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# Washington Department of Revenue Property Tax Division

## 2016 Review of the San Juan County Board of Equalization



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# Overview

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## Introduction

The Department of Revenue (Department) conducted an on-site interview with the Clerk of the San Juan County Board of Equalization (Clerk). The interview focused on the San Juan 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 (2014 assessment year for taxes payable in 2015)
- Hearing procedures
- Deliberation process
- Board orders
- Regular convened session
- Reconvening processes
- Publications, forms, literature, and website
- Board policies

# Executive Summary

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## About this Review

The Department conducted an on-site visit to the Board of Equalization office. We interviewed the Board of Equalization's staff about the processes and procedures used in hearing appeals.

## 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*, 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

The Department identified 8 requirements and 3 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

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### **Requirements**

1. 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))
2. The Board is required to hold three meetings during the regular 28-day session. (RCW 84.48.010 and WAC 458-14-046)
3. 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)
4. The Board is required to keep confidential information in a separate sealed envelope. (WAC 458-14-095)
5. The Board is required to dispose of all petitions that are filed timely and have not been officially withdrawn. (WAC 458-14-076 and RCW 84.08.010)
6. The Board is required to reject appeal petitions that are not complete and timely filed.  
A taxpayer must provide the Board with a copy of the Assessor's Notice of Value as proof of a timely filed petition for an appeal of valuation when the petition is filed after July 1 of the assessment year in question. (RCW 84.40.038 and WAC 458-14-056)
7. The Board is required to have clear, cogent and convincing evidence before overruling the Assessor's presumption of correctness. (RCW 84.40.0301)
8. The Board must make decisions on appeals of valuation based upon the total true and fair market value of the property. (RCW 84.40.030)

### **Recommendations**

1. The Department recommends the Board should use a sign-in sheet for all board hearings to create a record of hearing participants. (BOE Operating Manual Part 6.2)
2. The Department recommends the Board develop a desk reference manual for the Board's administrative duties.
3. The Department recommends the Board include the Personal Property, Exemption, and Current Use petition forms on their website.

# Requirements

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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.

## **Board Clerk's Record of Hearing**

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### **Requirement**

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))

### **What the law says**

The law 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. During the interview, the Clerk stated she was not aware of the form 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 for each hearing.

## Required Board Meetings

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### Requirement

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

### What the law says

The board is required to meet on July 15<sup>th</sup> 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 held only two of the required three meetings during the 2015 regular convened 28-day session.

### Action needed to meet requirement

The Board must meet three times during the 28-day session.

### Why it's important

Board's 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.

## Regular Convened Session

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### Requirement

The Board is required to request the approval of the county legislative authority to continue hearings after the the regular 28 day convened session. (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 not more than 28 calendar days. The county legislative authority may reconvene the board of equalization when the number of petitions filed exceeds 25, or 10 percent of the number of appeals filed in the preceding year, whichever is greater.

### What we found

The Board continued to hold hearings after the regular 28-day session without receiving authority from the county legislative authority to be reconvened.

### 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.

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 ensures that the county legislative authority is aware of their board of equalization's workload.

## Confidential Evidence

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### Requirement

The Board is required to keep confidential information in a separate sealed envelope.  
(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 writes the word “confidential” on all files that include confidential information and those files are kept in a locked cabinet.

### Action needed to meet requirement

Paper files containing confidential information must be kept in a sealed envelope and labeled with the notation “*confidential evidence*” and the case number.

### Why it’s important

Proper handling of evidence ensures confidential information will not be disclosed inappropriately and instills taxpayer confidence in the board.

## Unresolved Petitions

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### Requirement

The Board is required to dispose of all petitions that are filed timely and have not been officially withdrawn. (WAC 458-14-076 and RCW 84.08.010)

### What the law says

The Board must hold hearings and issue orders on each properly filed petition which has not been withdrawn or otherwise disposed of.

### What we found

During the review of the Clerk's control register and petition files the Department noted three timely filed petitions for the 2015 assessment year that have not been disposed of.

- There are two outstanding petitions that appear to be unresolved according to the Clerk's control register provided to the Department. The Clerk verified, during the interview, there are two petitions without resolution within the 2015 Board's session.
- One of the petition files reviewed remains unresolved due to an unsigned board order.

### Action needed to meet requirement

The Board must hold hearings for the two outstanding 2015 petitions and issue orders, or obtain a withdrawal or stipulation agreement for the unresolved petitions.

The Board must issue a signed board order for the petition file that contains the unsigned order.

### Why it's important

Timely decisions by the board provides fairness to the taxpayers and allows the Assessor's Office to process value changes prior to payment of property tax.

## Complete and Timely Filed Petitions

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### Requirement

The Board is required to reject appeal petitions that are not complete and timely filed.

A taxpayer must provide the Board with a copy of the Assessor's Notice of Value as proof of a timely filed petition for an appeal of valuation when the petition is filed after July 1 of the assessment year in question. (RCW 84.40.038 and WAC 458-14-056)

### What the law says

A petition of value may be accepted by the Board as long as it is filed timely, on or before July 1 of the assessment year or within 30 days, unless the county legislative authority has extended the appeal period up to 60 days, after the date the value change notice was mailed, whichever is later.

The appeal must be on forms as prescribed or approved by the Department and be complete.

### What we found

It is unclear if three of the eight files reviewed were filed timely. They were submitted after July 1 of the assessment year in question and did not include a value change notice supporting the submission of the appeal after July 1.

### Action needed to meet requirement

A copy of the Assessor's Notice of Value must be provided with all petitions of value received by the Board after July 1 of the assessment year in question as proof of a timely filing. If the appellant does not provide this document with the petition, the Clerk must:

- Send the appellant a not timely filed letter asking for a copy of the value change notice and include the good cause reasons why the filing deadline can be waived. Be sure to provide a deadline in the letter as to when the appellant must reply.
- If the taxpayer requests a waiver for good cause the Board must meet to consider the request and make a decision.

### Why it's important

Proper documentation of complete and timely filed appeals assure both the assessor and the taxpayer due process.

## Evidence – Clear, Cogent, and Convincing

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### Requirement

The Board is required to have clear, cogent, and convincing evidence before overruling the Assessor's presumption of correctness. (RCW 84.40.0301)

### What the law says

The assessor enjoys a presumption of correctness in valuation appeals. The appellant must provide clear, cogent, and convincing evidence to overcome the presumption that the assessor's determination of property value is correct.

### What we found

In three of the eight petition files reviewed, there was no market evidence such as: sales, cost data, or photos provided by the appellant.

- In one of the eight files, the appellant provided a letter stating their case, but did not include any documented evidence to support their claim.
- The Board listed the appraiser not being present as reason to give the appellant's testimony more weight.
- One board order reviewed stated, the Assessor had not provided clear, cogent, and convincing evidence.

The Board ruled in favor of the appellants in each of the hearings listed in this section. It is unclear to the Department what market-based evidence the Board used to overcome the Assessor's presumption of correctness.

### Action needed to meet requirement

In an appeal of valuation, the Board must make their decisions based upon the premise that the Assessor is presumed correct unless the appellant provides clear, cogent and convincing evidence proving the Assessor's determination of value is incorrect.

Clear, cogent, and convincing evidence denotes a standard of proof that is less than beyond a reasonable doubt, but greater than a preponderance of evidence. "Highly probable" is another way to state this standard of proof.

### Why it's important

Statute puts the burden of proof on the appellant to overcome the assessor's valuation to maintain fair and equitable taxation for all taxpayers.

## Board Decisions

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### Requirement

The Board must make decisions on appeals of valuation based upon the total true and fair market value of the property. (RCW 84.40.030)

### What the law says

The true and fair market value of land and improvements must be listed separately, but the two values cannot exceed the total true and fair market value of the total property.

### What we found

There are three files that the Board did not consider the market value as a whole.

- One file contained an order that did not list the total value, it only listed the improvement value.
- Two petition files had board orders that stated the board decisions were made by looking at the land and improvement components separately instead of as a whole.

### Action needed to meet requirement

The Board must consider all evidence provided and base their decision upon the total true and fair market value of the land and improvements. The total true and fair market value of the property must be stated in the order.

### Why it's important

If the Board ruled on either the land or improvement component separately it may result in the sum of the two exceeding the total value as a whole.

## Recommendations

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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.

## Sign-in Sheet

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### **Recommendation**

The Department recommends the Board use a sign-in sheet for all hearings to create a record of participants. (BOE Operating Manual Part 6.2)

### **What we found**

Three of the eight files reviewed did not contain a sign-in sheet.

### **Action recommended**

The Board should have all parties offering testimony and observers sign a sign-in sheet. This document will not only clarify who testified during the hearing but how to correctly spell their names in the order. This document should be kept in the official appeal file.

### **Why it's important**

Tracking the participants and observers of the board hearings helps to provide a complete and accurate record of the hearing.

## Desk Reference Manual

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### **Recommendation**

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

### **What we found**

The Clerk utilizes the Department's County Board of Equalization Operating Manual, but does not currently have a desk reference manual.

### **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.

## Board Website

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### 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 San Juan County Board of Equalization." This form includes an instruction page.
- The appeal deadline.
- Statute and rule reference for the Board.
- The current members names 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, a link to the Department's website could 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 the board and assessor of their concerns. Having all appeal forms available on the county website or link to the Departments website allows access to the correct appeal forms any time of day.

## **Next Steps**

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### **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 encounter during the implementation process.

### **Questions**

For questions about specific requirements or recommendations in our report, please contact:

County Review Auditor	Diana Burch	<a href="mailto:DianaBu@dor.wa.gov">DianaBu@dor.wa.gov</a>	(360) 534-1429
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For additional information contact:

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