

FILED

JUL 13 2018

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

NO. 347222

IN THE COURT OF APPEALS, DIVISION THREE

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PALMER D. STRAND AND PATRICIA N. STRAND

Appellant

v.

SPOKANE COUNTY AND SPOKANE COUNTY ASSESSOR

Respondents

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BRIEF OF APPELLANT

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Patricia Strand, Pro Se  
[pnstrand@hotmail.com](mailto:pnstrand@hotmail.com)  
PO Box 312  
Nine Mile Falls, WA 99026  
(509) 467-0729

Appellant

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## I. INTRODUCTION

This case will decide if the Assessor<sup>1</sup> can evade producing records for their basis of real property values by materially false statements (RCW 9A.72.010) about their appraisals<sup>1</sup>, non-disclosures, silent withholding, and destruction of records.

Pat<sup>1</sup> is a retired Certified Public Accountant (Colorado 11248) – a professional auditor. Pat bought parcel 17355.9014 on 09/06/2000. The appraisals show the owner is “Barker, Robert & Patricia”.

Since February 2009 Pat continuously requested the Assessor’s records of the basis of value of land, structure and total value for 17355.9014 (Table 1) because in 2009 the land value doubled (\$100,000-to-\$200,000) after the real estate market crashed. Pat requested the records as owner, as an appellant of the value, under the PRA<sup>1</sup> and, under discovery in appeal proceedings (RCWs 84.40.030,

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<sup>1</sup> Terminology:

- Assessor – Spokane County Assessor
- Appraisal is an opinion of value at one point in time. Labels on appraisals: Appraisal Notes [CP 239], Residential Valuation Record, Improvement Data. Appraisal is aka property record card, property improvement record (WAC 458-07-015(4)). Assessor consolidated all Appraisal Notes that usually appear in space available on multiple appraisals into Proval Notes [CP 108, 148]  
Attachment 1: How to Read Appraisal
- Pat – Appellant, Palmer and Patricia (“Pat”) Strand, pro se
- PRA – Public Records Act, RCW 42.56 *et seq.*
- BTA – Washington State Board of Tax Appeals
- Answer – Assessor’s Answer to Real Property Petition to the Spokane County Board of Equalization [CP 121-134]

84.48.150, 84.40.020, 42.56.520 and CR 26). The Assessor never produced these records. RCWs 84.40.030 and 84.48.150 identify the records as the factors and specific sold properties used to determine the values because the Assessor asserted using cost as the value basis.

Table 1		Assessed Value of 17355.9014		
Assessment Year	Land	Dwelling/ Structure	Total Value	% Change from Prior year
2017	150,000	216,000	366,000	5.87%
2016	150,000	195,700	345,700	- 5.98%
2015	175,000	192,700	367,700	- 3.82%
2014	200,000	182,300	382,300	- .36%
2013	200,000	183,700	383,700	- 1.03%
2012	200,000	187,700	387,700	- 2.91%
2011	200,000	199,300	399,300	- 3.71%
2010	200,000	214,700	414,700	- 7.82%
2009	200,000	249,900	449,900	7.86%
2008	200,000	217,100	417,100	36.26%
2007	100,000	206,100	306,100	
NOTE: assessment year 2008 is calendar/tax year 2009				
2013	150,000	175,000	325,000	BTA <sup>1</sup> 13-179

Since 2009 Pat appealed<sup>2</sup> the assessed value seven times producing 45 purported comparable properties. The nine properties in Case

<sup>2</sup> Appeals of value of 17355.9014:

- 1) 2008 assessment RC-08-2020 and BTA Docket 09-121
- 2) 2009 assessment BE-09-0265 and BTA Docket 10-258
- 3) 2010 assessment BE-10-0126 and BTA Docket 11-706
- 4) 2013 assessment BE-13-0103 and BTA Docket 13-179
- 5) 2015 assessment BE-15-0048 and BTA Docket 16-070
- 6) 2016 assessment BE-16-0135
- 7) 2017 assessment BTA Docket 17-122

347222-III are from these 45. [CP 20] Pat filed five lawsuits<sup>3</sup> about the Assessor's real property basis of value and the valuation records. Pat used appraisals in Case 347222-III to prove the Assessor violated the constitution and the law and over-valued 17355.9014.

**A. BTA Docket 13-179<sup>3</sup> – Dibler's Road**

Appraisal CP 109 has a note stating,

04/24/2013 (JS119) On 09/11/2012 I inspected the waterfront at the request of Mr. Blair who owns the adjacent parcel to the north (17352.9007). The access to waterfront is common (by deed) for this parcel and the two adjacent parcels, [CP 108, 109]

The note is jargon for Dibler's approximately 1200-foot-long private road from his house on the Charles Road plateau to Long Lake 150 feet below (highbank waterfront). Dibler's road was constructed in 1993; is jointly owned and used by Dibler (17352. 9006), Blair (17352.9007) and Zinn (17355.9016) and is regularly traversed by travel trailers to private

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<sup>3</sup> Pat's lawsuits and their genesis against the Assessor:

- 1) 355977-III; Case 172014383 *Strand v. State of WA. Board of Tax Appeals Petition for Judicial Review of State of Washington Board of Tax Appeals Failure of Duty, et al.*, BTA Docket 13-179 ; appealed to BTA November 2013, heard January 2016, Initial Decision May 9, 2017  
<http://bta.state.wa.us/defaultsearch.html> under 13-179
- 2) 347222-III; Case 162010797 *Strand v. Spokane County and Spokane County Assessor* (PRA violations)
- 3) 341909-III; Case 142010791 *Strand v. Spokane County and Spokane County Assessor* (PRA violations)
- 4) Case 132001238 *Strand v. Spokane County and Spokane County Assessor* (PRA violations)
- 5) 313409-III, Case 122011103 *Strand v. Spokane County Assessor Petition for Review Docket No. 10-258*

shoreline amenities. These are Pat's neighbors. We all have similar parcels but Pat has no road.

The Initial Decision for BTA Docket 13-179 ruled the Assessor violated uniformity (Article 7 §1) and land value basis (RCW 84.40.030) and disclosing the basis of land value (RCW 84.48.150) and reduced Pat's 2013 land value \$50,000 based on this note.

The note is because in 2013 Mr. Blair complained to the Assessor of why his land value was substantially higher than his in-law, Mr. Dibler. [CP 148] On 06/20/2013 the Assessor reduced Blair's value \$48,220 and raised Dibler's \$49,240 because the road is on Dibler's parcel. Thus was \$50,000<sup>4</sup> established as the value of a road in 231720.

Table 2

Assessment Year:	2013	2014	Parcel 17352.9006 Dibler [CP 109]
Reval Date:	5/2/2012	6/20/2013	
Value:	\$147,720	\$196,960	Land value increase: \$49,240
Assessment Years:	2009-2013	2014	Parcel 17352.9007 Blair [CP 149]
Reval Date:	5/6/2008 to 05/03/2013	6/20/2013	
Value:	\$241,100	\$192,880	Land value decrease: \$48,220

The Assessor only valued this road for the people who owned it. Uniform valuation is listing and valuing all roads and the absence of roads for everyone. The Assessor has never listed or valued this road or

<sup>4</sup> acreage size adjustment amounts rounded to \$50,000 by Pat in Docket 13-179

any road in accord with RCWs 84.40.030 and 84.40.020.<sup>5</sup>

Table 3		Article 7 §1 Uniformity of land Values – Neighborhood 231720				
Parcel	Acres	2010	2013	2014	2015	2016
17276.9099	4	\$170,000	\$170,000	\$170,000	\$150,000	\$149,500
17276.9100	4.13	\$173,900	\$173,900	\$173,900	\$153,250	<b>\$132,600</b>
17276.9101	4.26	\$177,800	\$177,800	\$177,800	\$156,500	<b>\$135,200</b>
<b>17352.9006</b>	6.54	\$118,180	<b>\$196,960</b>	\$196,960	\$170,800	\$180,800
<b>17352.9007</b>	6.37	\$241,100	<b>\$192,880</b>	\$192,880	\$167,400	\$177,400
17353.9017	5.5	\$215,000	\$215,000	\$215,000	\$187,500	\$192,000
17352.9018	5.3	\$209,000	\$215,000	\$215,000	\$182,500	<b>\$156,000</b>
17352.9019	5.1	\$203,000	\$203,000	\$203,000	\$177,500	\$182,400
17352.9020	5.2	\$296,130	\$236,900	\$236,900	\$207,000	<b>\$177,100</b>
17352.9021	5.2	\$206,000	\$206,000	\$206,000	\$180,000	<b>\$154,000</b>
17352.9022	5	\$200,000	\$200,000	\$200,000	\$175,000	<b>\$150,000</b>
17354.0101	4	\$175,000	\$175,000	\$175,000	\$175,000	<b>\$150,000</b>
17354.0102	4	\$175,000	\$175,000	\$175,000	\$175,000	<b>\$150,000</b>
17354.0103	4	\$175,000	\$175,000	\$175,000	\$175,000	<b>\$150,000</b>
17354.0104	4	\$175,000	\$175,000	\$175,000	\$175,000	<b>\$150,000</b>
17354.0105	6	\$175,000	\$175,000	\$175,000	\$175,000	<b>\$150,000</b>
17355.9010	6.5	\$245,000	\$245,000	\$245,000	\$212,500	<b>\$180,000</b>
17355.9011	5.6	\$218,000	\$218,000	\$218,000	\$190,000	\$194,400
17355.9012	5.4	\$212,000	\$212,000	\$215,000	\$187,500	\$200,000
17355.9013	5	\$200,000	\$200,000	\$200,000	\$175,000	<b>\$150,000</b>
17355.9014	5	\$200,000	\$200,000	\$200,000	\$175,000	<b>\$150,000</b>
17355.9015	5.1	\$203,000	\$203,000	\$203,000	\$177,500	<b>\$152,000</b>
<b>17355.9016</b>	6.3	\$239,000	<b>\$239,000</b>	\$239,000	\$207,500	\$211,200
17363.9043	6.6	\$210,800	\$210,800	\$210,800	\$107,500	\$109,200
17363.9044	3.81	\$164,300	\$164,300	\$164,300	\$167,040	\$170,370
Data source is Assessor's website <a href="http://cp.spokanecounty.org/SCOUT/propertyinformation/Summary.aspx">http://cp.spokanecounty.org/SCOUT/propertyinformation/Summary.aspx</a>						

Table 3 is the effect of Dibler's road to 15 properties in Pat's neighborhood – the land values were decreased by approximately

<sup>5</sup> A road is a structure (RCW 84.40.030 and WAC 173-27-030(15)). It should be listed and valued on the appraisal's Improvement Data under Summary of Improvements.

\$25,000 after Pat reported this in June 2015 in Docket 13-179. Table 3 is the effect of Pat's years of appeals and evidence of illegal land values.

The Assessor's basis of value of land for 18 parcels is the note on CP 108. There are no reasons why all parcels are not valued uniformly; the land except for size and height above the lake is indistinguishable.

**B. BTA Docket 13-179 – Parcel 27323.9054**

Appraisal CP 702 shows parcel 27323.9054 sold for \$250,000 on 01/23/2014 in neighborhood 232730 as a raw land sale (no improvement sheet). 232730 and 231720 are similar: five miles apart in Nine Mile Falls, long narrow acreages, comparable front feet on Long Lake.

Neighborhood:	231720	232730	Table 4
Acreages:	4-7 acres	4-7 acres	
Recreational Amenities:	Abuts Riverside State Park	None	
Access Road	Tormey Road 25 mph	Charles Rd 40 mph	
Water Frontage:	Entire acreage less than 10 feet above lake	Houses on Charles Road 100-165 feet above lake	
Topography:	Arable, deforested	Rocky, forested	

Pat reported on 27323.9054 in Docket 13-179 in June 2015 because the properties in 232730 were so impressively under-valued based on multiple land sales. Pat saw sales were not the basis of value.<sup>6</sup>

<sup>6</sup> BTA Docket 13-179 reporting was about Taxpayer Petition to the Spokane County Board of Equalization BE-10-1082 and analysis on AR 378-385 and exhibits AR 472, 477. The sale of the property included a well and electric power on the property and 233 feet of lowbank waterfront. None of this is on CP 700-712.

After Pat's reporting the Assessor dramatically increased land values in 232730. The values are still not uniform.

There are reasons parcels in 232730 have different values – odd shaped lots, easement access to the lake and to Tormey Road. But the nonuniformity in these assessments was never based on those facts.

Table 5 Article 7 §1 Uniformity of Land Values - Neighborhood 232730						
PARCEL	Acres	2010	2014	2015	2016	2017
27322.9023	5	\$130,000	\$130,000	\$195,000	\$214,500	\$214,500
27323.0104	5.25	\$71,500	\$130,000	\$130,000	\$130,000	\$195,000
27323.0105	4.66	\$71,500	\$130,000	\$130,000	\$130,000	\$195,000
27323.0115	4.95	\$104,000	\$104,000	\$104,000	\$104,000	\$104,000
27323.0116	4.99	\$130,000	\$130,000	\$195,000	\$214,500	\$214,500
27323.9011	5	\$195,000	\$97,500	\$195,000	\$214,500	\$214,500
27323.9054	5.76	\$130,000	\$130,000	\$195,000	\$214,500	\$214,500
27323.9055	6.38	\$130,000	\$130,000	\$195,000	\$214,500	\$214,500
27323.9057	5.13	\$130,000	\$130,000	\$195,000	\$214,500	\$214,500
27325.9053	5.93	\$130,000	\$130,000	\$195,000	\$214,500	\$214,500
27326.0111	7.12	\$90,000	\$75,420	\$75,420	\$91,000	\$91,000
27326.0112	4.94	\$53,200	\$78,000	\$78,000	\$78,000	\$78,000
Data source is Assessor's website <a href="http://cp.spokanecounty.org/SCOUT/propertyinformation/Summary.aspx">http://cp.spokanecounty.org/SCOUT/propertyinformation/Summary.aspx</a>						

## II. ASSIGNMENTS OF ERROR

1. The Trial Court erred in entering the order of July 1, 2016 granting partial/summary judgment. [CP 392-393]
2. The Trial Court erred in entering the order of July 26, 2016 denying Pat's motion for reconsideration. [CP 576-577]
3. The Trial Court erred in entering the order of August 26, 2016 for costs and penalties. [CP 652-653]

### Issues Pertaining to Assignments of Error

Issue 1: Is it incumbent on a Trial Court reviewing a PRA case for records of the Assessor's basis of value on real property to

adjudge if records provided by the Assessor satisfy RCWs defining those records – 84.40.030, 84.41.030 and 84.41.041?

- Issue 2: Did the County and the Trial Court violate Pat's 14<sup>th</sup> Amendment rights to due process? There are no County motions for summary judgment and/or partial summary judgment in the record for review. How did the Trial Court order partial/summary judgment without motions? Did these violations of process render all Trial Court orders improper and invalid?
- Issue 3: If the Assessor has records of structures they do not value are they public records subject to disclosure and production? [CP 21 No. 3 and CP 44]
- Issue 4: The Assessor asserts not retaining original inspection records. [CP 571] Is it incumbent on the Trial Court to review such practices considering retention schedules on "Appraiser's Working Files and Notes"<sup>7</sup> and Pat's PRA requests?
- Issue 5: If the Assessor identifies records as not responsive to a PRA request then must they associate those records to exemptions? Can the Trial Court ignore records in evidence that Pat presents as violations of the PRA?
- Issue 6: Does a statement using the word search constitute a search – "As we are confident that this thorough search has uncovered all responsive records"? [CP 44]
- Issue 7: Did Mr. Frank Oesterheld<sup>8</sup> commit perjury on May 9, 2016, by declaring under penalty of perjury that "Pre/post inspection appraisals downloaded for inspection" on parcel 17274.9110 did not exist? [CP 14-17]
- Issue 8: Does the Trial Court's use of the word 'we' sixteen times in stating the County's arguments for complying with the PRA constitute bias?

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<sup>7</sup> Attachment 2: Washington State Archives County Assessor Records Retention Schedule, 2. Assessment, Item # 2.1.4,

<sup>8</sup> Frank Oesterheld, Executive Assistant to the Assessor since 7/15 Spokane County Appraisal Support Specialist 11/14 to 6/15, BA in history (2011) MA in Public History (2014) with concentrations in archives and public records [CP 613] "I have a graduate degree and years of experience in Washington State records and the Public Records Act, both as an archivist and a records manager." [CP 571] Proper training and supervision of agency's personnel [CP 1395]

Issue 9: Did the Trial Court abuse judicial discretion in awarding Pat \$1 per day for denial of public records based on the facts in evidence in the record?

Issue 10: Did the Assessor discriminate by providing inspections records on parcel 17274.9110 to Mr. Margitan on March 11, 2016, after denying the same records existed to Pat on March 27, 2015 when the nexus of the records were created on/about January 2015?

Issue 11: Do the pictures submitted to COA-III in Pat's January 31, 2018, Motion to Reopen the Record for New Evidence<sup>9</sup> satisfy Pat's PRA request and prove PRA violations?

### **III. STATEMENT OF THE CASE**

On March 2, 2015, Pat made a public records request of the Assessor for the records documenting the basis of real property value under RCWs 84.40.030, 84.41.030 and 84.41.041 on nine parcels in three different neighborhoods for tax years 2010-2015.<sup>10</sup> [CP 20-42] These laws mandate these records be the factors and similar sold properties used to determine the values and the statistical analysis of comparable sales and costs of construction. Additionally, Pat requested records of the physical inspections of the properties. WAC 458-07-015(4) states at minimum the six-year cycle inspections have recordings on the appraisal of the observations and changes in observations of the physical characteristics that determine value.

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<sup>9</sup> Commissioner's Ruling of June 13, 2018 – documents outside the appellate record pending panel review – Jan 31, 2018 Motion to Reopen the Record for new Evidence

<sup>10</sup> Titles 84 and 458 changed from 2015 to 2018. SEE: Appendix law

The inspection record requests were based on the testimony of Assessor Horton and Chief Deputy Assessor Hodgson in the January 20-22, 2016, trial in Case 142010791.

On March 27, 2015, (25 days after the request) the Assessor produced a log [CP 44-48] and 936 records: 121 aerial photos, 123 appraisals, 1 map [CP 102], 2 stipulation agreements, 6 blank records, two Answers<sup>1</sup> (21 records), 104 records of reports all for neighborhood 231720, 558 pages of county-wide sales from 2007-2010 showing Use Codes<sup>11</sup> and total sale dollars.

On April 7<sup>th</sup>, 14<sup>th</sup> and 20<sup>th</sup>, 2015, Pat notified the Assessor the March 27, 2015, records were nonresponsive and clarified the request based on the March 27<sup>th</sup> production. Pat's clarifications stated:

- The county-wide sales are not stratified, are not sales analysis, are not appropriate statistical data. [CP 562 No. 1, 568 No. 2, 573 #1]
- The "Onsite Pictures" are not "Available online". [CP 563 No. 2]
- The appeal records supporting stipulated agreements are not provided. [CP 563 No. 3, 569 No. 3]
- The inspection records specifically identified on March 2nd were not provided. [CP 563 No. 4, 567 No. 1]

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<sup>11</sup> Attachment 3 - excerpts from Department of Revenue Ratio Manual - land use codes

- The reports are not reporting the basis of value but assessments. [CP 564 No. 5]
- And, Pat requested Proval code sheets to explain jargon on appraisals because the Assessor asserted the appraisal was responsive to everything but it is not understandable. [CP 564 No. 6, 573 #2]

On April 9<sup>th</sup>, 17<sup>th</sup> and 24<sup>th</sup> the Assessor stated,

- The “neighborhood report” “gives the basis for our statistical analysis”. [CP 565 No. 1]
- With respect to “onsite pictures,” we have provided everything we have. There are no “onsite” images other than what we have posted on the County Assessor’s website. [CP 565 No. 2]
- We have no “pre-inspection appraisals, pre-inspection reports, appraiser notes ... [or other] documents associated with appeals. [CP 565 No. 3]
- Regarding the Proval code sheets to interpret the appraisal,

This is a new request and cannot be added to an existing one. We will gladly address it after you file a new public records request. [CP 565 No. 6]

- We understand that these are highly technical and complex materials that are difficult for a layperson to understand. . . . The records we provided may not be exactly what you asked for, but they are as close as we can get given our workflow and the way our systems work. [CP 565] . . . To be clear, we will not provide any other records . . . [CP 566] . . . The main point of contention seems to be your assertion that these records merely substantiate the Assessor's valuation rather than establishing it. **What you fail to understand is that the same data we use to establish the**

**valuation is what we use to substantiate it.** [CP 571] (emphasis added)

- For the sake of clarity, the following records that you have request do not exist: [CP 571-572] . . . Appraiser's on-site notes and sketches of their observations.

On March 11, 2016, Frank Oesterheld gave Allan Margitan, owner of 17274.9110, 111 records [CP 307-385, 430-461] generated from the appeal/inspection of his parcel. These records were posted on the County's FTP site. [CP 308] Pat also had records posted from the Assessor on the FTP site. Pat saw the two postings and contacted Mr. Margitan to ask what he was getting.

On March 18, 2016, Mr. Margitan gave Pat copies of his 111 records. [CP 307]

On March 24, 2016, Pat filed Case 162010797 for the illegal denial of public records triggered by the 111 Margitan appeal/inspection records given to Mr. Margitan a year after the Assessor denied such records existed to Pat. CP 20 shows 17274.9110 as the first parcel.

On May 6, 2016, Pat received a package of 21 BTA appeal records 431 days after Pat's request. [CP 283-303]

On May 13, 2016, Pat received a box from the County containing: (1) the 936 records produced on March 27, 2015, (2) a Note for Hearing Issue of Law scheduling a hearing on July 1, 2016, and (3) three

pleadings dated May 9, 2016 – a Motion for Summary Judgment, a Memorandum in Support of Motion for Summary Judgment [CP 7-13] and the Declaration of Frank Oesterheld [CP 14-17]. The County argument for summary judgment, Plaintiff has failed to show a PRA violation. [CP 9]

On May 20, 2016, Pat filed a response to summary judgment stating these PRA violations: (1) 79 attached Margitan records [CP 307-385], (2) the Assessor's acknowledgement of denied cyclical inspection records and, (3) the 19 BTA records produced on May 6, 2016.

On June 7<sup>th</sup> and 15<sup>th</sup>, 2016, Pat filed interrogatories pursuing discovery of disclosure of denied records. [CP 608-651]

On June 24, 2016, Pat received the County's Reply Memorandum in Support of Motion for Partial Summary Judgment [CP 272-277] and Second Declaration of Frank Oesterheld [CP278-385]. Pat never received a motion for partial summary judgment. The memo stated Mr. Oesterheld believed 44 of the 79 Margitan records were responsive. He stated the Margitan and BTA records are everything that exists to close this case. No statutory exemption is cited as the basis for Mr. Oesterheld's beliefs. The memo repeated Pre/post inspection appraisals do not exist.

On June 27, 2016, Pat filed a rebuttal to partial summary judgment

contesting every claim the County made. [CP 386-390]

On July 1, 2016, the Trial Court heard partial summary judgment and ordered summary judgment.

On July 6<sup>th</sup> and 14<sup>th</sup>, 2016, Pat filed a motion, memo and supplement to memo for reconsideration exhaustively repeating facts that summary judgment was improper under rules and caselaw. [CP 394-575] Pat attached the 31 Margitan records she did not previously submit and that the Assessor never produced. [CP 430-461]

On July 26, 2016, the Trial Court denied reconsideration. [CP 576]

On August 11, 2016, Pat received the County's four filings on costs and penalties: a Note for a hearing on August 26, 2016; a motion and memo and another Oesterheld declaration. The memo stated, production of records was delayed because of third-party notifications. [CP 1394] The memo stated a search methodology. [CP 1394] It concludes by saying, "a penalty is not warranted". [CP 1399]

On August 22<sup>nd</sup> and 26<sup>th</sup>, 2016, Pat filed a memo and supplement to memo on penalties and fees and included an analysis of the Yousoufian factors.

- Pat was discriminated against by the assessor in their disclosure practices of public records. In this case, the disclosure and production of the Margitan records to Mr. Margitan a year after Pat asked for these records is the evidence of this discriminatory practice. Pat received these public records from Mr. Margitan.

He is not the agency that created or had custody of the records. He did not deny their existence. He just produced them upon Pat's request after the assessor did not. If Mr. Margitan had chosen to not disclose these records to Pat the assessor's PRA violations would stay hidden! [CP 582]

- The Margitan inspection **involved the assessor's office** (emphasis added) not an individual appraiser . . . 10 assessor personnel . . .
  1. Assessor Vicki Horton;
  2. Chief Deputy Assessor Byron Hodgson;
  3. Appraisal Supervisor Joseph Hollenback;
  4. Records Supervisor Joyce Mendoza;
  5. Appraiser Jay Sporn;
  6. Appraiser Rhodora Capiral;
  7. Appraiser Larry Splater;
  8. Appraiser Rey Amundson;
  9. Appraiser Vicki McQuiston;
  10. Executive Assistant, Frank Oesterheld, MA.

Aggravating factors (2) a lack of strict compliance, (4) the unreasonableness of any explanation for the noncompliance, (5) the agency's negligent, reckless, wanton, bad faith and intentional noncompliance with the PRA and (9) a penalty amount necessary to deter future misconduct are applicable in regards to the assessor's discriminatory practices on public records. [CP 583]

- C. The Assessor Failed to Provide Exemption Citations and Explanations.

In any action for judicial review the assessor bears the burden of proof to show that it has identified all responsive records, including those it claims are exempt.

In this case, the assessor . . . silently withheld these non-exempt records and only produced some of them after Pat produced some . . .

In this case, the assessor has provided no identification of lawful exemptions and no association of withheld records to exemptions. [CP 583-584]

- The assessor further did not establish it performed a reasonable search prior to responding on 3/27/15 making its responses

inadequate, *Neighborhood Alliance v. Spokane County*, 153 Wn. App. 241; 224 P.3d 775 (2009). . . . In this case, there is no record to support a search. There are no affidavits. There is no record of what was searched, when it was searched, what was searched for and what was found. [CP 585]

- this is the third time Pat has sued the assessor for noncompliance with the PRA . . . Pat prevailed in the two prior suits . . .

On 1/11/13 . . . case 13-2-00123-8, Strand v. Spokane County Assessor in Spokane County Superior Court for denial of the assessor's policy/procedure records . . . penalty \$25, 1053 days.

On 3/28/14 case 14-2-01079-1 . . . penalty of \$10 for 738 days. [CP 587]

- RCW 42.56.550(4) provides: . . . Any person who prevails . . . awarded all costs, including reasonable attorney fees. . . . The PRA does not allow for court discretion in deciding whether to award attorney fees and costs to a prevailing party. *Progressive Animal Welfare Society v. Univ. WA. ("PAWS I")*, 114 Wn.2d 677, 687-88, 790 P.2d 604 (1990). [CP588]

- In this case, the Court ruled 63 records are PRA violations. Based on the aforementioned aggravating factors Pat requests the penalty of \$100/day. The records were requested 3/2/15. The five-day authorized prompt response of RCW 42.56.520 should have produced responses on 3/7/15. The PRA day computation:

19 BTA records were denied for 427 days

44 Margitan records were denied for 454 days [CP 589]

- E. The Defendant's Responses to Interrogatories

A trial court may continue a summary judgment hearing if the nonmoving party shows a need for additional time to obtain additional affidavits, take depositions, or conduct discovery, *Building Industry Assn. V. McCarthy*, 152 Wn. App. 720; 218 P.3d 196 (2009). [CP 601-605]

ANSWER: Objection, this request seek information that is not relevant to the claims raised in Plaintiffs Complaint and further is not reasonably calculated to to lead to discovery of admissible evidence of the remaining issues in the case following the July 1, 2016 Order granting Defendant's Motion

for Partial Summary Judgment. Robert B. Binger, WBA# 10774  
[CP 601-605]

On August 24, 2016, Pat received the County's reply on costs and penalties. [CP 1401-1405] It implied attorney's fees require a Notice of Appearance. [CP 1402]

On August 26, 2016 the Trial Court held a penalty and costs hearing. The County was awarded a penalty of \$1-per-day for violating the PRA against Patricia Strand by not producing the records for the basis of value of real properties for five years that violated the constitution and Titles 34, 84, and 458.

#### IV. ARGUMENT

**A. The Trial Court Ended Pat's PRA Case With An Improper Summary Judgment Because Pat Notified The Assessor Their Production Was Non-Responsive and Violated The PRA. The County's Filings To Pat On Summary Judgment Are Not In The Record. The Trial Court's July 1<sup>st</sup> Hearing and Order Belie Summary Judgment. COA-III Has No Motions of Summary Judgment or Partial Summary Judgment To Review. The County's Argument For Summary Judgment of No PRA Violation Ignored They Proved PRA Violations. Summary Judgment Aborted Discovery. Summary Judgment Was Based On the Discredited Declarations Of Frank Oesterheld.**

##### 1. Appellate Review Is De Novo

*Neighborhood Alliance v. Spokane Co.*, 153 Wn. App. 241 at 255; 224 P.3d 775 (2009) We review a trial court's grant of summary judgment de novo, engaging in the same inquiry as the trial court. . . . Summary judgment is proper if there is no genuine issue of material fact and the moving party is entitled to

judgment as a matter of law. CR 56(c). "A material fact is one that affects the outcome of the litigation." . . . When considering a summary judgment motion, the court must construe all facts and reasonable inferences in the light most favorable to the nonmoving party.

**2. Assessor Did Not Disclose or Produce Basis of Value Records**

**a) The Burden is On the Assessor**

City of Lakewood v. Koenig, 182 Wn.2d 87, 343 P.3d 335 (2014) Our Public Records Act (PRA), chapter 42.56 RCW, provides . . . right to receive a response to a records request. An agency violates a requestor's right to receive a response when it withholds or redacts public records without articulating a specific applicable exemption and providing a "brief explanation of how the exemption applies to the record withheld." RCW 42.56.210(3).

**b) RCWs 84.40.030 and 84.40.020 Mandate Assessor Disclose Similar Sales And Factors Used As Basis Of Value. Assessor's Assertions About Appraisals Are Materially False. Appraisal Is A False Report**

**i. Similar Sales**

In April 2015 Pat told the Assessor [CP 562-564, 567-570, 573-575] they violated the PRA by not providing the records she requested. RCW 84.40.030 mandates the basis of value of real property as 100% of the sale value. If not available, then the value of similar properties sold within five years. The 559 pages of sales the Assessor produced do not satisfy 84.40.30 and so do not satisfy Pat's PRA request for all of the following reasons.

Parcel 27323.9054 sold for \$250,000 on 01/23/2014. [CP 700]. Its assessments (Table 5) were never at 100% of the sale price. Parcel 26201.0922 sold 06/21/2014 for \$490,000 [CP 238]. Its assessments are: 2014 \$426,200; 2015 \$427,800, 2016 \$472,300 – never \$490,000. The County records are for 2007-2010. There are no 2011-2015 sales.

The sales records have Use Codes<sup>11</sup> but the Assessor did not stratify the sales with these codes or identify the subject property codes. The Sales are not stratified in similar and dissimilar groups (RCW 84.40.030 terminology) or those used to value the subject properties. The sales do not identify neighborhoods. They are not stratified by neighborhood. The subject properties are only in three neighborhoods. The sales do not identify what was sold – land, houses, boats, trailers, ????. The 559 pages of sales \$ and value \$ (assessments) are substantially different so 100% of sales are not basis of assessments.

## **ii. Factors**

RCW 84.40.030 mandates Assessor's using cost to value real property disclose the associated factors. In April 2015 the Assessor violated the PRA by not disclosing these factors.

The Assessor has never asserted the factor(s) used to determine total property values. In BTA 09-121<sup>2</sup> the Assessor asserted Marshall & Swift cost tables are factors used to value structures. No proof of this

assertions has ever been produced. Chief Deputy Assessor Hodgson declared and testified to not valuing these structures (WAC 173-27-030(15)) – private roads/driveways, docks, water wells, septic systems, electric utility service – to the WA. State Auditor and in Case 132001238. The Assessor’s records show these structures exist and

Table 6 Structures Not On Appraisals Violating RCW 84.40.030					
Parcel	Dock	Road	Boat House	Appraisals	On-site Photos <sup>12</sup>
17274.9110	CP: 50-61			CP: 68-93	
17352.9006	CP: 94-101	CP 108		CP: 109-120	present
17352.9007	CP: 136-147	CP 148		CP: 149-168	present
17355.9020	CP: 177-182			CP 189-198	present
17355.9012	CP: 201206			CP 213-223	present
17363.9043 <sup>13</sup>					

look valuable especially for highbank waterfront property. The Assessor took on-site photos of docks along Long Lake in 2015 after Pat’s reportings in her appeals about the Assessor’s policy violating WA. Constitution Article 7 §1 and RCW 84.40.030. In BTA 13-179 Appraiser Jay Sporn testified raw land sales were the factors used to value land. No proof of this assertions has ever been produced. In April 2015 Mr. Oesterheld identified the appraisal as the only factor [CP 44-

<sup>12</sup> Footnote 9 on admissibility; Motion to Reopen The Record, Attachment 7 includes photos of docks dated 2015 on parcels 17352.9006, 17352.9007, 17352.9020 and 17355.9012.

<sup>13</sup> Parcels 17363.9043 and .9044 are owned jointly. The house straddled the properties. The road, boat ramp and dock are on .9044

48] in these statements,

4.) As we have repeatedly informed you, the property record card provides the data that supports the valuation of any particular property. [CP 565]

The main point of contention seems to be your assertion that these records merely substantiate the Assessor's valuation rather than establishing it. What you fail to understand is that the same data we use to establish the valuation is what we use to substantiate it. . . . Appraiser's on-site notes and sketches of their observations. Any such documentation is immediately transcribed into the "notes" field of the Proval property record card, which becomes the official public record. [CP 571]

### **iii. The Appraisal Is A False Report**

The appraisal as the factor that determined value is not supported by the appraisal. An analysis of the appraisals on 27323.9054 [CP 700-710] – raw land – proves these appraisals are not the basis for the \$130,000 value on these appraisals which means Mr. Oesterheld made materially false statements (RCW 9A.72.010) and the appraisal is a false report (RCW 42.20.040).

This is the analysis of 27323.9054. It has structures, water well and electric utility service<sup>14</sup>, are on the property but not on the appraisal – violating RCW 84.40.030. Structures are required to be listed and valued and the appraisal has a spot for them – public utilities: – which is

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<sup>14</sup> In 2000 Pat paid: \$5,310 to Fogle Pump for drilling and piping a well (pump an additional \$1,000, hardware additional \$161); \$5,154 to Inland Power and Spokane Ditch and Cable for transformer and buried lines from power line on Charles Road to transformer approximately 100 feet from house.

blank. CP 701, 703, 705, 707, 709, 711 are not blank pages. They are page two of this appraisal not disclosing the well and utility service – the improvements. These five appraisals are indistinguishable and appear to be for one year not five different years like the 113 other appraisals produced in April 2015. The appraisals have no inspection dates; so, this parcel was never inspected because this is the only record the Assessor has on this parcel. It is the official public record that violates RCWs 84.41.030 and .141. The Appraisal Notes have a lot of information about attempts to sale the property. They say an error was made in an assessment based on an asking price when the property was on the market – violating RCW 84.40.030. This error was only corrected by the owner’s appeal BE-10-1082. The appraisals show no assessments were based on the 1997 \$160,000 and 2014 \$250,000 sale prices – violating RCW 84.40.030. The appraisals are unfinished failing to identify: (1) the topography – lowbank waterfront across the street from River Front Park, (2) the road – Tormey is a secondary road at 25 mph that dead-ends for safety, (3) zoning – ??? . What does R1WF mean (Rating Soil ID -or – Actual Frontage)? What does 1 Riverfront Navigable mean (Land Type)? These appraisals do not identify the sales and factors accounting for the \$130,000 value – violating RCW 84.40.030? These appraisals do not show Gina Yaritz-Tareski as the

owner from 1997 to 2014 – violating WAC 458-07-015(4)(b). The appraisals do not account for the mandated annual sales analysis to show how the market has no effect on the \$130,000 value from 2008-2014 – violating RCWs 84.41.030 and .141.

This analysis shows these appraisals do not value the property at 100% of its true and fair value; so, they are false reports. The appraisal reflects the Assessor policies of not valuing property at its sale price and not valuing structures; these policies violate RCW 84.40.030. The appraisals violate accredited appraiser standards of practice<sup>15</sup>.

### **3. County and Court Violated CRs 5 and 56**

The County and the Trial Court violated the intent and rules [CR 56] for summary judgment and badly damaged Pat and justice.

The County's filings for summary judgment that Pat received are not in the record. Pat relied on them in good faith because she did not know they violated CR 5, service. Pat answered the County's argument for no PRA violations [CP 9] by entering into evidence 79 Margitan records proving PRA violations. This should have squelched summary judgment! The County responded with filings for partial summary judgment [CP 272-276]. These are not in the record violating CR 5 and

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<sup>15</sup> Accredited appraiser standards: RCW 36.21.015, WACs 308-125 and 458-10

Pat did not know. Pat responded to this in good faith contesting every County assertion. All of Pat's pleadings<sup>16</sup> contest all County assertions with evidence – genuine and material facts in contention.

The County's July 1, 2016, hearing is not supported by motions. COA-III cannot review the County's Motion for Summary Judgment or their Motion for Partial Summary Judgment because the County filed none; they do not exist. No motions existed for the Trial Court<sup>17</sup> so it had no authority to act but acted anyway and violated Pat's 14th Amendment Rights to Due Process. The County argued for summary judgment without mentioning partial summary judgment. [RP 3-6], the Trial Court said it was hearing partial summary judgment [RP 15 line 11] and ordered summary judgment.

#### **4. County's Argument for Summary Judgment**

The County's argument in its memo for summary judgment [CP 9] is no PRA violations. The County proved PRA violations for Pat with 19 BTA records they produced on May 6, 2016 [CP 283-303] labeled,

In response to the lawsuit you recently filed captioned case no. 2016-02-01079-7, the Assessor's office has reviewed its public records response which is the subject of that lawsuit.

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<sup>16</sup> Pat's pleadings contesting summary judgment: Complaint CP 4-5; Response to Defendant's Motion for Summary Judgment CP 265-271; Interrogatories [CP 608-651]; Plaintiffs' Rebuttal to Defendant's Reply Memorandum in Support for Partial Summary Judgment [CP 386-391]

<sup>17</sup> Attachment 4: Superior Court Case Summary for 162010797 shows NO Motion for Summary Judgment nor a Motion for Partial Summary Judgment

During this review, we discovered four documents related to a 2011 State Board of Tax Appeals . . . [CP 283]

### 5. Discovery Was Aborted By Summary Judgment

Pat served the County interrogatories on June 7<sup>th</sup> and 15<sup>th</sup>, 2016 because the County presented no evidence of a search for the requested records that lawfully must exist.

*Neighborhood Alliance* at 257, "The adequacy of the agency's search is judged by a standard of reasonableness, construing the facts in the light most favorable to the requestor." . . . An agency fulfills its obligations under the PRA if it can demonstrate beyond a material doubt that its search was " 'reasonably calculated to uncover all relevant documents.' " . . . Moreover, the agency must show that it "made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested." [CP 403]

Summary judgment aborted discovery. This is the ubiquitous County answer on July 8, 2016,

Objection, this request seek information that is not relevant to the claim raised in Plaintiff's Complaint and further is not reasonably calculated to lead to discovery of admissible evidence of the remaining issues in the case following the July 1, 2016 Order Granting Defendant's Motion for Partial Summary Judgment. [CP 614-651]

### 6. Discredited Certifier Is Basis For Summary Judgment

The Trial Court stated,

I've studied this matter in detail. I read all the material that counsel and Ms. Strand provided to me. I'm satisfied that the County has provided to Ms. Strand everything it has, and the **County has certified** that they've given Ms. Strand everything they have. [RP 19-20] (emphasis added)

**a) Perjury Vitiates Declarations**

The certifier is Mr. Oesterheld<sup>8</sup> and the record shows he committed perjury (RCW 9A.72.020) on May 9, 2016, when he declared under penalty of perjury that Parcel 17274.9110 did not have “Pre/post inspection appraisals downloaded for inspection”. [CP 15, 17]

On January 20, 2015, in Case 142010791, Assessor Horton testified the appraisal is the only record they have on real property and that appraisals are used for inspections and some appraisers take notes on them. Pat notified Mr. Oesterheld of the testimony [CP 567 No. 1] The terms pre-inspection and post-inspection appraisals are Ms. Horton’s. Her testimony was four days before the signed (January 26, 2015) Stipulated Value agreement on 17274.9110 [CP 360]. She was an appraiser prior to becoming Assessor. She was deeply involved in this appeal/inspection as stated in Appraisal Notes [CP 68] and appeal/inspection notes. [CP 341-346, 349-350, 360, 385]

Mr. Oesterheld, her Executive Assistant, should have had no problem clarifying her use of pre/post inspection appraisals. And, the County has the transcripts from 142010791. The important fact about this record is not the pre/post terms but appraisals are inspection tools.

CP 20 requested “Inspection Reports” (aka appraisal) because Assessor Horton testified in Case 142010791 that appraisals are

“inspection reports” – the only record the Assessor has of inspections.

This was confirmed on CP 44-48, CP 565 and CP 571.

An inspection does not only mean physical inspections for the Assessor because the Assessor presented limited evidence of performing physical inspections<sup>18</sup>.

Inspect v.t. 1. To look carefully at or over: *to inspect every part of a motor.* 2. To view or examine formally or officially: *to inspect troops.* Inspection n. 2. The act of inspecting.

Random House Webster’s College Dictionary

The Assessor’s not performing and documenting physical inspections does violate RCW 84.41.030 and 84.41.041.

The Assessor has authority to access real property (RCW 84.40.025) That Mr. Margitan, 17274.9110 owner, did not give his permission [CP 88] and so the Assessor did not access the property but settled the appeal almost to Mr. Margitan’s appeal value<sup>19</sup> based on other methods shows this Assessor does not require physical inspections. The inspection dates for 17274.9110 are: 08/27 to 09/09/2013 [CP 350] 348], 08/25/2014 [CP 87] and 12/14/2015<sup>20</sup>. These are the pre/post inspection appraisals in the record proving perjury.

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<sup>18</sup> Physical Inspection evidence on appraisals: CP 108 on 04/24/2013 on 17352.9006; CP 199 on 8/16/10 on 17352.9020.

<sup>19</sup> BE 14-0809 for \$160,000 Appellant value

<sup>20</sup> Footnote 9 on admissibility; Motion to Reopen the Record for New Evidence; Attachment 7 has inspection pictures on 17274.9110 dated 8/25/14 and 12/14/15

Table 7	Appraisals		Inspection Date
	Printed	Exhibit	
1	09-10-2013	CP 348	8/28-9/9/2013
2	01/05/2015	CP 353	08/25/2014
3	01/12/2015	CP 355-359	08/25/2014
4	?	CP 366	?
5	05/13/2013	CP 368	8/28-9/9/2013
6	02/03/2015	CP 68-93 <sup>21</sup>	12/14/2015
7	03/11/2016	CP 430-461	12/14/2015

**b) Materially False Statements and  
Discrimination Vitiates Declarations**

Mr. Oestereheld made materially false statements (9A.72.010) by declaring from March 27, 2015 through June 2016 that the 111 Margitan appeal/inspection records that exactly confirm to CP 20 did not exist while he silently withheld them, *Progressive Animal Welfare Society v. The University of Washington*, 125 Wn.2d 243; 884 P.2d 592 (1994). He gave these records to Mr. Margitan on March 11, 2016. Mr. Oesterheld did not produce these records in Case 162010797 Pat did – on May 20, 2016. His failure to produce them in Case 162010797 between March 11<sup>th</sup> and May 20<sup>th</sup> prove there can be no reasonable explanation but materially false statements for his wanton bad faith,

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<sup>21</sup> PRA request was March 2, 2015. Print Dates on appraisals printed for the request should follow request date unless appraisal was printed for another reason ie. post-inspection; 17352.9006 is 03/09/2015 [CP 109-120]; 17352.9007 is 03/09/2015 [CP 149-168]; 17352.9020 is 03/09/2015 [CP 189-198; 17355.9012 on 03/09/2015 [CP 213-222]; 17355.9028 on 03/10/2015 [CP 237-248]; 17363.9043 on 03/10/2015 [CP 261-264; 655-659]; 26201.0922 on 03/10/2015 [CP 644-684]; 27323.9054 on 03/10/2015 [CP 700-710]

intentional noncompliance, discrimination and dishonesty in applying the PRA. The Trial Court cannot rely on him as a certifier.

**B. The Assessor Did Not Disclose Or Produce The Records Pat Requested: On-site Photos; On-site Inspection Notes and Sketches; Retention Law Was Violated; Schedules of Cyclical Inspections; Sales Analysis; Records Of Structures Not Valued By The Assessor. There Is No Record Of A Reasonable Search.**

**1. On-site Photos**

RCW 42.56.520 Prompt responses required.

(1)(b) Providing an internet address and link on the agency's web site to the specific records requested, except that if the requester notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requester to view copies using an agency computer;

The Assessor denied Pat her requested onsite inspection photos violating the PRA. The Assessor's responses [CP 44-48] state "Onsite Pictures" "Provided No" "Notes, Available online". The PRA does not have an "Available online" option. Pat notified the Assessor the photos were not available online. [CP 563, 568] The response was repeated. [CP 565 No. 2, CP 571]

The photos were not "all" available on line because the display on the Assessor's parcel summary pages changed the photos periodically – like a carousel. This meant there were more photos. Pat had previously notified Chief Deputy Assessor Hodgson of the issue.

On December 29, 2016 Pat made a different PRA request for all real property parcel photos in Spokane County. This request worked and the photos were produced and are in the record. They are not the photos requested on March 2, 2015 but CP 20's request covers them. These photos prove PRA violations and summary judgment improper.

## 2. On-site Inspection Notes And Sketches

The Assessor did not produce any on-site inspection notes and/or on-site inspection sketches in violation of the PRA. Records existed and were destroyed [CP 309-312, 325, 330, 332, 341, 352-354, etc.]

## 3. Retention Law

*Neighborhood Alliance v. Spokane Co.*, 172 Wn.2d 702 at 750; 261 P.3d 119 (2011) The PRA recognizes that records may be destroyed by an agency in the ordinary course of operations. However, once records become subject to a public records request, the agency "shall retain possession of the record, and may not destroy or erase the record until the request is resolved." . . . For example, in *Yacobellis v. City of Bellingham*, 55 Wn. App. 706, 780 P.2d 272 (1989), the city refused to produce requested records of raw data collected by the city, claiming that they did not have to be produced because they were reflected in a final report. The city destroyed the raw data records while the request was pending. The court concluded that no exemption applied, that the city's destruction of the records violated the PRA, and that the requester was entitled to attorney fees and penalties for each day he was denied the right to inspect the documents.

For the sake of clarity, the following records that you have request do not exist: **Appraiser's on-site notes and sketches** of their observations. Any such documentation is immediately transcribed into the "notes" field of the Pro val property record card, which becomes the official public record. **Hand-written**

**notes and sketches are retained only when** they contain unique information with immediate and obvious bearing on the case at hand. This workflow more than satisfies our statutory obligation to accurately and transparently document the appraisal process and adheres closely to established retention rules. [CP 571] (emphasis added)

Above is a statement of the Assessor practice that violates retention laws. RCW 40.14 requires preserving not destroying onsite notes and sketches protected by Retention Schedule 2.1<sup>7</sup>. It states records to be retained for six years – the mandated inspection cycle. The destruction of records before their retention period expires is unlawful, RCW 40.14.070(2)(a). Mr. Oesterheld<sup>8</sup>, the expert on archives and the PRA and Executive Assistant to the Assessor, abetted the destruction of these records. But, the Assessor did not disclose or produce destruction logs to document when or if these records were destroyed. Mr. Oesterheld just implied it.

#### **4. Cyclical Inspection Schedules And the Appraisal is Highly Technical Material**

*Rental Housing Assoc. v. City of Des Moines*, 165 Wn.2d 525 at 535; 199 P.3d 393 (2009) The PRA's disclosure provisions must be liberally construed and its exemptions narrowly construed. RCW 42.56.030. The burden of proof is on the agency to establish that any refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part. RCW 42.56.550(1). Administrative inconvenience or difficulty does not excuse strict compliance with the PRA.

The Assessor violated the PRA by denying schedules of cyclical inspections which Pat has never received and failing to disclose what schedules of cyclical inspections are.

Pat requested schedules of cyclical inspections based on the testimony on January 20, 2015, of Chief Deputy Hodgson in Case 142010791 that there are over 2,000 residential inspections annually and to do this appraisers are assigned inspection schedules. This indicates schedules are lists of the hundreds of parcels assigned each appraiser to inspect annually.

Mr. Oesterheld never requested clarification. His response was “No such record exists” from March 27, 2015 [CP 44-47, 565-566, 571-572, 574] to May 9, 2016 when he declared **error**; Pat had them since March 27, 2015; they are appraisals [CP 15]. (emphasis added)

Pat clarified her requests in April 2015 based on his production of records because her initial request was everything she knew about the Assessor’s records. Pat’s clarifications stated requests were based on testimony in Case 142010791. [CP 562, 567-568] He never asked for clarification on anything. Pat volunteered it.

On June 24, 2016 Mr. Oesterheld disclosed, [CP 280]

9. Properties are inspected every 6 years. Cyclical inspection schedules are designated by Routing Numbers of 1 through 6 on the Property Records Cards. In the current inspection cycle,

Routing #1 represented 2011 and Routing #6 represents 2016. schedules of cyclical inspections exist and we gave them you.

This was the first time this information was disclosed! The Assessor's non-disclosure of the "highly technical and complex materials that are difficult for a layperson to understand" [CP 571] – the appraisal – violates the intent of the PRA – open government. Pat requests COA-III to compel the Assessor to produce the Proval code sheets she requested. [CP 564 No. 6] The Assessor produced the appraisal as the only record they have so it must make sense. It does not. The County **believes** giving out appraisals is sufficient unto itself. (emphasis added) There must be a burden on the Assessor to make the appraisal sensible.

#### **5. Sales Analysis**

The Assessor either violated RCWs 84.41.030 and 84.41.041 by not performing sales analysis or violated the PRA by not producing them. This request was based on Assessor Horton's testimony in January 2015. She defined the Assessor's sales analysis records. [CP 562-563, 568-569 No. 2. The 104 records of reports for neighborhood 231720 are not what she defined and do not comply with RCWs 84.41.030 and 84.41.041.

The Initial Decision in BTA Docket 13-179 defined the neighborhood reports which have been included in the Assessor's Answers<sup>1</sup> since the 2013 assessment appeals as,

#### NATURE OF THE CASE

To corroborate the reliability of her mass appraisal model, the Assessor also supplies a ratio study of sales within the subject's market area. The study shows that the Assessor has valued residential properties within 11 percent or less of their eventual sale prices. (Initial Decision – Page 2)

Finding of Fact: 20. The Assessor provides a ratio study, but it contains no evidence related to the subject's fair market value. (Initial Decision – Page 8)

#### CONCLUSION OF LAW

18. Ratio studies and the assessed values of other properties cannot be considered: neither is outlined in RCW 84.40.030(3) as a methodology for determining market value. (Initial Decision – Page 11)

#### **6. Records of Structures Not Valued By The Assessor**

The Assessor violated the PRA by not disclosing and producing all records defining structures not listed and valued in Spokane to satisfy Pat's request. [CP 21 No. 3] Chief Deputy Assessor Hodgson declared and testified to not valuing these structures to the WA. State Auditor and in Case 132001238. Mr. Oesterheld's response to the request,

You also requested "a record of structures **not** valued by the assessor's office" (our emphasis). The Assessor's Office has no statutory obligation to provide records of structures or buildings not valued (see RCW 84.40.030[c]) nor, indeed, are we able to generate such a report given the operating parameters of Proval. In the interests of fullest assistance, however, we have endeavored to include such information wherever possible.

Proval has nothing to do with this practice. It starts and ends with the Assessor who created and promulgates it. Accredited appraisers who

value real property have standards of practice defined by the state. The Assessor's policies to not list and value **especial structures** that have value and exist means appraisers have to know these structures are to be treated as if not there – blind eye. (emphasis added) When these especial structures are there appraisers have the power to pick values that affect taxes. The Assessor and every appraiser in that office violates Article 7 §1 and RCW 84.40.030 and accredited appraiser standards of practice with any valuation using a blind eye. The Assessor has ways to communicate to the appraisers not to value especial structures. And, the especial structures can change as shown with the Dabler road when Mr. Blair's complaint was answered with a \$48,220 value reduction.

Pat requested these records, these emails, these lists, etc. and did not get them which violated the PRA. These records exist because Pat is the reason some of them were generated. Her complaint to the WA State Auditor about docks resulted in written declarations by Mr. Hodgson in 2012. The Assessor should have produced the records. They prove more PRA violations and document illegal practices.

## 7. An Inadequate Search

*Nissen v. Pierce County*, 183 Wn.2d 863 at 885, 357 P.3d 45 (2015) The onus is instead on the agency--necessarily through its employees--to perform "an adequate search" for the records requested. *Neigh. All.*, 172 Wn.2d at 720-21. To satisfy the agency's burden to show it conducted an adequate search for

records, we permit employees in good faith to submit "reasonably detailed, nonconclusory affidavits" attesting to the nature and extent of their search.

*Neighborhood Alliance v. Spokane Co.*, 172 Wn.2d 702 at 736; 261 P.3d 119 (2011) 'if a review of the record raises substantial doubt, particularly in view of 'well defined requests and positive indications of overlooked materials,' summary judgment is inappropriate"; here, the search was inadequate because the record itself revealed "'positive indications of overlooked materials'"

Below are the County's March 27, 2015 (first), May 6, 2016 (second) and July 1, 2016 (third) statements of a search.

As we are confident that this thorough search has uncovered all responsive records, we consider this records request closed. [CP 44]

In response to the lawsuit you recently filed captioned case no. 2016-02-01079-7, the Assessor's office has reviewed its public records response which is the subject of that lawsuit. During this review, we discovered four documents related to a 2011 State Board of Tax Appeals [CP 283]

So those documents are contained in the Margitan file. They are not, however, contained in the other parcel files because it wasn't necessary. There was no need to pull those records. [RP 14]

The second statement creates substantial doubt about the efficacy of the first statement. The third statement acknowledges there are files on eight parcels that were not pulled or searched. The fourth statement is Mr. Oesterheld on August 11, 2016. This is the detailed, nonconclusory, attestation of the nature and extent of his search. [CP 1383-1384 No. 10]

The fourth statement is unreasonable considering the ten most important people in that office created and accumulated the Margitan file but could not track it from January to March 2015 but found it immediately in March 2016. [CP 406 No. 10] The fourth statement is also factually false. Mr. Oesterheld did not “printed property record cards<sup>1</sup> from Proval” on parcel 17274.9110. [CP 68 to 93] CP 68-93 on 17274.9110 show “Printed 02/03/2015”. They were downloaded from Proval to close the Margitan appeal/inspection. Pat’s request was March 2, 2015. All of the other appraisals produced March 27<sup>th</sup> were printed March 9 and 10<sup>th</sup>. These appraisals were photocopied from the Margitan file where they were stored. This is the same file with the other 79 Margitan records.

An inadequate search is an aggravating factor for penalty.

**C. None of the Records In Evidence In Case 347222-III Were Timely Under RCW 42.56.520. These Are The Responsive Records In Evidence. Responsive Records Are Grouped.**

**1. Timeliness of Production**

Pat’s PRA request was received March 2, 2015. The Assessor’s March 27, 2015 production was late. It should have been produced within five business days -- March 9<sup>th</sup>. Pat cannot find in the record any Assessor estimates of production dates. There is no basis for the

Assessor not to be assessed a lateness penalty from March 9, 2015 for all responsive production after this date.

## **2. Responsive Records In Evidence**

On March 27, 2015, Pat received 936 records; a few were responsive. On May 6, 2016, Pat received by U. S. Mail 19 BTA appeal records on Blair. [CP 283-303] On June 3, 2016, Pat received by email 79 Margitan records. [CP 305-385]. On June 24, 2016 the Assessor disclosed what they identified as cyclical inspection schedules. [CP 273-274 No. 2; CP 279 No. 8-9] On July 14, 2016, Pat entered into evidence CP 430-461, Margitan appraisals dated 03/11/2016. They are responsive because Pat's request was worded to accommodate the Assessor's pattern of not responding timely. On January 31, 2018, Pat entered into evidence 50 on-site inspection photos<sup>9</sup> specifically requested and covered by the request, CP 20.

## **3. Record Grouping**

*Sanders v. WA.*, 169 Wn.2d 827 at 864; 240 P.3d 120 (2010)  
In *Yousoufian II*, the trial court grouped the documents withheld into 10 records based on time of production and subject matter.

Pat grouped responsive records by subject matter, the Assessor's production date, and Assessor and/or Court treatment of those records.

- Group 1: 121 aerial photos (pictometry) produced 3/27/2015;

- Group 2: 98 appraisals downloaded 3/9-10, produced 3/27/2015;
- Group 3: 26 appraisals on 17274.9110 [CP 68-93] downloaded 2/3/2015, produced 3/27/2015;
- Group 4: 2 stipulation agreements produced 3/27/2015;
- Group 5: 2 Answers (21 records) produced 3/27/2015;
- Group 6: 19 BTA appeal records on Blair produced 5/6/2016;
- Group 7: 44 Margitan responsive records per Assessor and Court, produced on 6/3/2016;
- Group 8: 35 Margitan non-responsive records per Assessor and Court, produced on 6/3/2016;
- Group 9: Assessor's schedules of cyclical inspections 123 appraisals, disclosed 6/24/2016;
- Group 10: 31 Margitan appraisals produced on July 14, 2016.
- Group 11: CP 283 email on Blair BTA records, "in response to the lawsuit", produced 5/6/2016;
- Group 12: CP 307-308 email on Margitan records, asking everything, produced 6/3/2016
- Group 13: 50 on-site photos produced on January 31, 2018.

**D. The Trial Court Abused Judicial Discretion In Its Conduct of Hearings And its Enforcing the PRA.**

*Rental Housing Assoc. v. City of Des Moines*, 165 Wn.2d 525;

199 P.3d 393 (2009) Washington's Public Records Act (PRA), chapter 42.56 RCW, is a strongly-worded mandate for open government, requiring broad disclosure of public records unless the responding agency demonstrates that the record falls within a specific exemption. RCW 42.56.070(1).

On July 1, 2016, the Trial Court held a hearing that was not identified until the hearing was half over.

Defense Counsel Binger began the hearing and made these arguments. The hearing was based on a motion. [RP 3, 12] The County denied two groups of records because they do not exist – cyclical inspections and pre- and post-inspection appraisals – they have reversed this position on cyclical inspections. [RP 4] After the lawsuit the Assessor found 19 BTA appeal records and produced them. [RP 4] “Mrs. Strand drew to the Assessor’s attention 79 pages”, the Margitan file. We believe 44 are responsive and should have been provided. [RP 5] Mrs. Strand has everything she requested. There are two batches of records – BTA appeal and Margitan file. [RP 6] He’s forgotten about the photographs but there are not more. [RP 13] The case is over.

Defense presented no argument or law justifying the batching of 63 records into two.

Pat was second to speak and took her lead from Mr. Binger as to what the hearing was about. Pat argued there were more records because they were never produced in 2015: onsite photos [RP 6],

inspection schedules [RP 7], appeal records [RP 12], records of Assessor's basis for valuing real property [RP 8, 10]. Pat addressed the Assessor's basis for believing 35 of the 79 Margitan records are unresponsive. The PRA required the County identify statutory exemptions applicable to the records. [RP 9, 25, 28] Pat stated inspection records exist because Margitan records prove it. [RP 10] Dates of production are at issue. [RP 11] The County is suing for summary judgment but PRA violations based on silent withholding [RP 28] prove summary judgment is improper on any matter. [RP 11-12]

The Trial Court, Judge Price, spoke last. He identified this as a partial summary judgment hearing. [RP 15] Then proceeded with statements about summary judgment.

Summary judgment should be granted if the pleadings, depositions, interrogatories, declarations on file demonstrate that there is no material issue of fact in dispute . . . [RP 15]

He repeated County arguments accurately using the pronoun **we** sixteen times.<sup>22</sup> (emphasis added) In Mr. Oesterheld's writings for the County, he uses the pronoun we as County agent. [CP 44, 565-566, 571-572, 574-575] Judge Price did not repeat Pat's arguments but classified them as conjecture and speculation<sup>23</sup>. He stated, the County certified their

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<sup>22</sup> RP 17 lines 19-20; RP 18 lines 4, 9, 17, 21-25; RP 19 line 12

<sup>23</sup> RP 19 lines 17, 19, 22; RP 20 lines 10-11

position that Pat had everything they have. [RP 20] Then he granted the County summary judgment and asked Defense Counsel to write up the Order. [RP 20]

The July 1<sup>st</sup> Order is labeled, “Order Granting Defendant’s Motion for Partial Summary Judgment” and the Matter is recounted as Partial Summary Judgment. [CP 392-393] The order is evidence of wrong doing by the County and Court. The order on its face shows the County expected a hearing for partial summary judgment. But something happened to change their expectations after preparing the order. Page one of the order states, “Order Granting Defendant’s Motion for Partial Summary Judgment”. [CP 392] Page two of it states,

Summary Judgment is granted to the County on the ground all responsive documents were provided to Ms. Strand in response to her 2/27/15 public records request except for: (1) 19 pages of BTA records; and (2) responsive documents pertaining to parcel #17274.9110 (Margitan). The remaining issue of costs, penalties, if any for production of the later discovered documents in (1) and (2) above shall be heard at a later date. [CP 393]

The Court’s use of the pronoun we showed solidarity between the County and Court against Pat. The Court’s ignoring the PRA requirement for statutory exemptions as the sole basis to exclude records again showed the solidarity of the County and Court. Judge Price ignored the rules for summary judgment. He ignored the PRA.

On August 26, 2016 the Trial Court held a penalty and costs hearing that followed the footprint of the July 1<sup>st</sup> hearing. Defense Counsel Binger made these arguments. The 19 BTA pages and 44 Margitan pages are two records.” [RP 22] No penalty.

Pat repeated her arguments from July 1<sup>st</sup>. Pat argued based on the Assessor’s history of PRA lawsuits showing violations, the BTA records only being found because of the lawsuit and the Margitan records being silently withheld. Pat requested a penalty of \$100 a day was appropriate. And there was no batching; 63 records were denied. Pat argued her attorney fees are costs incurred in this action and the plain language of the law means they are recoverable as costs.

the Public Records Act is more aggressive than code section, I think it's 4.84 on reimbursement of legal costs. The Public Records Act is taking the position that the public is the only watchdog of government and that when they spend money and when they prevail in an action, they should be made whole. [RP 32]

Judge Price made these statements,

The hearing on July 1st was the County's request for summary judgment, . . . The order from July 1st -- I double-checked just to make sure I wasn't incorrect -- that was signed that day is in fact the standing order from the Court, has not been appealed from, and it's, as we say, the law of the case. [RP 36-37]

the issue of costs and penalties, as I'm sure Ms. Strand is aware of and I'm sure Mr. Binger is aware of, is within the sound discretion of the Court. [RP 37] . . .

The request for attorney's fees, which is \$612, cannot be awarded. . . . there's just no authority whatsoever in support of an individual who is pro se who consults with an attorney for advice to then request reimbursement for any cost for that advice in the court. If, in fact, Counsel had filed a Notice of Appearance on behalf of Ms. Strand, well, that would be a completely different analysis. But attorney's fees are awarded in Washington state only pursuant to contract or statute or when we have what is known as a prevailing party, but that argument really doesn't fit the criteria of this particular scenario. So, I have no doubt Ms. Strand consulted with counsel in the Seattle area. Probably a very good lawyer, but she didn't come on board for Ms. Strand officially, so there is no basis for an award of attorney's fees. [RP38-39]

The County did not engage in any of the nine aggravating factors and the mitigating factors apply. And, "record grouping" applies. The records were delayed 407 days on BTA and 434 on Margitan for an award of \$841. The award is \$1-per-day. And Mr. Binger should write the order. [CP 652-653]

The Court so completely deviated from rules and laws that nothing made any sense. The unlawful dismissal of Case 347222 by COA-III flowed naturally from the unlawful dismissal of Case 162010797.

#### **E. Consulting Attorney Fees**

RCW 42.56.550(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action.

The plain language of RCW 42.56.550(4) authorizes recovery of costs. My costs were to consult with an attorney skilled in the PRA that I could not afford to have appear for me but whose assistance saved this

case from unlawful dismissal by COA-III. The legal costs in my case are similar to the costs I incurred for boxes of paper, postage, and ink cartridges. The Court has no discretion to discriminate on my costs. If I incurred them and can document their costs I have the right of recovery.

## **F. Yousoufian Penalty Analysis**

### **1. Background**

The records Pat requests effect the approximately half-million people in Spokane County and the approximately half-billion dollars collected annually in property tax. The effect isn't to the dollar but who pays that dollar. The Introduction to Pat's brief is about two of the nine parcels' appraisals requested and the ripple effect of those records on two neighborhoods and Pat. Appraisals were not the records at the core of Pat's request. The core records are sales, factors and sales analysis. Pat has never seen these records. They may not exist. The possibility that these records do not exist is an impressive failure of the Department of Revenue and accredited appraisers. They are the agency and people who are supposed to insure these records do exist.

### **2. Quality Of Assessor's Records**

Pat made these arguments about the Assessor's records. Appraisals are False Reports (RCW 42.20.040) that reflect Assessor policies that violate Article 7 §1, Titles 34, 84 and 458 and cannot show

100% of the true and fair value of a property because they do not show the physical characteristics on a property that determine value. The Assessor on-site photos on their website showing structures – docks, buildings, roads – that are not listed and valued are dishonest. Stipulated Agreements [CP 49] that do not show the “based on the following” section completed are illegal contracts. The “Stipulated Market Value” is not based on the market because no market analysis supports the agreement.

This is Pat’s third PRA violation lawsuit where she prevailed. Penalties dropped from \$25-to-\$10-to-\$1. This tells the Assessor they can do anything they want with impunity. It tells the Assessor Spokane Superior Courts stand behind them in whatever they do. Pat is an annoyance to be swatted down. It does not matter that the records Pat requests are supposed to keep the ship of state on course.

### **3. Penalty Conclusions And Reasons**

The numbers preceding aggravating factors are used in Pat’s evaluation of the PRA violation records from Appellant Brief page 38-39. No mitigating factors apply to the Assessor in this case.

Aggravating factors that increase a penalty are:

- (1) a delayed response by the agency, especially in circumstances making time of the essence;
- (2) a lack of strict compliance by the agency with all statutory procedural requirements and exceptions;

- (3) a lack of proper training and supervision of agency personnel and response;
- (4) the unreasonableness of any explanation by the agency for noncompliance;
- (5) the agency's negligent, reckless, wanton, bad faith, or intentional noncompliance with the Public Records Act (ch. 42.56 RCW);
- (6) dishonesty by the agency;
- (7) potential for public harm, including economic loss or loss of governmental accountability;
- (8) personal economic loss; and
- (9) a penalty amount necessary to deter future misconduct by the agency, considering the agency's size and the facts of the case.

Each of the following groups are 1 record for PRA violation.

- Group 1: aerial photos, 18 days late, aggravating factor 9 applies, penalty \$10 a day.
- Group 2: 98 appraisals, false reports, 18 days late, aggravating factors 6-9 apply, penalty \$75 a day.
- Group 3: 26 Margitan appraisals, false reports, from the silently withheld Margitan file, support discrimination, basis for perjury, 18 days late, all aggravating factors apply, penalty \$100 a day.
- Group 4: 2 stipulation agreements, illegal contracts without lawful basis and no supporting value basis records, 18 days late, all aggravating factors apply, penalty \$100 a day.
- Group 5: 2 Answers, 18 days late, aggravating factor 9 applies, penalty of \$10 a day.
- Group 6: 19 BTA appeal records, 424 days late, aggravating factors

1-6 and 9 apply, penalty \$75 a day.

- Group 7: 44 Margitan, 452 days late, silently withheld, proof of discrimination, all aggravating factors apply, penalty \$100 a day.
- Group 8: 35 Margitan, 452 days late, silently withheld, proof of discrimination, unlawfully exempted, all aggravating factors apply, penalty \$100 a day.
- Group 9: schedules, 473 days late, proof of no appraisal transparency, all aggravating factors apply, penalty of \$100 a day.
- Group 10: 31 Margitan appraisals, clock still running on lateness, silently withheld, discrimination proof, ignored by Assessor and Court in the record by Pat, proof of contempt for PRA, all aggravating factors apply, penalty \$100 a day.
- Group 11: CP 283; 424 days late: proof of inadequate search; proof of disconnect between PRA, Assessor's office internal operating mentality and what not to put in writing in a PRA case, all aggravating factors apply, penalty \$100 a day.
- Group 12: CP 307-308; 452 days late, Oesterheld-to-Margitan response to asking for everything and getting it within 14 days, discrimination proof, silently withheld, all aggravating factors apply, penalty \$100 a day.

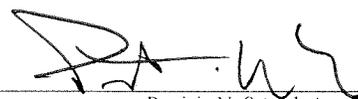
- Group 13: On-site photos, clock still running on lateness, ignored by Assessor and Court in the record by Pat, proof of contempt for PRA, all aggravating factors apply, penalty \$100 a day.

## V. CONCLUSION

There was no lawful reason Cases 162010797 and 347222-III were dismissed. They just were dismissed. There are no reasonable explanations for an Assessor not to comply with Article 7 §1 and Titles 34, 84 and 458. The Assessor is not compelled to comply. It is a lot of work to comply. They have never complied. What is the problem? Pat is the problem. These were Pat's cases. This was Pat's property that was illegally taken by the County. Pat is the public. She has rights. The Assessor and the Courts violated her rights. She is seeking remedy from COA-III. After these determinations Pat requests remand back to Superior Court to resume discovery to obtain the records for the basis of value of the subject properties and further determinations of the Assessor's violations of the law.

RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of July, 2018.

  
\_\_\_\_\_  
Palmer D. Strand, Appellant

  
\_\_\_\_\_  
Patricia N. Strand, Appellant

CERTIFICATE OF SERVICE

I certify that on July 13, 2018, I served a true and correct copy of  
Appellant's Palmer D. and Patricia N. Strand's Brief of Appellant to:

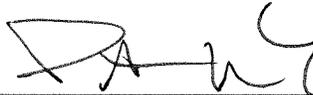
Spokane County and  
Spokane County Assessor  
Prosecutor Binger  
Civil Division of the Prosecutor's Office  
1115 W. Broadway Avenue  
Spokane, WA 99260-0010

BY: Hand Delivery

Division III Court of Appeals  
500 N Cedar St  
Spokane, WA 99201

BY: Hand Delivery

DATED this 13<sup>th</sup> day of July 2018



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Patricia N. Strand, Appellant

# ATTACHMENT 1

HOW TO READ APPRAISAL

**A** Residential Valuation Record is about total property value summary. This info is always updated to current valuation by print date. Assessment Year reads across table – 05/13/2011 is *Assessment Year* 2011 while 05/04/2015 is assessment year 2015; *Valuation L* is land value of \$200,000 in assessment year 2011 to 2014; *Posted True Tax B* is improvements (building) value \$199,300 in assessment 2011; *T* is total value. Two pages of appraisal tie to this table's *L*, *B* and *Assessment Year* sometimes.

SEE Table 1 in Brief of Appellant to tie values.

**B** Two pages of appraisal were *Printed 04/11/2017* or downloaded from ProVal on *04/11/2017*.

**C** *Site Description* should be topographical info about land but this is empty except for – *1 Fronts Enhancement #1* – ProVal jargon the Assessor has refused to disclose

**D** Parcel, *Ownership*, Physical Address

**E** *Transfer of Ownership* (owner is Robert and Patricia Barker) does not agree with *Ownership*, Strand, Patricia. Assessor was notified this error in May 2009 but has never corrected.

17355.9014 **D** STRAND, PATRICIA N **D** 13206 W CHARLES RD **B** Printed 04/11/2017 Card No. [ ] of [ ] 511

ADMINISTRATIVE INFORMATION OWNERSHIP TRANSFER OF OWNERSHIP

PARCEL NUMBER 17355 9014 STRAND, PATRICIA N 13206 W CHARLES RD NINE MILE FALLS, WA 99244

Property Address 13206 W CHARLES RD

Neighborhood 231710 GROUP: PUGS AREA 35-17-11

Property Class S11 4- Household, single-family

TAXING DISTRICT INFORMATION

Jurisdiction COU Area 001 Corporation USA District 0520 Posting Number 6

**A** RESIDENTIAL VALUATION RECORD

Assessment Year	05/13/2011	05/02/2012	05/03/2013	05/04/2014	05/02/2015	05/04/2016	Worksheet
Reason for Change							
VALUATION	L	200000	200000	200000	200000	175000	150000
Posted True Tax	B	199300	187700	183700	182300	192700	216000
	T	399300	387700	382700	382300	367700	366000
VALUATION	L	200000	200000	200000	200000	150000	150000
Assessed Value	B	199300	187700	183700	182300	192700	216000
	T	399300	387700	382700	382300	367700	366000

**E** 05/05/2000 BARKER, ROBERT & PATRICIA J Doc #: 200012815 \$100000  
09/01/2000 STRAND, PATRICIA D Dec #: 200012816 90  
06/12/1995 WAIN, GEORGE & DEAN T Dec #: 900012727 \$120000

**C** Site Description Topography: Family Utilities: Street or Road: Neighborhood: Land Type: Source: 1 Fronts Enhancement #1 Legal Acres: 1.0000

**F** Appr: Appraisal Notes 04/26/2016 (J3119) ReVal inspection update. Adjusted land tables. Lower level removed based on owners appeal photos, changed to walkout basement. Added lean-toe, can't measure shed by waterfront from overhangs. Land changed with the new 59/15 tables. 7/13/10 Consider rechecking as sfr/basement w/o with full basement finish. 8/9/10 (J4199) BE-09-0260 Reviewed transcripts from past BPA case, provided by the appellant, and taxpayers admitted in testimony they have a "full finished basement" or basement/low level. by our definition. Is(102) placed 1900 sf of basement/ll finish for the 2005/2010 appeal. This information/transcript is retained in Mr. Arkills file for further review. 5/18/10 (J4193) BTA Case 09-111 BETA ruled in assessor's

Supplemental Cards MEASURED ACREAGE 5.0000 Supplemental Cards TRUE TAX VALUE 150000 Supplemental Cards TOTAL LAND VALUE 150000

**F** Appraisal Notes (sometimes called *Field Notes* or no label) are “**Inspection Report**” the official and only record of physical inspections. This is also where “**Basis of Value**” information would be but is not! The inspection date is *Date/Collector Date* on page two of appraisal **6**

**G** Land Value – RCW 84.40.030 mandates land is valued exclusive of structures

**5** Total Improvement Value is from second page of appraisal

# HOW TO READ APPRAISAL

- ① **Improvement Data** is listing and valuing of structures – WAC 173-27-030(15) defines structures. RCW 84.40.030 mandates land is valued exclusive of structures.
- ② The three sections of this (2 part 1, 2 part 2, 2 part 3) are supposed to agree but do not. The *Physical Characteristics* show a ¾ quarter basement or (2048 x .75) 1,536 sq ft. The drawing shows a 2048 sq ft finished walkout basement (B-wo (Fin)). The pricing ladder shows an 1800 sq ft finished basement.
- ③ This is where all structures materially affecting value (waterfront properties' docks and acreage properties' private roads) are supposed to be listed and assessed. All structures of material value are not listed and assessed as a policy of this Assessor.
- ④ The *Market Adj* (adjustment) is supposed to the Assessor's value adjustment of Marshall & Swift cost values to Spokane's various markets – Nine Mile Falls, Hillyard, Medical Lakes, Liberty lakes. This Market Adj shows my house decreased in value 21% and had 5% obsolescence since 05/04/2016 but the Residential Valuation Record shows the *B* (building) value increased from \$195,700 to \$216,000. And the Market Adj only affected the house not the garage, Pole Building or Lean-Tos. Pat does not have any LeanTo(s). These appeared for the first time on 05/04/2016 assessments without reason!
- ⑤ The adjusted value of Pat's buildings is \$216,000. This goes to the Residential Valuation Record.

2 pt 1

**PHYSICAL CHARACTERISTICS**

Style: 43 Ranch 1900-2250  
Occupancy: Single Family  
Story Height: 1.0  
Finished Area: 3848  
Aerial: None  
Easement: 0.14

**ROOFING**  
Material: Asphalt  
Type: Gable  
Flaming: Pkg for class  
Pitch: Not available

**FLOORING**  
Slab: 8  
Sub and Joists: 1.0  
Base Allowance: B, 1.0

**EXTERIOR COVER**  
Masonry: 2  
Vinyl Siding: 1.0

**INTERIOR FINISH**  
Drywall: 1.0

**ACCOMMODATIONS**  
Finished Rooms: 10  
Bedrooms: 3  
Family Rooms: 2  
Formal Dining Rooms: 1

**HEATING AND AIR CONDITIONING**  
Primary Heat: Forced Hot Air-Gas  
Lower: Full Part  
/Bsm: 1 Upper Upper

**PLUMBING**  
5 Pkts. Baths: 8  
7 Pkts. Baths: 4  
3 Pkts. Baths: 4  
Hot Water: 1  
Water Heat: 1  
Dish Wash: 1  
TOTAL: 15

**REMODELING AND MODERNIZATION**  
Amount Date

2 pt 2

**IMPROVEMENT DATA** ①

03/02/01

2 pt 3

17363.2014 Property Class: 311  
18706 6 CHARLES RD

Construction	Base Area	Floor Area	Finished Area	Sq Ft	Value
1 Wood Frame	2048	1.0	2048		175530
4 Concrete block	2048	Basement	1800		45970
		0	Crackl	----	0
<b>TOTAL BASE</b>					<b>225500</b>
<b>Low Type adjustment</b>					<b>1,900</b>
<b>SUB-TOTAL</b>					<b>225500</b>
0 Interior Finish					0
0 Bsm Log Units					0
0 Basement Finish					42650
0 Fireplace(s)					0
0 Heating					0
0 Air Condition					0
0 Framing/Siding/Roof					1740
0 Plumbing Elect: IR					20855
<b>Other Features</b>					<b>230</b>
<b>SUB-TOTAL ONE UNIT</b>					<b>252035</b>
<b>SUB-TOTAL 0 UNITS</b>					<b>392035</b>
<b>Exterior Features</b>					
Description Value					
EFP 5360					
0 Integral					0
0 Att Garage					15470
0 Att Carports					0
0 Bsm Garage					0
<b>Ext Features</b>					<b>5360</b>
<b>SUB-TOTAL</b>					<b>312885</b>
<b>Quality Class/Grade</b>					<b>Avg: 1</b>
<b>GRADE ADJUSTED VALUE</b>					<b>230950</b>

**SPECIAL FEATURES**

Description	Value	Use	Stry Hgt	Const Type	Grade	Year Const	Eff Year	Cond	Size Sqr	Feet-us	Adj Rate	Area	Computed Value	Phys Obs	Market Adj	Market Comp	Value	
0 DISPOSER	250	D	0.00	0.00	Avg-	2002	2002	AV	1.00	Y	0.10	4590	250960	8	0	75	100	209500
01 FC	0	001	0.00	1				AV	20.00	H	20.00	18X 24	15470	0	0	0	100	0
02 LSSB	-2	02	10.00		Fair	2006	2006	AV	10.00	Y	11.98	70X 80	14260	13	0	100	100	10400
03 LSSB	-3	02	10.00	0	Fair	2006	2006	AV	8.00	Y	5.49	12X 40	2450	25	0	100	100	2090
		02	10.00	0	Fair	2006	2006	AV	8.00	Y	6.00	6X 20	360	25	0	100	100	700

Data Collector/Date      Appraiser/Date      Neighborhood      Supplemental Cards  
119 12/14/2015      119 01/01/2016      Reigh 231700 AV      TOTAL IMPROVEMENT VALUE      1.6000

⑥ "Inspection Report" includes inspection date identified as *Data Collector/Date*

# ATTACHMENT 2



## 2. ASSESSMENT

2.1 GENERAL						
ITEM NO.	SERIES TITLE AND DESCRIPTION	OPR or OFM	PRIMARY (SOURCE DOCUMENT/ORIGINAL) RECORD COPY	SECONDARY (ALL OTHER) RECORD COPIES	DISPOSITION AUTHORITY NUMBER	REMARKS
2.1.1	APPRAISAL MANUALS	OFM	Department of Revenue has primary copy	Destroy when obsolete or superseded	AS01-03A-01	
2.1.2	APPRAISAL RECHECK OR REVIEW	OPR	6 years	None	AS01-03A-02	
2.1.3	APPRAISER'S WORKING FILES AND NOTES	OFM	Until superseded by new valuation cycle	None	AS01-03A-03	
2.1.4	AREA FILES Documentation of estimated market value for the various types of property in each appraisal area.	OFM	Until superseded by new appraisal cycle. Potential archival value - <b>See remarks</b>	None	AS01-03A-04	Contact your Regional Archivist before disposing of this record.
2.1.5	BOUNDARY REVIEW BOARD AND ANNEXATION FILES Created after the formation of Boundary Review Board.	OFM	Boundary Review Board - PERMANENT - <b>See remarks</b>	Destroy when maps and reference files are updated	AS01-03A-05	Contact your Regional Archivist before disposing of this record.

https://www.sos.wa.gov

# ATTACHMENT 3

**Stratification -- By county.**

For the real property ratio study, the assessment roll shall be stratified for individual counties according to land use categories and substratified by value classes as determined by the Department (see Ratio Calendar - June). Stratification shall be reviewed at least every other year by the Department to determine if changes need to be made to improve sampling criteria. After the strata have been determined, the Department shall notify the counties of the strata limits and each county shall provide the Department with the following information taken from the county's assessment roll:

- (a) A representative number of samples, as determined by the Department, in each stratum, together with:
  - (i) The name and address of the taxpayer for each sample;
  - (ii) The land use code for each sample;
  - (iii) The assessed value for each sample; and
  - (iv) The actual number of samples;
- (b) The total number of real property parcels in each stratum; and
- (c) The total assessed value in each stratum.

**Counties to provide information timely.**

The stratification information described in WAC 458-53-030 (3) is to be provided by the counties to the Department in a timely manner to enable the Department to certify the preliminary ratios in accordance with WAC 458-53-200 (1). Failure to provide the information in a timely manner will result in the Department using its best estimate of stratum values to calculate the real property ratio.

↙ The following two digit land use codes shall be used as the standard to identify the actual use of the land. Counties may elect to use a more detailed land use code system using additional digits; however, no county land use code system may use fewer than the standard two digits.

**RESIDENTIAL**

- |                                       |  |
|---------------------------------------|--|
| 11 Household, single family units     | 16 Hotels/motels                             |
| 12 Household, 2-4 units               | 17 Institutional lodging                     |
| 13 Household, multi-units (5 or more) | 18 All other residential not elsewhere coded |
| 14 Residential hotels - condominiums  | 19 Vacation and cabin                        |
| 15 Mobile home parks or courts        |  |

**MANUFACTURING**

- |  |   |
|--|---|
| 21 Food and kindred products   | 30 Rubber and miscellaneous plastic products  |
| 22 Textile mill products   | 31 Leather and leather products   |
| 23 Apparel and other finished products made from fabrics, leather, and similar materials | 32 Stone, clay, and glass products  |
| 24 Lumber and wood products (except furniture)   | 33 Primary metal industries   |
| 25 Furniture and fixtures  | 34 Fabricated metal products  |
| 26 Paper and allied products   | 35 Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks-manufacturing |
| 27 Printing and publishing   | 36 Not presently assigned   |
| 28 Chemicals   | 37 Not presently assigned   |
| 29 Petroleum refining and related industries   | 38 Not presently assigned   |
|  | 39 Miscellaneous manufacturing  |

**TRANSPORTATION, COMMUNICATION , AND UTILITIES**

- |                                    |  |
|------------------------------------|--|
| 41 Railroad/transit transportation | 46 Automobile parking  |
| 42 Motor vehicle transportation    | 47 Communication   |
| 43 Aircraft transportation         | 48 Utilities   |
| 44 Marine craft transportation     | 49 Other transportation, communication, and utilities not classified elsewhere |
| 45 Highway and street right of way |  |

**TRADE**

- 51 Wholesale trade
- 52 Retail trade - building materials, hardware, and farm equipment
- 53 Retail trade - general merchandise
- 54 Retail trade - food
- 55 Retail trade - automotive, marine craft, aircraft, and accessories

- 56 Retail trade - apparel and accessories
- 57 Retail trade - furniture, home furnishings, and equipment
- 58 Retail trade - eating and drinking
- 59 Other retail trade

**SERVICES**

- 61 Finance, insurance, and real estate services
- 62 Personal services
- 63 Business services
- 64 Repair services
- 65 Professional services

- 66 Contract construction services
- 67 Governmental services
- 68 Educational services
- 69 Miscellaneous services

**CULTURAL, ENTERTAINMENT, AND RECREATIONAL**

- 71 Cultural activities and nature exhibits
- 72 Public
- 73 Amusements
- 74 Recreational activities
- 75 Resorts and group camps

- 76 Parks
- 77 Not presently assigned
- 78 Not presently assigned
- 79 Other cultural, entertainment, and recreational

**RESOURCE PRODUCTION AND EXTRACTION**

- 81 Agriculture (not classified under current use law)
- 82 Agriculture related activities
- 83 Agriculture classified under current use Chapter 84.34 RCW
- 84 Fishing activities and related services

- 85 Mining activities and related services
- 86 Not presently assigned
- 87 Classified forest land Chapter 84.33 RCW
- 88 Designated forest land Chapter 84.33 RCW
- 89 Other resource production

**UNDEVELOPED LAND AND WATER AREAS**

- 91 Undeveloped land
- 92 Noncommercial forest
- 93 Water areas
- 94 Open space land classified under Chapter 84.34 RCW

- 95 Timberland classified under Chapter 84.34 RCW
- 96 Not presently assigned
- 97 Not presently assigned
- 98 Not presently assigned
- 99 Other undeveloped land

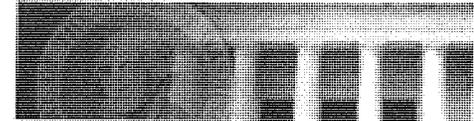
**Stratification of the assessment roll, the annual sales summary, and the abstract report to the Department will be based on the following abstract categories:**

**ABSTRACT CATEGORY**

**LAND USE CODE**

1. Single family residence .....	11, 18, 19
2. Multiple family residence .....	12, 13, 14
3. Manufacturing .....	21 through 39
4. Commercial .....	15, 16, 17, 41-49, 51-59, 61-69, 71-79
5. Agricultural .....	81
6. Agricultural (current use law) .....	83
7. Forest lands ( <i>Chapter 84.33 RCW</i> ) .....	87, 88
8. Open space (current use law) .....	94
9. Timberland (current use law) .....	95
10. Other .....	82, 84, 85, 89, 91, 92, 93, 96-99

# ATTACHMENT 4


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## Superior Court Case Summary

**Court:** Spokane Superior  
**Case Number:** 16-2-01079-7

Sub	Docket Date	Docket Code	Docket Description	Misc Info
1	03-21-2016	SUMMONS & COMPLAINT	Summons & Complaint	
2	03-24-2016	AMENDED COMPLAINT	Amended Complaint	
3	03-31-2016	NOTICE OF APPEARANCE ATD0001	Notice Of Appearance Binger, Robert Blaine	
4	04-12-2016	ANSWER & AFFIRMATIVE DEFENSE	Answer & Affirmative Defense	
5	04-18-2016	ANSWER	Answer To Counterclaim	
6	05-05-2016	ORDER OF PREASSIGNMENT JDG0016	Order Of Preassignment Judge Salvatore F. Cozza	
7	05-06-2016	LETTER	Letter Re: Assignment	
8	05-06-2016	ORDER OF PREASSIGNMENT JDG0016	Order Of Preassignment Judge Salvatore F. Cozza	
9	05-06-2016	ORDER OF PREASSIGNMENT JDG0016	Order Of Preassignment Price Judge Salvatore F. Cozza	
10	05-09-2016	MEMORANDUM	Memorandum Supp Motion Summary Jdg	
11	05-09-2016	DECLARATION	Declaration Frank Oesterheld Part 1 Of 4	
12	05-09-2016	DECLARATION	Declaration Frank Oesterheld Part 2 Of 4	
13	05-09-2016	DECLARATION	Declaration Frank Oesterheld Part 3 Of 4	
14	05-09-2016	DECLARATION	Declaration Frank Oesterheld Part 4 Of 4	
15	05-09-2016	NOTE FOR MOTION DOCKET	Note For Motion Docket 8-26-16 10am Judge Price	
16	05-12-2016	NOTE FOR MOTION DOCKET	Note For Motion Docket 07-01-2016 @ 1:30 Pm	
17	05-13-2016	LETTER	Letter Re: 06-03-2016 Date	
18	05-19-2016	EMAIL/S	Email/s	
19	05-20-2016	RESPONSE	Response To Sum Jdg Mt	
20	05-25-2016	MOTION	Motion For Discovery	
21	05-25-2016	NOTE FOR MOTION DOCKET	Note For Motion Docket 05-25- 2016	
22	05-26-2016	NOTE FOR MOTION DOCKET	Note For Motion Docket 07-01- 2016	
23	06-01-2016	ORDER SETTING CASE SCHEDULE JDG0015	Order Setting Case Schedule Judge Michael P. Price	12-05- 2016TS
-	06-17-2016	HEARING STRICKEN: IN COURT OTHER JDG0015	Hearing Stricken: In Court Other Judge Michael P. Price	
24	06-17-2016			

## About Dockets

### About Dockets

You are viewing the case docket or case summary. Each Court level uses different terminology for this information, but for all court levels, it is a list of activities or documents related to the case. District and municipal court dockets tend to include many case details, while superior court dockets limit themselves to official documents and orders related to the case.

If you are viewing a district municipal, or appellate court docket, you may be able to see future court appearances or calendar dates if there are any. Since superior courts generally calendar their caseloads on local systems, this search tool cannot display superior court calendaring information.

### Directions

Spokane Superior  
 1116 W Broadway Ave  
 Spokane, WA 99260-0350

**Map & Directions**  
 509-477-5790[Phone]  
 509-477-5714[Fax]

**Visit Website**

### Disclaimer

**What is this website?** It is a search engine of cases filed in the municipal, district, superior, and appellate courts of the state of Washington. The search results can point you to the official or complete court record.

### How can I obtain the complete court record?

You can contact the court in which the case was filed to view the court record or to order copies of court records.

		TRIAL MINUTES JDG0015	Trial Minutes Judge Michael P. Price
25	06-21-2016	ORDER JDG0015	Order Striking Discovery Motion Judge Michael P. Price
26	06-24-2016	MEMORANDUM	Memorandum Support Partial Sum Jdg
27	06-24-2016	DECLARATION	Declaration Of Oesterheld, Frank
28	06-27-2016	ANSWER	Answer Rebuttal To Reply
-	07-01-2016	SUMMARY JUDGMENT HEARING JDG0015	Summary Judgment Hearing Judge Michael P. Price
29	07-01-2016	ORDER GRANTING SUMMARY JUDGMENT JDG0015	Order Granting Summary Judgment Judge Michael P. Price
30	07-01-2016	TRIAL MINUTES JDG0015	Trial Minutes Judge Michael P. Price
31	07-06-2016	MOTION	Motion For Reconsideration
32	07-06-2016	MEMORANDUM	Memorandum Support Reconsider Mt
33	07-06-2016	COPY	Copy O/grant Summ Jdg
34	07-06-2016	NOTE FOR MOTION DOCKET	Note For Motion Docket 07-25-2016
35	07-12-2016	MEMORANDUM	Memorandum In Response To Motion
36	07-14-2016	MEMORANDUM	Memorandum Support Reconsider Mt
37	07-26-2016	LETTER	Letter Re: Reconsider Motion
38	07-26-2016	ORDER DENYING MOTION/PETITION JDG0015	Order Denying Motion/petition Judge Michael P. Price
39	08-11-2016	DECLARATION	Declaration Of Oesterheld, Frank
40	08-11-2016	MEMORANDUM	Memorandum Re: Costs & Penalties
41	08-11-2016	MOTION	Motion Re: Costs & Penalties
42	08-11-2016	NOTE FOR MOTION DOCKET	Note For Motion Docket 08-26-2016 @ 1:30 Pm
43	08-22-2016	MEMORANDUM	Memorandum On Penalties & Fees
44	08-24-2016	MEMORANDUM	Memorandum Reply
-	08-26-2016	MOTION HEARING JDG0015	Motion Hearing Judge Michael P. Price
45	08-26-2016	TRANSCRIPT OF PROCEEDINGS	Transcript Of Proceedings Board Of Tax Appeals Hearing
46	08-26-2016	TRANSCRIPT OF PROCEEDINGS	Transcript Of Proceedings Board Of Equalization Hearing
47	08-26-2016	MEMORANDUM	Supplmnt To Memorandum On Penalties
48	08-26-2016	ORDER JDG0015	Order Regarding Costs And Penalties Judge Michael P. Price
49	08-29-2016	TRIAL MINUTES	Trial Minutes
51	09-07-2016	SATISFACTION OF JUDGMENT	Satisfaction Of Judgment X-x
50	09-08-2016	NOTICE OF APPEAL TO COURT OF APPEAL	Notice Of Appeal To Court Of Appeal \$290.00 Fee Paid
52	10-04-2016	TRANSMITTAL LETTER - COPY FILED	Transmittal Letter - Copy Filed
53	10-17-2016	MEMORANDUM	

**How can I contact the court?**

Click [here](#) for a court directory with information on how to contact every court in the state.

**Can I find the outcome of a case on this website?**

No. You must consult the local or appeals court record.

**How do I verify the information contained in the search results?**

You must consult the court record to verify all information.

**Can I use the search results to find out someone's criminal record?**

No. The Washington State Patrol (WSP) maintains state criminal history record information. Click [here](#) to order criminal history information.

**Where does the information come from?**

Clerks at the municipal, district, superior, and appellate courts across the state enter information on the cases filed in their courts. The search engine will update approximately twenty-four hours from the time the clerks enter the information. This website is maintained by the Administrative Office of the Court for the State of Washington.

**Do the government agencies that provide the information for this site and maintain this site:**

- **Guarantee that the information is accurate or complete?**  
**NO**
- **Guarantee that the information is in its most current form?**  
**NO**
- **Guarantee the identity of any person whose name appears on these pages?**  
**NO**
- **Assume any liability resulting from the release or use of the information?**  
**NO**

			Memorandum Re: Timeliness Of Appeal
54	10-17-2016	OTHER	Error No Document
55	11-18-2016	MOTION	Motion For Court To Enter A Final Order
56	11-18-2016	NOTICE	Note For Pla Motion For Final Order
57	11-22-2016	LETTER JDG0015	Letter Judge Michael P. Price
58	11-28-2016	MOTION	Motion Modify Commissioner's Ruling
59	03-20-2017	DESIGNATION OF CLERK'S PAPERS	Designation Of Clerk's Papers
60	03-20-2017	STATEMENT	Statement Of Arrangments
61	03-22-2017	PERFECTION NOTICE FROM CT OF APPLS	Perfection Notice From Ct Of Appls
62	04-21-2017	INDEX	Index To Clerks Papers
-	05-04-2017	CLERK'S PAPERS SENT	Clerk's Papers Sent (1-654)to Coa
63	05-04-2017	TRANSMITTAL LETTER - COPY FILED	Transmittal Letter - Copy Filed
64	02-06-2018	DESIGNATION OF CLERK'S PAPERS	Designation Of Clerk's Papers

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S2

APPENDIX

LAW

## ARTICLE VII REVENUE AND TAXATION

Article VII Section 1 SECTION 1 TAXATION. The power of taxation shall never be suspended, surrendered or contracted away. All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied and collected for public purposes only. The word "property" as used herein shall mean and include everything, whether tangible or intangible, subject to ownership. All real estate shall constitute one class: Provided, That the legislature may tax mines and mineral resources and lands devoted to reforestation by either a yield tax or an ad valorem tax at such rate as it may fix, or by both. Such property as the legislature may by general laws provide shall be exempt from taxation. Property of the United States and of the state, counties, school districts and other municipal corporations, and credits secured by property actually taxed in this state, not exceeding in value the value of such property, shall be exempt from taxation. The legislature shall have power, by appropriate legislation, to exempt personal property to the amount of fifteen thousand (\$15,000.00) dollars for each head of a family liable to assessment and taxation under the provisions of the laws of this state of which the individual is the actual bona fide owner. [AMENDMENT 98, 2006 House Joint Resolution No. 4223, p 2117. Approved November 7, 2006.]

## RCW 9A.08.010 General requirements of culpability.

## (1) Kinds of Culpability Defined.

- (a) INTENT. A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes a crime.
- (b) KNOWLEDGE. A person knows or acts knowingly or with knowledge when:
  - (i) he or she is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or
  - (ii) he or she has information which would lead a reasonable person in the same situation to believe that facts exist which facts are described by a statute defining an offense.
- (c) RECKLESSNESS. A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.
- (d) CRIMINAL NEGLIGENCE. A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of a substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

(2) Substitutes for Criminal Negligence, Recklessness, and Knowledge. When a statute provides that criminal negligence suffices to establish an element of an offense, such element also is established if a person acts intentionally, knowingly, or recklessly. When recklessness suffices to establish an element, such element also is established if a person acts intentionally or knowingly. When acting knowingly suffices to establish an element, such element also is established if a person acts intentionally.

(3) Culpability as Determinant of Grade of Offense. When the grade or degree of an offense depends on whether the offense is committed intentionally, knowingly, recklessly, or with criminal negligence, its grade or degree shall be the lowest for which the determinative kind of culpability is established with respect to any material element of the offense.

(4) Requirement of Wilfulness Satisfied by Acting Knowingly. A requirement that an offense be committed wilfully is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements plainly appears.

RCW 9A.72.010 Definitions. The following definitions are applicable in this chapter unless the context otherwise requires: "Materially false statement" means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding; whether a false statement is material shall be determined by the court as a matter of law

RCW 9A.72.020 Perjury in the first degree.

- (1) A person is guilty of perjury in the first degree if in any official proceeding he or she makes a materially false statement which he or she knows to be false under an oath required or authorized by law.
- (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.
- (3) Perjury in the first degree is a class B felony.

RCW 36.21.015 Qualifications for persons assessing real property — Examination — Examination waiver — Continuing education requirement.

- (1) Any person having the responsibility of valuing real property for purposes of taxation including persons acting as assistants or deputies to a county assessor under RCW 36.21.011 shall have first:
  - (a) Had at least one year of experience in transactions involving real property, in appraisal of real property, or in assessment of real property, or at least one year of experience in a combination of the three;
  - (b) Become knowledgeable in repair and remodeling of buildings and improvement of land, and in the significance of locality and area to the value of real property;
  - (c) Become knowledgeable in the standards for appraising property set forth by the department of revenue; and
  - (d) Met other minimum requirements specified by department of revenue rule.
- (2) The department of revenue shall prepare and administer an examination on subjects related to the valuation of real property. No person shall assess real property for purposes of taxation without having passed said examination or having received an examination waiver from the department of revenue upon showing education or experience determined by the department to be equivalent to passing the examination. A person passing said examination or receiving an examination waiver shall be accredited accordingly by the department of revenue.
- (3) The department of revenue may by rule establish continuing education requirements for persons assessing real property for purposes of taxation. The department shall provide accreditation of completion of requirements imposed under this section. No person shall assess real property for purposes of taxation without complying with requirements imposed under this subsection.
- (4) To the extent practical, the department of revenue shall coordinate accreditation requirements under this section with the requirements for certified real estate appraisers under chapter 18.140 RCW.
- (5) The examination requirements of subsection (2) of this section shall not apply to any person who shall have either:
  - (a) Been certified as a real property appraiser by the department of personnel prior to July 1, 1992; or
  - (b) Attended and satisfactorily completed the assessor's school operated jointly by the department of revenue and the Washington state assessors association prior to August 9, 1971.

RCW 42.20.040 False report. Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor.

42.56.100 - Protection of public records — Public access. Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved.

[July 2018] RCW 42.56.520 Prompt responses required.

- (1) Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond in one of the ways provided in this subsection (1):
  - (a) Providing the record;
  - (b) Providing an internet address and link on the agency's web site to the specific records requested, except that if the requester notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requester to view copies using an agency computer;
  - (c) Acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request;
  - (d) Acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and asking the requestor to provide clarification for a request that is unclear, and providing, to the greatest extent possible, a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request if it is not clarified; or
  - (e) Denying the public record request.
- (2) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.
- (3)(a) In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking.
  - (b) If the requestor fails to respond to an agency request to clarify the request, and the entire request is unclear, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Otherwise, the agency must respond, pursuant to this section, to those portions of the request that are clear.
- (4) Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review.

[ 2017 c 303 § 3; 2010 c 69 § 2; 1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.320.]

[8/29/16] RCW 42.56.520 Prompt responses required.

- (1) Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond in one of the ways provided in this subsection (1):
  - (a) Providing the record;

- (b) Providing an internet address and link on the agency's web site to the specific records requested, except that if the requester notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requester to view copies using an agency computer;
  - (c) Acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request;
  - (d) Acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and asking the requestor to provide clarification for a request that is unclear, and providing, to the greatest extent possible, a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request if it is not clarified; or
  - (e) Denying the public record request.
- (2) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.
- (3) (a) In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking.
- (b) If the requestor fails to respond to an agency request to clarify the request, and the entire request is unclear, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Otherwise, the agency must respond, pursuant to this section, to those portions of the request that are clear.
- (4) Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review.

[July 2018] RCW 42.56.550 Judicial review of agency actions.

- (1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.
- (2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request or a reasonable estimate of the charges to produce copies of public records, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.
- (3) Judicial review of all agency actions taken or challenged under RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

- (4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.
  - (5) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.
  - (6) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis.
- [ 2017 c 304 § 5; 2011 c 273 § 1. Prior: 2005 c 483 § 5; 2005 c 274 § 288; 1992 c 139 § 8; 1987 c 403 § 5; 1975 1st ex.s. c 294 § 20; 1973 c 1 § 34 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.340.]

[8/29/16] RCW 42.56.550 Judicial review of agency actions.

- (1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.
- (2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.
- (3) Judicial review of all agency actions taken or challenged under RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.
- (4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.
- (5) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.
- (6) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis.

84.40.020 – Assessment date — Average inventory basis may be used — Public inspection of listing, documents, and records. All real property in this state subject to taxation shall be listed and assessed every year, with reference to its value on the first day of January of the year in which it is assessed. Such listing and all supporting documents and records shall be open to public inspection during the regular office hours of the assessor's office: PROVIDED, That confidential income data is hereby exempted from public inspection as noted in RCW 42.56.070 and 42.56.210. All personal property in this state subject to taxation shall be listed and assessed every year, with reference to its value and ownership on the first day of January of the year in which it is assessed: PROVIDED, That if the stock of goods, wares, merchandise or material, whether in a raw or finished state or in process of manufacture, owned or held by any taxpayer on January 1 of any year does not fairly represent the average stock carried by such taxpayer, such stock shall be listed and assessed upon the basis of the monthly average of stock owned or held by such taxpayer during the preceding calendar year or during such portion thereof as the taxpayer was engaged in business.

RCW 84.40.025 Access to property required. For the purpose of assessment and valuation of all taxable property in each county, any real or personal property in each county shall be subject to visitation, investigation,

examination, discovery, and listing at any reasonable time by the county assessor of the county or by any employee thereof designated for this purpose by the assessor.

[July 2018] RCW 84.40.030 Basis of valuation, assessment, appraisal—One hundred percent of true and fair value—Exceptions—Leasehold estates—Real property—Appraisal—Comparable sales.

- (1) All property must be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law.
- (2) Taxable leasehold estates must be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be paid.
- (3) The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) must be based upon the following criteria:
  - (a) Any sales of the property being appraised or similar properties with respect to sales made within the past five years. The appraisal must be consistent with the comprehensive land use plan, development regulations under chapter 36.70A RCW, zoning, and any other governmental policies or practices in effect at the time of appraisal that affect the use of property, as well as physical and environmental influences. An assessment may not be determined by a method that assumes a land usage or highest and best use not permitted, for that property being appraised, under existing zoning or land use planning ordinances or statutes or other government restrictions. The appraisal must also take into account: (i) In the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment, interest rate, or other financing terms; and (ii) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller-developer financing arrangements may not be used as sales of similar property.
  - (b) In addition to sales as defined in subsection (3)(a) of this section, consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property, as limited by law or ordinance. Consideration should be given to any agreement, between an owner of rental housing and any government agency, that restricts rental income, appreciation, and liquidity; and to the impact of government restrictions on operating expenses and on ownership rights in general of such housing. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection must be the dominant factors in valuation. When provisions of this subsection are relied upon for establishing values the property owner must be advised upon request of the factors used in arriving at such value.
  - (c) In valuing any tract or parcel of real property, the true and fair value of the land, exclusive of structures thereon must be determined; also the true and fair value of structures thereon, but the valuation may not exceed the true and fair value of the total property as it exists. In valuing agricultural land, growing crops must be excluded. For purposes of this subsection (3)(c), "growing crops" does not include marijuana as defined under RCW 69.50.101.

[2014 c 140 § 29; 2007 c 301 § 2; 2001 c 187 § 17; 1998 c 320 § 9. Prior: 1997 c 429 § 34; 1997 c 134 § 1; 1997 c 3 § 104 (Referendum Bill No. 47, approved November 4, 1997); 1994 c 124 § 20; 1993 c 436 § 1; 1988 c 222 § 14; 1980 c 155 § 2; prior: 1973 1st ex.s. c 195 § 96; 1973 1st ex.s. c 187 § 1; 1972 ex.s. c 125 § 2; 1971 ex.s. c 288 § 1; 1971 ex.s. c 43 § 1; 1961 c 15 § 84.40.030; prior: 1939 c 206 § 15; 1925 ex.s. c 130 § 52; 1919 c 142 § 4; 1913 c 140 § 1; 1897 c 71 § 42; 1893 c 124 § 44; 1891 c 140 § 44; 1890 p 547 § 48; RRS § 11135. FORMER PART OF SECTION: 1939 c 116 § 1, part, now codified in RCW 84.40.220.]

[8/29/16] RCW 84.40.030 Basis of valuation, assessment, appraisal -- One hundred percent of true and fair value -- Exceptions -- Leasehold estates -- Real property -- Appraisal -- Comparable sales. All property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law. Taxable leasehold estates shall be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be

paid. The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) shall be based upon the following criteria:

- (1) Any sales of the property being appraised or similar properties with respect to sales made within the past five years. The appraisal shall be consistent with the comprehensive land use plan, development regulations under chapter 36.70A RCW, zoning, and any other governmental policies or practices in effect at the time of appraisal that affect the use of property, as well as physical and environmental influences. An assessment may not be determined by a method that assumes a land usage or highest and best use not permitted, for that property being appraised, under existing zoning or land use planning ordinances or statutes or other government restrictions. The appraisal shall also take into account: (a) In the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment, interest rate, or other financing terms; and (b) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller-developer financing arrangements shall not be used as sales of similar property.
- (2) In addition to sales as defined in subsection (1) of this section, consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property, as limited by law or ordinance. Consideration should be given to any agreement, between an owner of rental housing and any government agency, that restricts rental income, appreciation, and liquidity; and to the impact of government restrictions on operating expenses and on ownership rights in general of such housing. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection shall be the dominant factors in valuation. When provisions of this subsection are relied upon for establishing values the property owner shall be advised upon request of the factors used in arriving at such value.
- (3) In valuing any tract or parcel of real property, the true and fair value of the land, exclusive of structures thereon shall be determined; also the true and fair value of structures thereon, but the valuation shall not exceed the true and fair value of the total property as it exists. In valuing agricultural land, growing crops shall be excluded.

[July 2018] RCW 84.41.030 Revaluation program to be on continuous basis—Revaluation schedule—Effect of other proceedings on valuation.

- (1) Each county assessor must maintain an active and systematic program of revaluation on a continuous basis. All taxable real property within a county must be revalued annually, and all taxable real property within a county must be physically inspected at least once every six years. Each county assessor may disregard any program of revaluation, if requested by a property owner, and change, as appropriate, the valuation of real property upon the receipt of a notice of decision received under RCW 36.70B.130 or chapter 35.22, 35.63, 35A.63, or 36.70 RCW pertaining to the value of the real property.
- (2) The department will provide advisory appraisals of industrial properties valued at twenty-five million dollars or more in real and personal property value when requested by the county assessor.

[2015 c 86 § 102; 2009 c 308 § 1; 1996 c 254 § 7; 1982 1st ex.s. c 46 § 1; 1971 ex.s. c 288 § 6; 1961 c 15 § 84.41.030. Prior: 1955 c 251 § 3.]

[8/29/16] RCW 84.41.030 Revaluation program to be on continuous basis -- Revaluation schedule -- Effect of other proceedings on valuation.

- (1) Each county assessor shall maintain an active and systematic program of revaluation on a continuous basis, and shall establish a revaluation schedule which will result in revaluation of all taxable real property within the county at least once each four years and physical inspection of all taxable real property within the county at least once each six years. Each county assessor may disregard any program of revaluation, if requested by a property owner, and change, as appropriate, the valuation of real property upon the receipt of a notice of decision received under RCW 36.70B.130 or chapter 35.22, 35.63, 35A.63, or 36.70 RCW pertaining to the value of the real property.

- (2) Not later than January 1, 2014, all taxable real property within a county must be revalued annually and all taxable real property within a county must be physically inspected at least once each six years. This mandate is conditional upon the department of revenue providing the necessary guidance and financial assistance to those counties that are not on an annual revaluation cycle so that they may convert to an annual revaluation cycle including, but not limited to, appropriate data collection methods and coding, neighborhood and market delineation, statistical analysis, valuation guidelines, and training. The department will provide advisory appraisals of industrial properties valued at twenty-five million dollars or more in real and personal property value when requested by the county assessor.
- (3) In recognition of the need for immediate action, the department of revenue is directed to conduct a pilot project on at least one county that is prepared to move from cyclical to annual revaluation by December 31, 2009. The pilot project will develop the expertise necessary to provide counties with neighborhood and market delineation, statistical analysis, valuation guidelines, and training. The department of revenue must use the expertise gained in this pilot project to facilitate the conversion of cyclical counties to annual revaluation and ongoing refinement of assessment processes statewide. The department may contract with a local government association representing county assessors and other county elected officials in carrying out the requirements of this subsection.

[July 2018] RCW 84.41.041 Physical inspection and valuation of taxable property required—Adjustments during intervals based on statistical data.

- (1) Each county assessor must cause taxable real property to be physically inspected and valued at least once every six years in accordance with RCW 84.41.030, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan must provide that all taxable real property within a county must be revalued and these newly determined values placed on the assessment rolls each year. Property must be valued at one hundred percent of its true and fair value and assessed on the same basis, in accordance with RCW 84.40.030, unless specifically provided otherwise by law. During the intervals between each physical inspection of real property, the valuation of such property must be adjusted to its current true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data.
- (2) The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property.

[ 2017 c 323 § 507; 2015 c 86 § 103; 2009 c 308 § 2; 2001 c 187 § 21; 1997 c 3 § 108 (Referendum Bill No. 47, approved November 4, 1997); 1987 c 319 § 4; 1982 1st ex.s. c 46 § 2; 1979 ex.s. c 214 § 9; 1974 ex.s. c 131 § 2.]

[8/29/16] RCW 84.41.041 Physical inspection and valuation of taxable property required -- Adjustments during intervals based on statistical data. Each county assessor shall cause taxable real property to be physically inspected and valued at least once every six years in accordance with RCW 84.41.030, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan shall provide that a reasonable portion of all taxable real property within a county shall be revalued and these newly determined values placed on the assessment rolls each year. Until January 1, 2014, the department may approve a plan that provides that all property in the county be revalued every two years. If the revaluation plan provides for physical inspection at least once each four years, during the intervals between each physical inspection of real property, the valuation of such property may be adjusted to its current true and fair value, such adjustments to be based upon appropriate statistical data. If the revaluation plan provides for physical inspection less frequently than once each four years, during the intervals between each physical inspection of real property, the valuation of such property shall be adjusted to its current true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data.

[July 2018] RCW 84.48.150 Valuation criteria including comparative sales to be made available to taxpayer—Change.

- (1) The assessor must, upon the request of any taxpayer who petitions the board of equalization for review of a tax claim or valuation dispute, make available to said taxpayer a compilation of comparable sales utilized by the assessor in establishing such taxpayer's property valuation. If valuation criteria other than comparable sales were used, the assessor must furnish the taxpayer with such other factors and the addresses of such other property used in making the determination of value.
- (2) The assessor must within sixty days of such request but at least twenty-one business days, excluding legal holidays, prior to such taxpayer's appearance before the board of equalization make available to the taxpayer the valuation criteria and/or comparable sales that may not be subsequently changed by the assessor unless the assessor has found new evidence supporting the assessor's valuation, in which situation the assessor must provide such additional evidence to the taxpayer and the board of equalization at least twenty-one business days prior to the hearing at the board of equalization. A taxpayer who lists comparable sales on a notice of appeal may not subsequently change such sales unless the taxpayer has found new evidence supporting the taxpayer's proposed valuation in which case the taxpayer must provide such additional evidence to the assessor and board of equalization at least twenty-one business days, excluding legal holidays, prior to the hearing. If either the assessor or taxpayer does not meet the requirements of this section the board of equalization may continue the hearing to provide the parties an opportunity to review all evidence or, upon objection, refuse to consider sales not submitted in a timely manner.  
[ 2018 c 24 § 1; 1994 c 301 § 46; 1973 1st ex.s. c 30 § 1.]

[8/29/16] RCW 84.48.150 Valuation criteria including comparative sales to be made available to taxpayer — Change. The assessor shall, upon the request of any taxpayer who petitions the board of equalization for review of a tax claim or valuation dispute, make available to said taxpayer a compilation of comparable sales utilized by the assessor in establishing such taxpayer's property valuation. If valuation criteria other than comparable sales were used, the assessor shall furnish the taxpayer with such other factors and the addresses of such other property used in making the determination of value.

The assessor shall within sixty days of such request but at least fourteen business days, excluding legal holidays, prior to such taxpayer's appearance before the board of equalization make available to the taxpayer the valuation criteria and/or comparable sales which shall not be subsequently changed by the assessor unless the assessor has found new evidence supporting the assessor's valuation, in which situation the assessor shall provide such additional evidence to the taxpayer and the board of equalization at least fourteen business days prior to the hearing at the board of equalization. A taxpayer who lists comparable sales on a notice of appeal shall not subsequently change such sales unless the taxpayer has found new evidence supporting the taxpayer's proposed valuation in which case the taxpayer shall provide such additional evidence to the assessor and board of equalization at least seven business days, excluding legal holidays, prior to the hearing. If either the assessor or taxpayer does not meet the requirements of this section the board of equalization may continue the hearing to provide the parties an opportunity to review all evidence or, upon objection, refuse to consider sales not submitted in a timely manner.

WAC 173-27-030 Definitions The following definitions shall apply: (15) "Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

#### Title 308 WAC LICENSING, DEPARTMENT OF

WAC 308-125-010 Definitions.

- (1) Words and terms used in these rules shall have the same meaning as each has in the Certified Real Estate Appraiser Act, (chapter 18.140 RCW) and the Uniform Standards of Professional Appraisal Practice (USPAP).
- (2) "Appraisal foundation" means a private association of appraiser professional organizations. The appraisal foundation develops appraisal standards which the regulatory agencies must use as minimum standards for federally related transactions and it develops qualification criteria for appraisers.

- (4) "Appraisal standards board" means a board established by the appraisal foundation for the purpose of developing, publishing, interpreting and amending the *Uniform Standards of Professional Appraisal Practice*.
- (5) "The *Uniform Standards of Professional Appraisal Practice* (USPAP)" means the current edition of the publication in force of the appraisal standards board (ASB) of the appraisal foundation. USPAP is the applicable standard for all appraisal practice in the state of Washington regulated under the provisions of chapter 18.140 RCW.
- (6) "Appraiser qualifications board" means a board of the appraisal foundation for the purpose of developing, publishing, interpreting and amending the real property appraiser qualification criteria.
- (7) "Real property appraiser qualification criteria" means the minimum criteria establishing the minimum education, experience and examination requirements for real property appraisers to obtain a state certification as established by the appraiser qualifications board (AQB) of the appraisal foundation under the provisions of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989, and any additional qualifying criteria established by the director in accordance with chapter 18.140 RCW.
- (8) "Classroom hour" means fifty minutes out of each sixty minute hour.
- (9) "Full-time" means the equivalent twelve-month period in which an applicant works at least one thousand hours in real estate appraisal.
- (10) "Required core curriculum" means a set of appraiser subject matter areas (known as "modules") that require a specified number of educational hours at each credential level as established by the appraiser qualifications board.
- (11) "Module" means an appraisal subject matter area (and required hours of coverage) as identified in the required core curriculum.
- (12) "Residential properties" means one to four single family residential units and lots where the highest and best use is for one to four family purposes.
- (13) "Significant professional appraisal assistance" shall include but not be limited to the work contributed or performed toward the completion of an appraisal report by either a trainee, state-licensed, or state-certified appraiser, while under the direct supervision of a certified residential appraiser or certified general appraiser as required by the department as qualifying appraisal experience for licensing. Significant professional appraisal assistance shall consist of identifying and analyzing the scope of work, collection of data, analyzing data to derive an opinion of value, or writing the appraisal report in accordance with the *Uniform Standards of Professional Appraisal Practice*.

#### WAC 308-125-200 Standards of practice

- (1) The standard of practice governing real estate appraisal activities will be the edition of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation in effect on the date of the appraisal report. A copy of the Uniform Standards of Professional Appraisal Practice is available for review and inspection at the office of the Real Estate Appraiser Unit Office, Olympia, Washington. The Uniform Standards of Professional Appraisal Practice is a copyright document. Copy of the full text may be obtained from the Appraisal Foundation at The Appraisal Foundation, P.O. Box 96734, Washington, DC 20090-6734

#### [July 2018] WAC 458-07-015 Revaluation of real property.

- (1) Appropriate statistical data defined. The assessor must revalue the property at its current true and fair value using appropriate statistical data. For purposes of this chapter, "appropriate statistical data" means the data required to accurately adjust real property values and includes, but is not limited to, data reflecting costs of new construction and real property market trends.
- (2) Comparable sales data. In gathering appropriate statistical data and determining real property market trends, the assessor must consider current sales data. "Current sales data" means sales of real property that occurred within the past five years of the date of appraisal and may include sales that occur in the assessment year. To the extent feasible, and in accordance with generally accepted appraisal practices, the assessor shall compile the statistical data into categories of comparable properties. Comparability is most often determined by similar use and location and may be based upon the following use classifications:

- (a) Single family residential;
  - (b) Residential with from two to four units;
  - (c) Residential with more than four units;
  - (d) Residential hotels, condominiums;
  - (e) Hotels and motels;
  - (f) Vacation homes and cabins;
  - (g) Retail trade;
  - (h) Warehousing;
  - (i) Office and professional service;
  - (j) Commercial other than listed;
  - (k) Manufacturing;
  - (l) Agricultural; and
  - (m) Other classifications as necessary.
- (3) Appraisal processes. Appropriate statistical data shall be applied to revalue real property to current true and fair value using one or more of the following processes:
- (a) Multiple or linear regression;
  - (b) Sales ratios;
  - (c) Physical inspection; or
  - (d) Any other appropriate statistical method that is recognized and accepted with respect to the appraisal of real property for purposes of taxation.
- (4) Physical inspection cycles.
- (a) For purposes of this chapter, "physical inspection" means, at a minimum, an exterior observation of the property to determine whether there have been any changes in the physical characteristics that affect value. The property improvement record must be appropriately documented in accordance with the findings of the physical inspection. The assessor must physically inspect all real property at least once within a six-year time period.
  - (b) Physical inspection of all the property in the county shall be accomplished on a proportional basis in cycle, with approximately equal portions of taxable property of the county inspected each year. Physical inspections of properties outside of the areas scheduled for physical inspection under the plan filed with the department (see WAC 458-07-025) may be conducted for purposes of validating sales, reconciling inconsistent valuation results, calibrating statistical models, valuing unique or nonhomogeneous properties, administering appeals or taxpayer reviews, documenting digital images, or for other purposes as necessary to maintain accurate property characteristics and uniform assessment practices. All properties shall be placed on the assessment rolls at current true and fair value as of January 1st of the assessment year.
  - (c) In any year, when the area of the county being physically inspected is not completed in that year, the portion remaining must be completed before beginning the physical inspection of another area in the succeeding year. All areas of the county must be physically inspected within the cycle established in the revaluation plan filed with the department.
- (5) Revaluation after a value is certified for the current year. In certain circumstances the assessor is authorized to revalue real property, using appraisal judgment, after a value is certified for the current year. These revaluations must not be arbitrary or capricious, nor violate the equal protection clauses of the federal and state Constitutions, nor the uniformity clause of the state Constitution. The assessor may disregard the certified value for the current year and change a property valuation, as appropriate, in the following situations:
- (a) If requested by a property owner, when a notice of decision pertaining to the value of real property is received under RCW 36.70B.130 (Notice of decision—Distribution; local project review), chapter 35.22 RCW (First class cities), chapter 35.63 RCW (Planning commissions), chapter 35A.63 RCW (Planning and zoning in code cities), or chapter 36.70 RCW (Planning Enabling Act);

- (b) When the owner or person responsible for payment of taxes on any real property petitions the assessor for a reduction in the assessed value in accordance with RCW 84.40.039, within three years of adoption of a restriction by a government entity;
  - (c) When there has been a "definitive change of land use designation" by an authorized land use authority, and the revaluation is in accordance with RCW 84.48.065;
  - (d) When a bona fide mistake has been made by the assessor in a prior valuation made within the current valuation cycle. The change in property valuation is not retroactive to the prior year;
  - (e) When property has been destroyed, in whole or in part, and is entitled to a reduction in value in accordance with chapter 84.70 RCW; or
  - (f) When property has been subdivided or merged.
- (6) Change of value notice. Revaluation notices must be mailed or transmitted electronically by the assessor to the taxpayer when there is any change in the assessed value of real property, not later than thirty days after an appraisal or adjustment in value.
- [Statutory Authority: RCW 84.08.010, 84.08.070, 84.52.0502, and 84.55.010. WSR 16-08-115, § 458-07-015, filed 4/5/16, effective 5/6/16. Statutory Authority: RCW 84.08.070. WSR 00-01-043, § 458-07-015, filed 12/7/99, effective 1/7/00.]

[8/29/16]WAC 458-07-015 Revaluation of real property — Annual counties.

- (1) Appropriate statistical data defined. ... "appropriate statistical data" means the data required to accurately adjust real property values and includes, but is not limited to, data reflecting costs of new construction and real property market trends.
- (2) Comparable sales data. ... determining real property market trends, the assessor must consider current sales data. "Current sales data" means sales of real property that occurred within the past five years of the date of appraisal and may include sales that occur in the assessment year. To the extent feasible, and in accordance with generally accepted appraisal practices, the assessor shall compile the statistical data into categories of comparable properties. ...
- (4) Physical inspection cycles.
  - (a) For purposes of this chapter, "physical inspection" means, at a minimum, an exterior observation of the property to determine whether there have been any changes in the physical characteristics that affect value. The property improvement record must be appropriately documented in accordance with the findings of the physical inspection. In a county where all real property is revalued at its current true and fair value each year, using appropriate statistical data, the assessor must physically inspect all real property at least once within a six-year time period.
  - (b) Physical inspection of all the property in the county shall be accomplished on a proportional basis in cycle, with approximately equal portions of taxable property of the county inspected each year. Physical inspections of properties outside of the areas scheduled for physical inspection under the plan filed with the department (see WAC 458-07-025) may be conducted for purposes of validating sales, reconciling inconsistent valuation results, calibrating statistical models, valuing unique or **nonhomogeneous properties**, administering appeals or taxpayer reviews, documenting digital images, or for other purposes as necessary to maintain accurate property characteristics and uniform assessment practices. All properties shall be placed on the assessment rolls at current true and fair value as of January 1st of the assessment year.
  - (c) In any year, when the area of the county being physically inspected is not completed in that year, the portion remaining must be completed before beginning the physical inspection of another area in the succeeding year. All areas of the county must be physically inspected within the cycle established in the revaluation plan filed with the department.
- (5) Change of value notice. In a county that revalues all real property each year, revaluation notices must be mailed by the assessor to the taxpayer when there is any change in the assessed value of real property, not later than thirty days after an appraisal or adjustment in value.

WAC 458-10-010 Accreditation of real property appraisers ...

- (1) Implementation of accreditation requirements. ... the accreditation of persons responsible for valuing real property for purposes of taxation. To the extent practical, these rules coordinate accreditation requirements with the requirements for certified and licensed real estate appraisers under chapter 18.140 RCW. The purpose of these rules is to promote uniformity and consistency throughout the state in the education and experience qualifications and maintain minimum standards of competence and conduct of persons responsible for valuing real property for purposes of taxation.
- (2) Accreditation required for persons valuing real property for purposes of taxation. Any person responsible for valuing real property for purposes of taxation must be an accredited appraiser. This requirement includes persons acting as assistants or deputies to a county assessor who determine real property values or review appraisals prepared by others. This requirement does not apply to persons working in the county assessor's office who do not exercise appraisal judgment with respect to real property.
- (3) Definitions. Unless the context clearly requires otherwise, the following definitions apply throughout chapter 458-10 WAC:
  - (a) "Accreditation" means the act or process by which persons are authorized by the department to assess real property for purposes of taxation and includes the status of being accredited.
  - (b) "Accredited appraiser" means a person who has successfully completed and fulfilled all requirements imposed by the department for accreditation and who has a currently valid accreditation certificate.
  - (c) "Appraisal" means the act or process of estimating the value of real property; an estimate of value of real property; or of or pertaining to appraising real property and related functions.
  - (f) "Department" means the department of revenue.
  - (g) "IAAO" means the International Association of Assessing Officers.
  - (h) "Real property" means an identified parcel or tract of land, including any improvements, and includes one or more defined interests, benefits, or rights inherent in the ownership of real estate.

WAC 458-10-060 – Standards of practice. The standards of practice adopted by the department and governing real property appraisal activities by accredited appraisers are the generally accepted appraisal standards as evidenced by the current appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.