

FILED

JUN 26 2010

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

NO. 355977

IN THE COURT OF APPEALS, DIVISION THREE

PALMER D. STRAND AND PATRICIA N. STRAND

Appellant

v.

STATE OF WASHINGTON BOARD OF TAX APPEALS,
SPOKANE COUNTY
AND
SPOKANE COUNTY ASSESSOR

Respondents

APPELLANT REPLY BRIEF

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

Appellant

TABLE OF CONTENTS

I. STRAND TAX RELIEF REQUESTED1

II. RESPONDENT’S ISSUES3

 A. ISSUE 1: LEGAL ANALYSIS OF STATUTORY
 VIOLATIONS3

 • ISSUE 1: CONCLUSION:.....9

 B. ISSUE 2: COA AUTHORITY10

 • ISSUE 2: CONCLUSION:11

 C. ISSUE 3: BTA DOCKETS 16-070 AND 17-12211

 • ISSUE 3: CONCLUSION:12

 D. ISSUE 4: REVIEW OF STRAND 2008-2017 TAX
 ASSESSMENTS12

 • ISSUE 4: CONCLUSION19

 E. ISSUE 5: RCW 84.08.130.....19

 • ISSUE 5: CONCLUSION:21

III. CONCLUSION.....21

TABLE OF AUTHORITIES

Cases

Strand v. Washington State Board of Tax Appeals, et al., 172014383 .. 3-4,
10-13, 18-19, 21

Mason County Overtaxed v. County of Mason, 62 Wn.2d 677 at 685, 384
P.2d 352 (1963) 15

Ozette R. Co. v. Grays Harbor County, 16 Wn.2d 459 at 467, 133 P.2d
983 (1943)..... 16

John S. Baker Inv. Co. v. Pierce County, 175 Wash. 669, 27 P.2d 1092
(1933) 16

Grays H. P. R. Co. v. Grays Harbor County, 188 Wash. 484, 62 P.2d 1347
(1936)..... 16

Dexter Horton Bldg. Co. v. King County, 10 Wn.2d 186, 116 P.2d 507
(1941)..... 16

Inter Island Tel. Co. v. San Juan County, 125 Wn.2d 332 at 334, 883 P.2d
1380 (1994)..... 16

Savage v. Pierce Cy., 68 Wash. 623, 625, 123 P. 1088 (1912) 17

Boeing Co. v. King Cy., 75 Wn.2d 160, 165, 449 P.2d 404 (1969)..... 17

City of Arlington v. Cent. Puget Sound Growth Mgmt. Hearings Bd., 164
Wn.2d 768, 193 P.3d 1077 (2008)..... 17

Constitution

Washington Constitution Article 7 ¶1 2, 8-9, 12, 15-17

Statutes

RCW 84.68.020 1

RCW 84.08.130 1, 3, 19, 20

RCW 84.40.030 2, 5-6, 8, 16

RCW 84.48.150	2, 5, 9
RCW 84.40.020	2
RCW 34.05.461	4, 20
RCW 84.40.150	5
RCW 36.21.015	5
RCW 42.20.040	10
RCW 34.05.570	11, 17-18
Title 34.....	11
Chapter 35.05.....	17
RCW 34.05.534	18
RCW 84.08.080	19
RCW 82.03.130	20
RCW 82.03.190	20

Codes

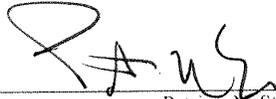
WAC 458-07-015	2, 5-6, 8
WAC 458-10.....	5

Rules

RAP 2.2.....	10
RAP 2.4.....	10
RAP.....	11
RAP 6.3.....	11
RAP 3.3.....	12

RESPECTFULLY SUBMITTED this 2nd of July 2018


Palmer D. Strand, Appellant


Patricia N. Strand, Appellant

STRAND TAX RELIEF REQUESTED

Appellant, Palmer and Patricia Strand (“Pat”) owner of 17355.9014, paid property taxes under protest and seek recovery of the over-paid taxes for 2008-2010 and 2016 under RCW 84.68.020.¹

Assessor Value				Docket 13-179 Decision Value		
Year	Land	Improvements	Total	Land	Improvements	Total
2008	\$200,000	\$217,100	\$417,100	\$150,000	\$175,000	\$325,000
2009	\$200,000	\$249,900	\$449,900	\$150,000	\$175,000	\$325,000
2010	\$200,000	\$214,700	\$414,700	\$150,000	\$175,000	\$325,000
2016	\$150,000	\$195,700	\$345,700	\$150,000	\$175,000	\$325,000
Total for Years:			\$1,627,400	Total for Years:		\$1,300,000
Total Four-Year Over-Valuation: \$327,400						

RCW 84.08.130(2) is the basis for recovery of over-paid taxes for 2014.

Assessor Value				Docket 13-179 Decision Value		
Year	Land	Improvements	Total	Land	Improvements	Total
2014	\$200,000	\$182,300	\$382,300	\$150,000	\$175,000	\$325,000
2014 Over Valuation: \$57,300						

The reason Pat is using the same values and supporting facts from assessment year 2008 through 2017 is because BTA Docket 13-179 proves

¹ Assessment appeals:

- 1) 2008 assessment RC-08-2020 and BTA 09-121 [CP 136-153]
- 2) 2009 assessment BE-09-0265 and BTA 10-258 [CP 155-165]
- 3) 2010 assessment BE-10-0126 and BTA 11-706 [CP 166-178]
- 4) 2013 assessment BE-13-0103 and BTA 13-179 [CP 179-192]
- 5) 2015 assessment BE-15-0048 and BTA 16-070 [CP 193-209]
- 6) 2016 assessment BE-16-0135 [CP 210-226]
- 7) 2017 BTA 17-122 direct review

for this period (Spokane County Assessor is “Assessor”):

1. The Assessor never produced records of specific sales for land, structures or total property as the basis of value of 17355.9014 violating RCW 84.40.030 and 84.48.150. [AR 381 No. 2-3]
2. The Assessor never produced records of the factors used to value land, structures or total property as the basis of value of 17355.9014 violating RCW 84.40.030 and 84.48.150. [AR 381 No. 2-3]
3. The Assessor never listed and valued private roads and docks. The value of these structures caused the land value of 17355.9014 to be over-stated violating WA. Constitution Article 7 ¶1; RCWs 84.40.020 and 84.40.030 and; WAC 458-07-015. [AR 386 No. 4]
4. The Assessor never produced records of the observations of physical characteristics from inspections in neighborhood 231720 (Pat’s neighborhood) violating WAC 458-07-015. No recorded observations is constructively no inspections, no market analysis, no trend analysis, no comparable sales analysis, no sales analysis, etc.
5. The Assessor’s county-wide sales records for 2007-2014 (produced as response to Pat’s discovery motion for specific sales used to value five parcels on BE-13-0103 show sold properties not valued at 100% of sale price violating RCW 84.40.030.

6. The Assessor never disclosed the basis of their land, structure and total values. The source is not Marshall and Swift because AR-378 No. 1 explains how the Assessor manipulates the Market Adjustment function [AR 427] of the ProVal system to get the Marshall and Swift values to pre-determined land, structure and total values.

RESPONDENTS' ISSUES

1. COA-III has no authority to consider Strands' claims of statutory violations unsupported by legal analysis. ("Court of Appeals")
2. A. COA-III has no authority to review the Washington State Board of Tax Appeals.
B. COA-III has no authority to review case *172014383 Strand v. Washington State Board of Tax Appeals*, et al. ("petition for review") ("BTA") because the Trial Court made no errors.
C. COA-III cannot review relief not requested in BTA 13-179 and/or petition for review.
D. COA-III has no authority to review 2013 tax assessment because BTA May 9, 2017, Initial Decision satisfied requested relief and Strand did not appeal the Decision.
3. COA-III has no authority to review 2015 assessment pending before the BTA because there are no justiciable issues.
4. COA-III has no authority to review Strand real property final tax assessments appealed to the BTA and/or BOE² and/or Superior Court and or not appealed based on: Res judicata, Claim preclusion and/or, Strands' failure to exhaust administrative remedies.
5. The plain meaning of RCW 84.08.130.

ISSUE 1: LEGAL ANALYSIS OF STATUTORY VIOLATIONS

The BTA is Washington's specialized-expert agency on property

² "BOE" is Spokane County Board of Equalization

statutes according to,

RCW 34.05.461 Entry of orders.

(5) Where it bears on the issues presented, the agency's experience, technical competency, and specialized knowledge may be used in the evaluation of evidence.

In 1967, acting upon the Council's recommendation, the legislature created the Board of Tax Appeals . . . The Tax Commission's "front line" administration of the excise and property tax systems was transferred to the Department and the duties and powers of the Tax Commission acting in its appellate capacity were transferred to the Board.

The Board's primary function in the administration of Washington's tax system is as a specialized administrative tribunal, providing the highest level quasi-judicial administrative forum for the de novo trial and resolution of state tax disputes.³

and the Trial Court in Case 172014383,

THE COURT: . . . The Court is deferring to the Agency expertise in that matter as well. [RP 5635 line 23]

The BTA issued an Initial Decision on May 9, 2017 [CP 664-679], based on the January 22, 2016, hearing and the review of the pleadings in Docket No. 13-179. This Initial Decision is a legal analysis of those pleadings and **The Law**⁴ on valuing real property and disclosing the basis of that value on parcel 17355.9014. (emphasis added) The Initial Decision

³ Practice and Procedure Before the Washington State Board of Tax Appeals [CP 331-332]

⁴ Brief of Appellant: (A) pages 3-5, No. III. The Law on Real Property Value and (B) pages 22-24, b. Assessor's Violations of The Law on Value Basis, Facts Contradict Asserted Structure Value Basis, No. (3) The Assessor has no statutory authority to enter structures; and pages 40-42, B. Warrantless Administrative Inspections

found and ruled on these statutory violations by the Assessor.

1. The Assessor violated RCW 84.48.150 and accredited appraiser standards of practice⁵ by not disclosing the factors used to determine value and not disclosing the Answer⁶ violated RCW 84.48.150.

Finding of Fact: 3. On or around September 30, 2013, the Assessor supplied to the Owner and the County Board her response to the Owner's County Board petition. **Contained within were four sales but not the cost parameters used to set the subject's original assessed value.** [CP 670] (emphasis added)

Conclusion of Law: 4. **The Board is not authorized to grant damages or other relief in the event an assessor fails to provide an owner with the criteria used to value the subject property under RCW 84.40.150.** The Board therefore does not address the Owner's arguments related to the sufficiency of the Assessor's September 30, 2013, filing. [CP 675](emphasis added)

VALUATION OF THE SUBJECT PROPERTY

13.2. *Marshall & Swift*, a known construction-cost service that serves as the basis for the ProVal computations, reports significantly different cost estimates based on whether space is characterized as a basement or a lower level. According to the Owner's **unchallenged calculations using the Marshall & Swift tables**, [CP 672] (emphasis added)

2. The Assessor violated RCW 84.40.030, WAC 458-07-015 and accredited appraiser standards of practice by mischaracterizing Pat's house as having a lower level that never existed causing it to be

⁵ Accredited appraiser standards of practice: RCW 36.21.015, WAC 458-10 *et seq.* – Uniform Standards of Professional Appraisal Practice have rules for ethics, conduct, record keeping, competency, disclosure obligations

⁶ Assessor's Answer to Real Property Petition to the Spokane County Board of Equalization ("Answer") – BE 13-0103 – issued September 30, 2013 [CP 179-191]

over-valued and not correcting and disclosing these facts.

FINDINGS OF FACT

VALUATION OF THE SUBJECT PROPERTY

12. The subject's residence also has a 2,048 square foot walkout basement, 1,900 square feet of which is finished as living area. No part of the subject's basement is properly described as a "lower level."

12.1. The subject's building permit describes the below-grade space as a finished basement.

12.2. Images of the exterior of the subject property confirm that the front half of the subject's residence has no visible lower level. The basement emerges as the images move from the front to the back of the residence.

12.3. ProVal, the software used by the Assessor to derive her mass appraisal values, characterizes a walkout basement as having "full doors and windows on one side." The subject's layout falls squarely within this description.

13. The **Assessor's mischaracterization** of the subject's basement in her mass appraisal model establishes that the subject's **original assessed value is overstated**. [CP 671-672] (emphasis added)

CONCLUSION OF LAW

VALUE CONCLUSION

19.1. The Owner establishes Assessor error by showing that the **Assessor mischaracterizes the subject's basement as a lower level**, thus materially overstating the cost of its construction. [CP 678] (emphasis added)

3. The Assessor violated RCW 84.40.030, WAC 458-07-015 and accredited appraiser standards of practice by not valuing and listing docks and private roads on all properties – and not disclosing relevant facts on the Answer⁶. The Assessor made a false statement in the Answer and violated accredited appraiser standards of practice by not disclosing relevant facts but stating, "The comparable sales

appear to be similar to the subject property in terms of size, age, **quality**” [CP 179] (emphasis added). The subject property quality was lower than the comparable sales and all of the comparable sales were different quality of constructions.⁷

Finding of Fact: 14.2.5. Mr. Sporn’s adjusted price does not consider the value impact of the sale property’s significantly larger dock and boat lift, its road down to the waterfront (an improvement not found at the subject property), and its superior construction quality (average, compared with the subject’s average-minus construction). **The Assessor’s office does not value docks, and not one of these factors appears on Mr. Sporn’s comparable sales grid.**

14.2.7. **The Assessor does account for the value of in-property roads on other properties.** The assessed values of Parcel Nos. 17352.9006 and .9007, properties that are in close proximity to the subject, shifted by almost \$50,000 when an in-property road was re-assigned from one parcel to the other. [CP 674] (emphasis added)

4. The Assessor violated accredited appraisal standards of practice by not disclosing the ratio reports in the Answer are not relevant to the basis of value of subject properties.

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. [CP 669 line 20]

⁷ BE-13-0103 comparable appraisals with Quality Class/Grade of construction produced in Assessor’s July 8, 2015 response to Discovery

Finding of Fact: 20. The Assessor provides a ratio study, but it contains no evidence related to the subject's fair market value. [CP 675]

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. [CP 678]

5. The Assessor violated WA. Constitution Article 7 ¶1, RCW 84.40.030 and accredited appraiser standards of practice by not valuing and listing private roads and hiding this value in Pat's land value causing over-valuation. This was not disclosed in the Answer.

CONCLUSION OF LAW
VALUE CONCLUSION

19.3. **The Owner's use of the assessed values of other properties to demonstrate the Assessor's failure to evaluate waterfront improvements is not improper.** Had those assessments been used to directly support a value, they would not have been considered. In this case, **however, the change in the assessed values of Parcel Nos. 17352.9006 and .9007 creates an inference that the Assessor considers waterfront improvements to be valuable.** [CP 678] (emphasis added)

6. The Assessor violated WA. Constitution Article 7 ¶1, RCW 84.40.030, WAC 458-07-015 and accredited appraiser standards of practice by not valuing property at 100% of fair market value and not disclosing these relevant facts.

CONCLUSION OF LAW
VALUE CONCLUSION

6. Uniformity of taxation, as required by Washington's Constitution, is reached when all properties are valued at 100 percent of their fair market values. [CP 676]

19. The Owner presents clear, cogent, and convincing evidence that the Assessor overvalued the subject property for the 2013 assessment year. [CP 678]

VALUATION FOR THE 2013 ASSESSMENT YEAR [CP 668]

DOCKET NO. AND PARCEL NO.	VALUATION OF THE ASSESSOR AND COUNTY BOARD	CONTENDED VALUATION OF THE OWNER	VALUATION OF THE BOARD OF TAX APPEALS
13-179 17355.9014	Land: \$200,000 Impr: \$183,700 Total: \$383,700	Land: \$150,000 Impr: \$175,000 Total: \$325,000	Land: \$150,000 Impr: \$175,000 Total: \$325,000

ISSUE 1: CONCLUSION: The BTA Initial Decision is the legal analysis of the Assessor's statutory violations. But, the Initial Decision omits:

- "Finding of Fact: 3. . . . Contained within were four sales" [CP 670] implies these sales comply with,

RCW 84.48.150 . . . assessor shall furnish the taxpayer with . . . the addresses of such other property used in making the determination of value.

They did not determine the value of 17355.9014. They did not determine their own values. [A5-11 Proof #4]

- It omitted new evidence.⁸

⁸ New evidence materially affects the Decision: (1) the testimony of Appraiser Sporn, the County's expert witness in the January 22, 2016 hearing in Docket 13-179, that there were no raw land sales supporting the land value [Appellant Brief page 17, b. Assessor's Violations of The Law on Value Basis]; (2) Assessor's June 27, 2016 appraisal revaluing land and recharacterizing Pat's house [Appellant Brief page 38, A. New Evidence]

- It failed to state its findings show the Answer⁶ is a false report, RCW 42.20.040, based on the statutory violations.

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 . . .

A false report should materially affect all Assessor appeals. It should be a substantive alert to the Assessor to change disclosure practices or else.

- It failed to state the BTA's position on the Assessor's presumption of correctness for pending appeals considering the statutory violations.

if an assessor fails to follow statutory valuation criteria, the presumption of correctness does not apply. [CP 337]

- It failed to state the Decision was a product of Pat's Petition for Judicial Review Case 172014383 – a material fact.

ISSUE 2: COA AUTHORITY

The COA has the authority to review the Final Decision in Case 172014383 to determine if errors were made under RAP 2.2(a)(1). The scope of this review is defined in RAP 2.4.

All issues Pat raised in 172014383 summarily ended by the Trial Court's decision are open to review under RAP 2.4. Brief of Appellant defines the issues for review. The relief requested in 172014383 included:

- A. Discovery plan pursuant to CR 27 and CR 37 to produce the Assessor's basis for the valuation of land, Improvement/Bldgs. and total property. . . .encompass assessment years 2008 through the present.
- B. Docket 13-179 requires a Decision. . . . The record supports the Decision is applicable to appeals from 2008 through the present. . . . The Decisions in the appeals of the prior and succeeding years to Docket 13-179 were manifestly erroneous and are an injustice
- C. The Strands request recovery of all reasonable costs incurred in bringing this action and,
- D. For such other and further relief as the Court deems just. [CP 6-7]

Regarding COA-III reviewing the Docket 13-179 Initial Decision there is no issue here! Pat requested this decision as material to judicial review. The Initial Decision is clearly subject to RCW 34.05.570.

ISSUE 2: CONCLUSION: These Defense arguments ignore the RCW 34, the RAP and Pat's pleadings in Case 172014383.

ISSUE 3: BTA DOCKETS 16-070 AND 17-122

Pat appealed the 2015 and 2017 assessments as BTA Dockets 16-070 and 17-122. The hearing was May 10, 2018. The Initial Decision is due by August 8, 2018. Pat intends to seek Direct Review of BTA Docket 16-070 and 17-122 by the COA under RAP 6.3 as soon as an Initial Decision and possible BTA Petition for Review are issued. Pat requested and received a continuance in COA-III contingent on these facts.

Pat will motion to consolidate BTA Dockets 16-070 and 17-122 into

Case 355977 under RAP 3.3(b) because they are dispositive of the Trial Court argument on June 30, 2017 in Case 172014383,

MRS. STRAND: What is going to happen on the issue of failure of duty? You said you weren't going to -- failure of duty.

THE COURT: That can be -- another way of stating that is the Agency failed in its responsibility. That is purely an Agency -- an administrative argument to be made. The Court isn't going to recognize a new cause of action.

MRS. STRAND: All right.

THE COURT: That's, again, part of this whole **public policy of enabling the Agency to correct its errors.**

MRS. STRAND: Then we have the issue of the assessor's failure of duty.

MR. ARKILLS: Hmm.

THE COURT: That is not recognizable within the Court's ruling today because I am remanding, and it will depend on what the Agency's final determinations are. We won't be able to know that. [CP 640 - 641] (emphasis added)

ISSUE 3: CONCLUSION: The importance of Dockets 16-070 and 17-122 are the continuing evidence of constitutional and statutory violations by the Assessor and the BTA.

ISSUE 4: REVIEW OF STRAND 2008-2017 TAX ASSESSMENTS

All of these arguments are addressed by the COA authority to review significant questions of statutory and constitutional⁹ law based on new evidence? This issue was presented in Case 172014383. [CP 2 No. 3]

⁹ Article 1 ¶7 access, Article 7 ¶1 uniformity, and the 14th Amendment due process

On May 4, 2016 the Assessor reappraised Pat's property and issued an appraisal – new evidence – that states as its basis,

Appr: Appraisal¹⁰ Notes
04/26/2016 (JS119) ReVal inspection update. Adjusted land tables. Lower level removed based on owners appeal photos, changed to walkout basement. Added lean-tos, can't measure shed by waterfront from overheads. Land changed with the new 59/25 tables. [CP 506-507; AR 163-164]

This appraisal – the new evidence – recharacterized Pat's house [CP 528] and decreased the land value to \$150,000. Pat asserted this recharacterization and land over-valuation in appeals since assessment year 2008. Pat was in three appeals asserting this recharacterization and land over-valuation when the appraisal was issued:

1. BTA Docket 13-179 for 2013 assessment, filed November 2013, heard January 2016 and inactive until Case 172014383 was filed.
2. BE-15-0048 for 2015 assessment, filed June 16, 2015 with BOE became BTA 16-070 after notice of appeal on April 19, 2016.
3. BE-16-0135 for 2016 assessment, filed June 17, 2016.

This appraisal – new evidence – is the Assessor's tacit admission that their records and valuations were erroneous since assessment year 2008.

¹⁰ Appraisal is the label on the notes

If an assessor offers entirely new appraisals at trial, the assessor has made a tacit admission of error, and the burden shifts on all issues. [CP 337]

The Assessor did not notify Pat of this appraisal. Pat requested this appraisal – new evidence – under the Public Records Act by happenstance in June 2017¹¹. (emphasis added)

Pat first requested the Assessor's appraisal of 17355.9014 in February 2009 and saw **errors**: wrong owner; wrong address; mischaracterization of her house [AR 439, CP 528]; omitted structures (WAC 173-27-030) – water well, septic system, electric service – structures costing Pat more than \$10,000. (emphasis added) In September 2009 Pat requested appraisals on parcels from BTA 09-121¹ and saw other omitted structures: docks, private roads, buildings.

Pat showed the Assessor's Appeals Specialist Joseph Hollenback¹² and Appraiser Larry Sporn, their errors in characterizing her house and docks and roads on neighboring properties during the May 7, 2009, physical inspection of her property. After this notification the Assessor did not correct the errors (September appraisals) but raised her structure valuation by \$32,800. The errors were deliberately maintained and calculated to damage Pat which they did. The Assessor committed

¹¹ The appraisal shows "Printed 06/27/2016" [AR 163]

¹² Mr. Hollenback is currently the Appraisal Supervisor

constructive fraud, *Mason County Overtaxed v. County of Mason*, 62 Wn.2d 677 at 685, 384 P.2d 352 (1963),

The court will grant relief for an arbitrary, fraudulent, or malicious excessive valuation by the assessing officer.

The legal analysis by the BTA showing the Assessor's statutory and constitutional violations based on 2008-2010 evidence supports constructive fraud. (emphasis added) *Mason County Overtaxed* at 682 identified **good** assessment records and methods, (emphasis added)

The assessor gave detailed evidence of his methodology in assessing the waterfront real estate here involved: laying out detailed maps of the area; making a study of the size and shape of each parcel of land and a study of prices based on recent sales of comparable land in the vicinity; personal physical inspection of each parcel of land by the assessors; comparing all of these with the opinions of others; and a final appraisal at fair market value.

. . . forms were prepared containing the exact legal description of each parcel. His field men actually measured many of the lots if there was any question about dimensions. His maps, at a scale of 1 inch to 400 feet, showed topographical changes and carried other pertinent data. Codes indicated the slope to the beach to show whether it was level, medium or steep; access to the beach was described; distances and access to a public road and elevation of the roadway were noted; kind and quality of the beach, degree of slope to the lot, and heights of bulkheads, if any, all were noted and given consideration as affecting the market value.

. . . He pointed to examples where he appraised one tract at only \$ 20 per front foot¹³ because the bank at the beach was

¹³ Use of the front foot as a unit of comparison is based on the premise that frontage significantly contributes to value. A front foot is a one-foot-wide strip of land that fronts on a street, railroad siding, or body of water and continues to the rear of the parcel,

100 feet high. Another strip, appraised by him at \$ 15 per front foot, had no building site between the road and the beach so that the owner could reclaim the land only by building a bulkhead and backfilling to erect a house on it. Values varied greatly even among properties in the same vicinity and sometimes adjoining each other.

. . . Although the valuation of property is, in the last analysis, an expression of opinion, the statute gives the assessor little latitude in determining the meaning of value. RCW 84.40.030

The Assessor has never produced a single record to support their values, judgment and/or knowledge of assessments. *Ozette R. Co. v. Grays Harbor County*, 16 Wn.2d 459 at 467, 133 P.2d 983 (1943) states,

Before a court of equity will grant relief against the acts of such officers, it must clearly appear that the assessment is so palpably exorbitant and excessive as to amount to constructive fraud or to violate some constitutional principle. *Baker Inv. Co. v. Pierce County*, *supra*; *Grays Harbor Pac. R. Co. v. Grays Harbor County*, 188 Wash. 484, 62 P.2d 1347; *Dexter Horton Building Co. v. King County*, 10 Wn.2d 186, 116 P.2d 507. In the *Dexter Horton Building CO.* case, wherein many authorities were reviewed, it was said: . . . ; that, while equity will interfere when the taxing officials fraudulently, capriciously, or tyrannically refuse to exercise their judgment by adopting a system of valuation designed to operate unequally, and to violate a fundamental principle of the constitution, equity

And, the Assessor refuses to comply with **The Law**⁴.

Inter Island Tel. Co. v. San Juan County, 125 Wn.2d 332 at 334, 883 P.2d 1380 (1994) is about the refund of property taxes based on the

Property Assessment Valuation 2nd Edition International Association of Assessing Officers

County's systematic discriminatory assessment in violation of the uniformity requirement of Washington's Constitution Article 7, §1,

We have held consistently tax uniformity is "the highest and most important of all requirements applicable to taxation under our system". *Savage v. Pierce Cy.*, 68 Wash. 623, 625, 123 P. 1088 (1912); *Boeing Co. v. King Cy.*, 75 Wn.2d 160, 165, 449 P.2d 404 (1969).

Res Judicata and/or claim preclusion are predicated on circumstances after a decision staying the same. *City of Arlington v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 164 Wn.2d 768, 193 P.3d 1077 (2008) shows new evidence changes circumstances. The Assessor's May 4, 2016 reappraisal changed the circumstances retroactively. The house was recharacterized based on 2009 photos. The land was revalued based on a road existing since 1993.¹⁴ [CP 678 No. 19, AR 390 No. 6] *City of Arlington* at 779 states,

Furthermore, "[u]nder the Administrative Procedure Act ..., chapter 34.05 RCW, a court shall grant relief from an agency's adjudicative order if it fails to meet any of nine standards delineated in RCW 34.05.570(3)." Here, the appellants assert the Board engaged in unlawful procedure or decision-making process or failed to follow a prescribed procedure (RCW 34.05.570(3)(c)), the Board erroneously interpreted the law (RCW 34.05.570(3)(d)), the Board's order is not supported by evidence that is substantial when viewed in light of the whole record before the court (RCW

¹⁴ On June 16, 2015 Pat filed Appellants' Memorandum of Facts, Law and Opinion of Value [AR 378-485]. This included facts on Assessor's bases of value methods. On January 22, 2016, Appraiser Sporn testified about factors that determine value.

34.05.570(3)(e)), and the Board's order was arbitrary and capricious (RCW 34.05.570(3)(i)).

The BTA decisions in appeals prior to Docket 13-179¹ can be reviewed because the new evidence proves the BTA violated RCW 34.05.570(3)(a), (c), (d), (e), (f), (h), and (i) in those reviews.¹⁵

Exhaustion of administrative remedies was thoroughly documented in Case 172014383 CP 2 No. 3 – the BTA was in hibernation.

34.05.534 Exhaustion of administrative remedies. A person may file a petition for judicial review under this chapter only after exhausting all administrative remedies available within the agency whose action is being challenged, or available within any other agency authorized to exercise administrative review, except:

(1) A petitioner for judicial review of a rule need not have participated in the rule-making proceeding upon which that rule is based, have petitioned for its amendment or repeal, have petitioned the joint administrative rules review committee for its review, or have appealed a petition for amendment or repeal to the governor;

(2) A petitioner for judicial review need not exhaust administrative remedies to the extent that this chapter or any other statute states that exhaustion is not required; or

(3) The court may relieve a petitioner of the requirement to exhaust any or all administrative remedies upon a showing that:

(a) The remedies would be patently inadequate;

(b) The exhaustion of remedies would be futile; or

(c) The grave irreparable harm that would result from having to exhaust administrative remedies would clearly outweigh the public policy requiring exhaustion of administrative remedies.

¹⁵ Brief of Appellant, B. Board of Tax Appeals Bad Acts

ISSUE 4: CONCLUSION: In Case 172014383 Pat claimed damages to recover over-paid taxes from 2008 through 2017 based on evidence originally presented from 2008-2010 (old evidence). The Assessor's June 2016 appraisal was the new evidence validating the old evidence with new life. The BTA in Docket 13-179 found the Assessor's failure to present any evidence of their basis for land, structure or total property values left decisions to be based on the only evidence in the record – Pat's.

ISSUE 5: RCW 84.08.130

BTA Docket 13-179 was filed in November 2013 [AR 545-551] (timely) for the 2013 assessment. The BTA heard it in January 2016 (26 months later). The BTA decided it in 2017 (42 months after BTA filing). The decision was because Pat filed for judicial review, Case 172014383. In these 42 months the Assessor made annual changes of value for 2014, 2015 and 2016. What does RCW 84.08.130(2) mean considering the above facts and the law?

RCW 84.08.130 Appeals from county board of equalization to board of tax appeals—Notice.

(2) The board of tax appeals may enter an order, pursuant to subsection (1) of this section, that has effect up to the end of the assessment cycle used by the assessor, if there has been no intervening change in the value during that time.

RCW 84.08.080 Department to decide questions of interpretation. The department of revenue shall, with the advice of the attorney general, decide all questions that may arise in reference to the true construction or interpretation of this title, or any part thereof, with

reference to the powers and duties of taxing district officers, and such decision shall have force and effect until modified or annulled by the judgment or decree of a court of competent jurisdiction.

RCW 82.03.130 Appeals to board—Jurisdiction as to types of appeals—Filing.

(1) The board shall have jurisdiction to decide the following types of appeals:

(e) Appeals by an assessor, landowner, . . . PROVIDED, That

(ii) The **hearing before the board shall be expeditiously held** in accordance with rules prescribed by the board and shall take precedence over all matters of the same character.

RCW 34.05.461 Entry of orders.

(8)(a) Except as otherwise provided in (b) of this subsection, initial or final orders shall be served in writing within ninety days after conclusion of the hearing or after submission of memos, briefs, or proposed findings in accordance with subsection (7) of this section unless this period is waived or extended for good cause shown. The initial or final order may be served on a party via electronic distribution, with a party's agreement.

The attorney general represents defendant BTA. Pat can find no caselaw interpreting RCW 84.08.130(2) – “intervening change in value”, “effect up to the end of the assessment cycle” and/or “during that time”.

The legislative background of RCW 84.08.0130(2) is Senate Bill 6223 and three laws, 82.03.130, 82.03.190 and 84.08.130.¹⁶ Pat highlighted expeditious because substantial burdens are placed on appellants to meet deadlines or lose their rights. Timeliness is a constant benchmark in the law to justice. It is reasonable to interpret 84.08.130(2) as such a

¹⁶ Attached Senate Bill 6223 relating to 84.08.130

benchmark for the agency. An order issued in 2017 for a 2013 assessment should be made to consider the intervening changes in values. It is the same logic as considering changing laws in making legal decisions spanning years and changing damage awards based on changed financial conditions spanning years. This is especially relevant where the span of years is due to the inaction of the agency.

The issue of time is relevant in use of intervening (between) versus intra as a prefix (within) to identify the changes in value. Intervening changes in value are about 2013-to-2017. Intra-vening is about 2013.

ISSUE 5: CONCLUSION: Unreasonable inaction by agencies have consequences. Interpreting 84.08.130(2) as ignoring the importance of time while “intervening” and “during that time” mean time is important is illogical. Pat understands 84.08.130(2) to mean a BTA order that is not expeditious has to address those consequences. In Docket xx-179 the changes of value from 2013 through 2016 are the consequences. This does not mean an order issued for BTA 13-179, the 2013 assessment, cannot be followed by an order for BTA 14-179, BTA 15-179 and BTA 16-179.

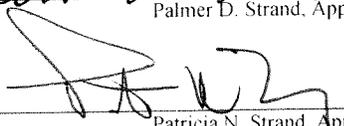
CONCLUSION

Case 172014383 is about the failure of duty by the BTA and the Assessor to Pat. Both Agencies damaged Pat for over a decade. There is

nothing preventing both Agencies continuing to damage Pat and all other taxpayers in Spokane County. The BTA Initial Decision in Docket 13-179 is amazing. It states there is something seriously wrong with the Assessor and the agencies reviewing the Assessor.

RESPECTFULLY SUBMITTED this 26th of June 2018


Palmer D. Strand, Appellant


Patricia N. Strand, Appellant

CERTIFICATE OF SERVICE

I certify that on June 26, 2018, I served a true and correct copy of
Appellant's Reply Brief to:

Attorney General of Washington
Attn: Matthew Kernutt
PO Box 40100
Olympia, WA 98504-0100

BY: U. S. Mail
BY: mattk1@atg.wa.gov

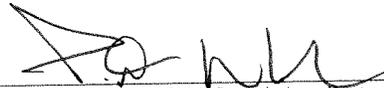
Spokane County and
Spokane County Assessor
Prosecutor Arkills
Civil Division of the Prosecutor's Office
1115 W. Broadway Avenue
Spokane, WA 99260-0010

BY: Hand Delivery
BY: rarkills@spokanecounty.org

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

BY: Hand Delivery

DATED this 26th of June 2018



Patricia N. Strand, Appellant

CERTIFICATION OF ENROLLMENT

SENATE BILL 6223

Chapter 54, Laws of 1998

55th Legislature
1998 Regular Session

BOARD OF TAX APPEALS--FILINGS, NOTICE

EFFECTIVE DATE: 6/11/98

Passed by the Senate February 12, 1998

YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 3, 1998

YEAS 98 NAYS 0

CLYDE BALLARD

Speaker of the
House of Representatives

Approved March 18, 1998

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6223** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

March 18, 1998 - 6:16 p.m.

Secretary of State
State of Washington

SENATE BILL 6223

Passed Legislature - 1998 Regular Session

State of Washington

55th Legislature

1998 Regular Session

By Senators McCaslin, Winsley, West, Haugen and Sellar; by request of Board of Tax Appeals

Read first time 01/14/98. Referred to Committee on Government Operations.

1 AN ACT Relating to filing with the state tax board; and amending
2 RCW 82.03.130, 82.03.190, and 84.08.130. ←

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 82.03.130 and 1994 c 123 s 3 are each amended to read
5 as follows:

6 (1) The board shall have jurisdiction to decide the following types
7 of appeals:

8 ~~((1))~~ (a) Appeals taken pursuant to RCW 82.03.190.

9 ~~((2))~~ (b) Appeals from a county board of equalization pursuant to
10 RCW 84.08.130.

11 ~~((3))~~ (c) Appeals by an assessor or landowner from an order of
12 the director of revenue made pursuant to RCW 84.08.010 and 84.08.060,
13 if filed with the board of tax appeals within thirty days after the
14 mailing of the order, the right to such an appeal being hereby
15 established.

16 ~~((4))~~ (d) Appeals by an assessor or owner of an intercounty
17 public utility or private car company from determinations by the
18 director of revenue of equalized assessed valuation of property and the
19 apportionment thereof to a county made pursuant to chapter 84.12 and

1 84.16 RCW, if filed with the board of tax appeals within thirty days
2 after mailing of the determination, the right to such appeal being
3 hereby established.

4 ~~((+5+))~~ (e) Appeals by an assessor, landowner, or owner of an
5 intercounty public utility or private car company from a determination
6 of any county indicated ratio for such county compiled by the
7 department of revenue pursuant to RCW 84.48.075: PROVIDED, That

8 ~~((+a+))~~ (i) Said appeal be filed after review of the ratio under
9 RCW 84.48.075(3) and not later than fifteen days after the mailing of
10 the certification; and

11 ~~((+b+))~~ (ii) The hearing before the board shall be expeditiously
12 held in accordance with rules prescribed by the board and shall take
13 precedence over all matters of the same character.

14 ~~((+6+))~~ (f) Appeals from the decisions of sale price of second
15 class shorelands on navigable lakes by the department of natural
16 resources pursuant to RCW 79.94.210.

17 ~~((+7+))~~ (g) Appeals from urban redevelopment property tax
18 apportionment district proposals established by governmental ordinances
19 pursuant to RCW 39.88.060.

20 ~~((+8+))~~ (h) Appeals from interest rates as determined by the
21 department of revenue for use in valuing farmland under current use
22 assessment pursuant to RCW 84.34.065.

23 ~~((+9+))~~ (i) Appeals from revisions to stumpage value tables used to
24 determine value by the department of revenue pursuant to RCW 84.33.091.

25 ~~((+10+))~~ (j) Appeals from denial of tax exemption application by
26 the department of revenue pursuant to RCW 84.36.850.

27 ~~((+11+))~~ (k) Appeals pursuant to RCW 84.40.038(3).

28 (2) Except as otherwise specifically provided by law hereafter, the
29 provisions of RCW 1.12.070 shall apply to all notices of appeal filed
30 with the board of tax appeals.

31 **Sec. 2.** RCW 82.03.190 and 1989 c 378 s 5 are each amended to read
32 as follows:

33 Any person having received notice of a denial of a petition or a
34 notice of determination made under RCW 82.32.160, 82.32.170, 82.34.110,
35 or 82.49.060 may appeal ~~((,))~~ by filing in accordance with RCW 1.12.070
36 a notice of appeal with the board of tax appeals within thirty days
37 after the mailing of the notice of such denial or determination ~~((, to~~
38 ~~the board of tax appeals))~~. In the notice of appeal the taxpayer shall

1 set forth the amount of the tax which the taxpayer contends should be
2 reduced or refunded and the reasons for such reduction or refund, in
3 accordance with rules of practice and procedure prescribed by the
4 board. (~~A copy of the notice of appeal shall be provided to the~~
5 ~~department within the time specified in the rules of practice and~~
6 ~~procedure prescribed by the board.~~) However, if the notice of appeal
7 relates to an application made to the department under chapter 82.34
8 RCW, the taxpayer shall set forth the amount to which the taxpayer
9 claims the credit or exemption should apply, and the grounds for such
10 contention, in accordance with rules of practice and procedure
11 prescribed by the board. The board shall transmit a copy of the notice
12 of appeal to the department and all other named parties within thirty
13 days of its receipt by the board. If the taxpayer intends that the
14 hearing before the board be held pursuant to the administrative
15 procedure act (chapter 34.05 RCW), the notice of appeal shall also so
16 state. In the event that the notice of appeal does not so state, the
17 department may, within thirty days from the date of its receipt of the
18 notice of appeal, file with the board notice of its intention that the
19 hearing be held pursuant to the administrative procedure act.

20 **Sec. 3.** RCW 84.08.130 and 1994 c 301 s 18 are each amended to read
21 as follows:

22 (1) Any taxpayer or taxing unit feeling aggrieved by the action of
23 any county board of equalization may appeal to the board of tax appeals
24 by filing with the board of tax appeals in accordance with RCW 1.12.070
25 a notice of appeal within thirty days after the mailing of the decision
26 of such board of equalization, which notice shall specify the actions
27 complained of; and in like manner any county assessor may appeal to the
28 board of tax appeals from any action of any county board of
29 equalization. There shall be no fee charged for the filing of an
30 appeal. (~~The petitioner shall serve a copy of the notice of appeal on~~
31 ~~all named parties within the same thirty-day time period.~~) The board
32 shall transmit a copy of the notice of appeal to all named parties
33 within thirty days of its receipt by the board. Appeals which are not
34 filed (~~and served~~) as provided in this section shall be dismissed.
35 The board of tax appeals shall require the board appealed from to file
36 a true and correct copy of its decision in such action and all evidence
37 taken in connection therewith, and may receive further evidence, and
38 shall make such order as in its judgment is just and proper. (~~An~~

1 ~~appeal of an action by a county board of equalization shall be deemed~~
2 ~~to have been filed and served within the thirty-day period if it is~~
3 ~~postmarked on or before the thirtieth day after the mailing of the~~
4 ~~decision of the board of equalization.))~~

5 (2) The board of tax appeals may enter an order, pursuant to
6 subsection (1) of this section, that has effect up to the end of the
7 assessment cycle used by the assessor, if there has been no intervening
8 change in the value during that time.

Passed the Senate February 12, 1998.

Passed the House March 3, 1998.

Approved by the Governor March 18, 1998.

Filed in Office of Secretary of State March 18, 1998.