

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

Washington Department of Revenue
Property Tax Division

**2012 Review
Of the
Clark County Board of
Equalization**



July 2013

Table of Contents

Overview.....	3
Results.....	5
Confidential Evidence.....	7
Hearing Notice.....	8
Board Orders.....	9
Reconvene Boards.....	12
Board Clerk’s Record of Hearing.....	14
Scheduling of Board Hearings.....	15
Waiver of Filing Deadline for Good Cause.....	17
Clark County Taxpayer Petition Forms.....	18
Appeals Publication.....	19
Desk Reference Manual.....	20
Post Notice of Sessions.....	21
Next Steps.....	22
Closing Statement.....	23

Overview

Introduction	The Department of Revenue (Department) conducted an on-site interview with the Clerk of the Clark County Board of Equalization (Clerk). The interview focused on the Clark County Board of Equalization's (Board) processes and procedures.
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>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.</p>
Scope of Review	The review is limited in scope. We reviewed administrative procedures for compliance with state statutes and regulations.
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 (2011 assessment year for taxes payable in 2012)• Hearing procedures• Deliberation process• Board orders• Board members and hearing examiners qualifications• Regular convened session• Reconvening processes• Publications, forms, literature, and website• Board policies

Continued on next page

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

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 five requirements and six 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. We have listed a summary of these items below.

Requirements

The Department identified five procedures that the Board must change to comply with the law.

1. The Board is required to keep confidential information in a separate sealed envelope. (RCW 84.40.340, WAC 458-14-095)
 2. The Board is required to provide notice of the hearing to the appellant 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 Board is required to have an affidavit stating the facts as to why the appellant or Clark County Assessor (Assessor) request the board reconvenes. (WAC 458-14-127 (1) (a) and (b))
 5. 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)
-

Recommendation

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

The Department identified six recommendations the Board should consider as areas for improvement:

1. The Department recommends the Clerk does not delay scheduling hearings for the sole purpose of waiting for the Assessor to issue a response to the taxpayer's petition.
 2. The Department recommends that the Board update their "Good Cause" waiver of appeal filing deadline letter.
 3. The Department recommends that the Board update the *Taxpayer Petition to the Clark County Board of Equalization form*.
-

Continued on next page

Results, Continued

Recommendation continued

4. The Department recommends that the Board display the most recent reversion of the publication titled *Appealing Your Property Tax Valuation to the County Board of Equalization*, dated October 2010.
 5. The Department recommends the Board develop a desk reference manual for the Board's administrative duties.
 6. The Department recommends the Board post notice of sessions of the board of equalization.
-

Confidential Evidence

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 Presently, the Clerk retains petitions in file folders in a file cabinet and he scans the documentation into a database that the Assessor shares.

During the review of the draft report, the Clerk replied that no confidential case information is currently kept on site in the Board's office. We have attempted and are continuing to attempt to work on protocols for handling electronic files with confidential information. Moreover, there is a sealable envelope in a file marked "*Confidential*" in a lockable file cabinet in the Board's office should we have any confidential materials.

Recommendation to remedy The paper file must be sealed and labeled with the notation of "*confidential evidence*" and the case number.

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

Hearing Notice

Requirement

The Board is required to provide notice of the hearing to the appellant 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

During the review, we discovered that several of the appellants were not provided the minimum 15 business day notice prior to the hearing.

The following table is an example of three Notice of Hearing letters reviewed:

Date of Notice	Date of Hearing	Number of Days Notice
April 17, 2012	May 2, 2012	12
April 10, 2012	April 26, 2012	13
April 9, 2012	April 25, 2012	13

The letters did not include a statement that all parties agreed to a shorter notice of hearing period.

During the review of the draft report, the Clerk replied that 15 business days notice is the normal standard of practice, however due to extraordinary personal life issues the short notices fell within the months of April and May 2012. As a matter of policy, the office now is scheduling with 20 business days notice.

Recommendation to remedy

The Clerk must provide notice of the hearing to both the Assessor and appellant at least 15 business days prior to the hearing. If the notification time is less than 15 business days, include a statement in the notice letter stating all parties have agreed to a lesser time period.

Why is it important

Without proper hearing notification, the assessor may not be able to meet their statutory deadline to provide the appellant and Board with their market based evidence at least 15 business days before the hearing. Moreover, the appellant may not be able to provide the assessor and Board with their market based evidence at least seven business days before the hearing.

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. Moreover, the decision of the Board can be appealed to the State Board of Tax Appeals (BTA).

What we found The Board is using a customized order form that Department did not approve. Moreover, a well-reasoned explanation was not included in some of the orders reviewed.

The following table lists examples of the Board’s orders that were unclear :

Information recorded in the order	The Department’s Concerns
The Board’s Decision: Given this information presented, the Board finds that the appellant has not provided an argument sufficiently clear, cogent or convincing to overcome the presumption of correctness endowed the assessor by statute WAC 458-14-046.	In this case, the appellant provided four sales of comparable property with the last five years. It is unclear why the appellant’s comparable sales (evidence) did not convince the Board.
The order reflects a decision made for the 2011 assessment year; however the appellant’s petition indicates they are appealing the 2010 assessment year.	It is unclear why the Board addressed an assessment year that was not appealed by the appellant.
The order states that the appellant was not present at the hearing.	The sign in sheet indicates the appellant attended the hearing.
The Board reduced the value from \$193,656 to \$141,277. The appellant’s justification to appeal the assessment is that he purchased the home June 23, 2011, for \$136,500.	It is unclear how the Board reached their valuation conclusion. The taxpayer did not provide any information other than the subject’s sale price.

During the review of the draft report the Clerk stated, “*The Board finds that the decisions were all reasonable, had an account of the hearing, hearing date, attendees, evidence submitted, cited statutes and regulations and stated a clear decision.*”

Continued on next page

Board Orders, Continued

What we found continued

State Board of Tax Appeals

The Boards orders list the address to the BTA’s office however; the form is missing the internet link or email address. During the review of the draft report, the Clerk replied that he included the BTA’s address in their revised form.

Recommendation to remedy

The Department recommends the Board include the following statements to the Board’s Order template:

In the Section titled.....	Include the following topics.....
Assessor’s and BOE True and Fair Value Determination	Minerals and Personal Property

In addition we require you change the following statement:

From	To
To request this form in an alternate format for the visually impaired or language other than English, please call (360) 753-3217. The phone number is incorrect.	Ask about the availability of this publication in an alternate form for the visually impaired, please call (360) 705-6715. Teletype (TTY) users, please call (360) 705-6718. For assistance, call (360) 534-1400.

The Clerk must submit the revised form to the Department for our review and approval.

Moreover, 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.

Continued on next page

Board Orders, Continued

Recommendation to remedy continued

The Board could expand the summary of evidence without going into specific details.

For example, the summary may include:

- The appellant (or Assessor) offered four comparable sales ranging in dates from June 2010 to February 2012, with sales prices ranging from \$136,500 to \$195,000.

In addition, the Department recommends that the Clerk add the State Board of Tax Appeals (BTA) internet link or email address to their Board Orders.

<http://bta.state.wa.us/appeal/efile%20web%20form.htm>.

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.

Reconvene Boards

Requirement The Board is required to have an affidavit stating the sworn reasons why the assessor or appellant is requesting the board reconvene themselves before granting the request. The affidavit must be made before someone who can administer an oath, such as a notary public. (WAC 458-14-127(1) (a) and (b).

What the law says Boards may reconvene on their own authority to hear such requests concerning the current assessment year when the request is filed with the board by April 30 of the tax year immediately following the board's regularly convened session if certain criteria is met.

An appellant may request a board of equalization be reconvened when they submit an affidavit stating they did not receive the assessor's change of value notice at least 15 days prior to the appeal deadline, and can show proof that the value was actually changed.

An assessor may request a board of equalization be reconvened when they submit an affidavit stating they were unaware of facts that were discoverable at the time of the appraisal that resulted in an incorrect valuation of the subject property. If the board honors the assessor's request, the board must notify both the appellant and assessor of its decision in writing.

What we found The Clerk stated that he does not require an affidavit to be submitted with the reconvening request.

During the review of the draft report, the Clerk replied that an affidavit would be required before the Clerk submits these reconvening requests to the Board for approval.

What our concern is The Board reconvened without proper documentation as required by statute.

Continued on next page

Reconvene Boards, Continued

**Recommend-
ation to remedy**

If the...	With a...	Then the...
Taxpayer submits a timely Request for Reconvening	Affidavit stating they did not receive the assessor's change of notice at least 15 days before the appeal deadline	Board must reconvene themselves and hear the assessment appeal.
Assessor submits a timely Request for Reconvening	Affidavit stating the facts that were discoverable at the time of the assessment, but they were not aware of, the incorrect assessment, and the true and fair market value of the property.	Board must reconvene themselves and hear the assessment appeal.

**Why is it
important**

The affidavit affirms the reasons why the Board should be reconvened.

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 statute requires the board 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 appeal files examined did not contain the Board Clerk's Record of Hearing as required by RCW 84.48.010. The Clerk did have an agenda in his appeal notebook with some of the information as required in the statute.

The Clerk stated he was unaware if the Board of Equalization record of the hearing was published in the same manner as other proceedings of the county legislative authority. Additionally, the county legislative authority clerk is responsible for publishing the Board's agenda.

During the review of the draft report, the Clerk replied that he will include the Departments form in each case file.

Recommendation to remedy The record of hearings must be published in the same manner as other county legislative authority proceedings. Moreover the Clerk should complete the *Board Clerk's Record of Hearing form* (REV 60 0002). We agree that the requirement for the Clerk to use our form is minuscule. However, we encourage the Clerk to use our form as required by statute.

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

Scheduling of Board Hearings

Recommendation The Department recommends the Clerk 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 our interview, the Clerk indicated he waits to schedule a hearing until the Assessor provides their response to the appellant's petition.

During the review of the draft report, the Clerk replied that he does not wait until the Assessor has provided their official response before scheduling the hearing. In addition, he stated, "By providing longer notification period of hearing date, the Board is able to encourage Assessor response to the taxpayer concern and yet allow the Assessor time to effectively prepare so that the occasional hold over of cases from prior year(s) are dealt with more speedily." [sic]

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

After consideration of your detailed explanation, the Department reaffirms our recommendation.

Recommendation to remedy Hearings should not be delayed in scheduling due to not having the Assessor's response or waiting for additional supporting data from either the appellant or Assessor. In fact, the Assessor is not statutorily required to offer a response to the appellant's petition.

The Department recommends the Clerk prepare hearing schedules according to the following guidelines.

For example:

- Received date of petition.
- Property type or classification such as commercial, residential, current use, or vacant land.
- Location (appeals in the same subdivision or neighborhood).

The Department understands the desire of the Clerk 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.

Continued on next page

Scheduling of Board Hearings, Continued

**Why is it
important**

The county legislative authority appoints boards of equalization members as an independent, quasi-judicial entity. It is important for the board to demonstrate the separation between the assessor's office in order to maintain their impartiality.

Waiver of Filing Deadline for Good Cause

Recommendation The Department recommends that the Board update their “Good Cause” waiver of appeal filing deadline letter.

What we found The Board has a form letter notifying appellants of the reason why the filing deadline can be waived. However, their letter does not include all of the reasons that the appeal filing deadline may be waived. The Department recommends that the Board include the reason contained in WAC 458-14-056(3)(f) to their “Good Cause” waiver of appeal filing deadline letter:

“The taxpayer is a business and was unable to file the by the filing deadline because the person employed by the business, responsible for dealing with property taxes, was unavailable due to illness or unavoidable absence”.

During the review of the draft report, the Clerk replied that the updated form is now available.

Recommendation to remedy The Board should include WAC 458-14-056 (3) (f) in their taxpayer request for “Good Cause” waiver of appeal filing deadline letter.

Why is it important It is important to inform the petitioner of all the good cause reasons to waive filing deadline.

Clark County Taxpayer Petition Forms

Recommendation The Department recommends that the Board update their customized form titled *Taxpayer Petition to the Clark County Board of Equalization*.

What we found The Board is using a customized petition form. At this time, the customized Taxpayer Petition form does not meet the standards required by the Department.

The Clark County petition form does not include a statement informing the appellant what information must be completed at the time the petition is submitted to be considered a complete petition

In addition, item number 7 states “*If purchased within the last 5 years-Attach copy of Financial Document.*”

During the review of the draft report, the Clerk replied that the updated form is now available. The Board is now utilizing the Department’s petition form.

What our concern is The Department is concerned that an appellant may be under the impression that all topics on the petition form must be addressed at the time the petition is filed. For a petition to be complete and submitted timely, the Department requires only five of the Board’s nine items in their petition form to be completed and considered timely. Additional information to support the value may be provided either with this petition or prior to seven business days before the hearing.

It is unclear what “financial document” the appellant must provide if the subject parcel was purchased within the last five years.

Recommendation to remedy The Department recommends that the Board use the Department’s most current version of the petition form updated June 7, 2012. You can obtain all of our forms on the Property Tax Resource website located by clicking on the following link <http://propertytax.dor.wa.gov/>

If you choose not to use the Department’s petition, we recommend that you revise your current petition and submit the form to us for review and approval.

Why is it important A petition must be submitted to boards of equalization on either the form provided by the Department, or a form approved by the Department.

Appeals Publication

Recommendation The Department recommends that the Board provide appellants with the most recent version of the publication titled *Appealing Your Property Tax Valuation to the County Board of Equalization*, dated October 2010.

What we found During our interview with the Clerk, we requested samples of the Board's forms, letters, and publications for taxpayer assistance and guidance.

The Board uses the Department's publication titled *Appealing Your Property Tax Valuation to the County Board of Equalization*. The publication they are distributing is dated October 2003.

During the review of the draft report, the Clerk replied that the updated form is now available.

What our concern is Outdated information is being provided to appellants. The 2003 version of the publication is not up to date with legislative changes or contact information. Without access to the most recent version of the individual publications a taxpayer may submit their appeal based on incorrect information.

Recommendation to remedy The Department recommends that the Board provide appellants with the most recent version of this publication.

Why is it important The publication revised in October 2010 provides an accurate and current overview of the property tax assessment and appeal process.

Desk Reference Manual

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

What we found The Board does not currently have a desk reference manual. However, they do refer to the Department's *Operations Manual for County Boards of Equalization in Washington State*.

During the review of the draft report the Clerk replied that they have a procedures manual describing procedures for the office assistance and have just completed an HR reclassification for the Clerk's job duties. We have started a desk manual.

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 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 its operations and procedures.

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

Post Notice of Sessions

Recommendation The Department recommends the Board post notice of sessions of the Board.

What we found The Clerk does not currently post the notice of sessions of the Board meetings. He stated however, that the budget allows \$200 for publication in an official newspaper.

During the review of the draft report, the Clerk replied that he had posted the July 2012, annual meeting notice in The Columbia newspaper. Moreover, he provided us a copy of the meeting notice and stated that minutes of that meeting are kept in the office file available for public review.

What our concern is Interested parties may not be aware of the meeting dates, time, and location of the board's regular session.

Recommendation to remedy The Department recommends posting the notice in the office of the county assessor, on the courthouse bulletin board, and publishing it in an official newspaper.

Suggested items for the notice include:

- The meeting place
- Time of the meeting
- Meeting date of least three days of the board session
- Where appeal forms may be obtained
- Where petitions is to be filed

Publish and post the notice once each week for two successive weeks. The first publication and posting shall be on or before June 1.

Why is it important The notice of sessions serves as public records listing the dates and times of when the Board meets to perform their duties.

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.

Questions

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

Levy and Appeals Specialist	Diann Locke	(360) 534-1427
Levy and Appeals Auditor	Annette Hargadon	(360) 534-1429

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.

**For Additional
Information
Contact**

Washington State Department of Revenue
Property Tax Division
P.O. Box 47471
Olympia, WA 98504-7471
(360) 534-1400
www.dor.wa.gov

Closing Statement

Goodwill

It is apparent that the Clerk and Board members take great pride in serving Clark County stakeholders. They are committed to providing uniform treatment while adjudicating 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 assessment appeals process.

The Department is committed to the success of your Board by ensuring the members comply with state statutes and regulations.
