submitted by appellants into their appeals log. A reasonable time period must be given to the appellant to complete the petition. If the petition is not returned in a completed status, the petition must not be denied a hearing. The Clerk must notify the appellant in writing that their appeal has been rejected, giving the appellant his or her appeal rights to appeal the rejection with the State Board of Tax Appeals.

Why is it important Without tracking incomplete petitions, the Board does not have the necessary information to formally deny the appellant their hearing. Without the formal denial letter, the appellant cannot appeal the Board's determination that the petition is incomplete.

Board of Equalization Website

Recommendation **The Department recommends that the Board include the Personal Property, Exemption, and Current Use petition forms to their website.**

What we found The Mason County website offers guidance concerning appealing your property assessment. Information on the website includes:

- Statute and rule references concerning both assessments and the boards of equalization.
- Downloadable version of the Taxpayer Petition for Real Property form.
- The composition of the board of equalization.
- How to apply for a Board member position.
- How to contact the Clerk.
- How to obtain appeal forms.
- Information concerning appeal deadlines.

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

What our concern is Without access to the individual appeal forms, taxpayers may submit their appeal on an incorrect appeal form.

Recommendation to remedy The Department recommends that the Board include the option of downloading the Personal Property Appeal Form, Exemption Petition Form, and Current Use Petition Form.

If the Board does not use a customized appeal form for these purposes, a link to the Departments website could be added to the county website allowing access to these forms.

Following our initial interview the appeal forms have been added to the website.

Why is it important It is important that the appellant use the correct appeal form to notify both the Board and Assessor of their concerns. 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.

Closing Statement

Goodwill

We commend the Clerk, Board, and 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 Mason County Board of Equalization by ensuring the members and Clerk are in compliance with state statutes and regulations.
