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COURT OF APPEALS OF
THE STATE OF WASHINGTON,
DIVISION 3

PALMER D. STRAND and
PATRICIA N. STRAND

Appellants,

vs.

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

Respondents.

BRIEF OF RESPONDENTS SPOKANE COUNTY AND
SPOKANE COUNTY ASSESSOR

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I. INTRODUCTION

The Spokane County Assessor (“County”) is charged by statute with the duty to determine the assessed values of tax parcels located in Spokane County assessing ad valorem property taxes on those parcels.

The Appellants, Palmer D. Strand and Patricia N. Strand (“Strands”) appealed the 2013 assessed value of their residential property to the Washington State Board of Tax Appeals (“BTA”) under BTA Docket No. 13-179.

On January 22, 2016, the BTA conducted an administrative hearing on the Strand appeal before a BTA tax referee. The Strands and representatives of the County presented documentary evidence, testimony, and argument at the hearing.

On April 18, 2017, the Strands commenced this action in Spokane County Superior pursuant to RCW 34.05.570(4)(b) alleging that the BTA had failed to render a decision in Docket No. 13-179 within 90 days of the close of the January 22, 2016 administrative hearing as required by RCW 34.05.461(8).

Also alleging failures of duty by the County in the assessment of their property between 2008 and 2017, the Strands asked that the assessed values for those years be re-determined by the court.

However, the Strands had already fully and unsuccessfully appealed the 2008, 2009 and 2010 assessed values to the Spokane County Board of Equalization (“BOE”), the BTA, and the Spokane Superior Court as provided by law. The Strands raised the same failures of duty alleged in this case against the BTA and the County. Final judgments were reached on all appeals. Re-litigation of the 2008, 2009, 2010 assessed values in this action is, therefore, barred by res judicata.

The Strands also failed to appeal their assessed values for 2011, 2012, and 2014 to the BOE, the BTA, and Superior Court. They appealed their 2015 assessed value to the BOE, and then to the BTA, where a hearing is pending. They appealed their 2016 assessed value to the BOE, but did not appeal to the BTA. Because the Strands failed to exhaust their administrative remedies they may not litigate their 2011, 2012, 2014, 2015, and 2016 assessed values in this action.

Following the commencement of this action, a BTA tax referee issued an Initial Decision on the Strands’ 2013 assessment in Docket No. 13-179. The Washington Administrative Code provides for a taxpayer to seek review of an Initial Decision by the full three-member BTA panel within 20 days of the decision. Neither the Strands or the County sought such review; and, the Initial Decision became the BTA’s Final Decision for the 2013 assessment. Neither the Strands or the County appealed the

decision to superior court as authorized by RCW 34.05.542. This failure rendered the BTA decision final, and not subject to further review.

Additionally, even if the Strands were not barred by res judicata and failure to exhaust administrative remedies, the trial court lacked authority to re-determine the 2008 through 2017 assessed values of the Strand property.

Finally, the Strands erroneously claim that the BTA had a duty to determine the 2008 through 2017 assessed values in BTA Docket No. 13-179. However, the BTA was only authorized by statute to decide the 2013 assessed value.

For all these reasons, the trial court entered an Order and Final Judgment denying the Strands' requested relief. This decision should be affirmed.

II. RESPONSE TO AMENDED ASSIGNMENT OF ERROR AND ISSUES PERTAINING TO AMENDED ASSIGNMENT OF ERROR

A. Response to Amended Assignment of Error.

The trial court did not err by entering the September 18, 2017 Order and Final Judgment which denied the Strands' Petition for Judicial Review to review the 2008 through 2017 assessed values of the Strand's property

based upon purported failures of duty by the Washington State Board of Tax Appeals and the Spokane County Assessor.

B. Issues Pertaining to Assignment of Error.

1. Did the BTA satisfy its duty to render a decision in BTA Docket No. 13-179 by issuing an Initial Decision after the commencement of this action?
2. Did the Decision in BTA Docket No. 13-179 become final when the Strands and the County failed to challenge the BTA's initial decision?
3. Did the BTA have the duty to address any assessment years other than the 2013 assessment year in BTA Docket No. 13-179?
4. Did the trial court have authority under RCW 34.05.570(4)(b) to re-determine the 2008 through 2017 assessed values of the Strand Property?
5. Did the Strands have failed to exhaust their remedies for the 2011, 2012, 2014, 2015, and 2016 assessment years; and, are they barred from having the court decide those years in this action?

6. Does res judicata bar the re-litigation of the 2008, 2009 and 2010 assessment year appeals where those assessment years have been fully litigated on the merits and involved issues raised in the present action?

III. STATEMENT OF THE CASE

The Strands appealed the 2013 assessed value of their residence located at 13206 W. Charles Road, in Nine Mile Falls, Washington in Spokane County (“Strand Property”) to the BTA under Docket No. 13-179.

A hearing was conducted telephonically on January 22, 2016 before a BTA tax referee. CP 3, 35-73.

On April 18, 2017, the Strands filed this action pursuant to RCW 34.05.570(4)(b) against the BTA and the County. CP 1-82, 86, 644, 645, They alleged that the BTA failed in its duty under RCW 34.05.461(8)(a) to issue an initial or final decision within 90 days after the conclusion of the January 22, 2017 hearing in Docket No. 13-179. CP 645.

The Strands submitted a transcript of the January 22, 2017 hearing without other documents¹ included in the BTA record in Docket No. 13-

¹ Most notably, none of the documents submitted by the County in BTA Docket No. 13-179 were included. The administrative record of the Spokane County Board of Equalization was also missing.

179, but, including numerous other self-serving documents in support of their case. CP 1-82.

Based on those documents, they claimed that due to alleged numerous failures of duty by the BTA and Spokane County Assessor(County) in the assessment of the Strand Property between 2008 and 2017, the court should re-determine the property's assessed value for those years. CP 3-5.

Additionally, they claimed to be entitled to a favorable decision in the Docket No. 13-179; and, that the decision in Docket No. 13-179 should encompass the 2008 through the 2017 property tax assessments. CP 7.

Previously, the Strands unsuccessfully appealed the 2008 through 2010 assessed values of their residence by appealing to the Spokane County Board of Equalization (BOE), the BTA and the Spokane County Superior Court. CP 704-788.

Additionally, the 2009 appeal was subsequently appealed to the Washington Supreme Court, which moved the case to Washington Court of Appeals. The Court of Appeals in an unpublished decision affirmed the 2009 assessed value for the Strands' property. *Strand v. Spokane County Assessor*, 178 Wn.App. 1007, 2013 WL 6200166(2013). CP 646.

The same claimed failures of duty by the County and the BTA that the Strands raised in this action were fully heard on the merits and finally

decided after the Strands completely exhausted their appeal rights. Final decisions were issued in all these appeals. *Compare, CP 704-788 with CP 1-7*

The Strands readily concede that fact. RP 7-14. *Appellant's Brief*, at 10-38; RP 7-14.

Additionally, the Strands did not appeal their 2011, 2012, and 2014 assessed values to the BOE or the BTA. CP 646, 687-688. They did not appeal the 2016 assessed value to the BTA. CP 646, 687-688.

Nevertheless, they argue that because the issues had been improperly determined in the previous administrative proceedings that the trial court should re-determine the 2008 through 2017 assessed values of their property. *Appellant's Brief*, at 10-37.

After the Superior Court action was filed, on May 9, 2018, the BTA issued an Initial Decision in Docket No. 13-179, which lowered the 2013 assessed value of the Strand property from \$383,000 to \$325,000. CP 668-679.

The BTA claimed that the issuance of this decision satisfied its statutory duties under RCW 84.08.130 to issue a decision. CP 664-679; and, that the Strands had not yet exhausted their administrative remedies as to that decision. *Id.*

The Strands replied that BTA had not satisfied its duty to render a decision under RCW 84.08.130. CP 85-94.

The Strands noted that between the filing of BTA Docket No. 13-179 and May 9, 2017 BTA decision, the assessed values of the Strand Property had also been determined for 2014, 2015, 2016 and 2017. CP 85-94. On this basis, the Strands claimed BTA had a duty under RCW 84.08.130 in Docket No. 13-179, not only to determine the 2013 assessed value of their property, but also the 2014-2017 assessed values as well. CP 85-94.

The Strands did not follow existing administrative procedures to challenge the initial decision in Docket No. 13-179, and, as a result, that decision became final. CP 645-646.

Based on the lowering of the 2013 assessed value of the Strand Property, the Strands received a tax refund from the County of \$842.43. RP 48; *Appellant's Brief*, at 48. There is no evidence in the record that they returned that refund.²

Following briefing by the parties, oral argument was conducted on June 30, 2017. RP 1-54.

² There is a property tax appeal pending before the BTA under Docket No. 16-070 for the 2015 assessment year. CP 6. As of September 18, 2017, a hearing date had not been set. CP 646.

On September 18, 2017, Judge Linda Tompkins issued an Order and Final Judgment which remanded to the Washington State Board of Tax Appeals with the direction that the BTA consider its decision in Docket No. 13-179, and its contents, as relevant evidence in any pending appeal before the BTA involving the Strands' property; and, denied all of the Strands' other claims for relief. CP 643-651. Judge Tompkins found:

1. Because the Strands had already fully litigated the 2008, 2009 and 2010 assessed values on the merits, Judge Tompkins found the Strands were barred by res judicata from relitigating property value for those years. CP 648.
2. Because the Strands failed to exhaust their administrative remedies for the 2011, 2012, 2014, and 2016 assessment years; and, they were also barred from having the court decide those years in this action. CP 648.
3. The BTA decision in Docket No. 13-179 had substantially satisfied the BTA's duty under RCW 84.08.130 by determining only the 2013 and value of the Strand Property. CP 648-649.
4. The decision in BTA Docket No. 13-179 for the 2013 assessment year was factually relevant evidence in any property tax appeal still pending before the BTA; accordingly, she remanded to the BTA with the direction that the BTA consider

that decision in any pending appeal concerning the Strands' property. CP 649-650

The Strands appeal from that decision.

IV. ARGUMENT

A. Standard of Review.

Pursuant to RCW 34.05.570(4)(b), the Strands brought this action claiming that the BTA and the County have failed to perform statutorily mandated duties.

Appeals of actions commenced under RCW 34.05.570(4)(b) are governed by the Administrative Procedure Act (APA) under the standards found in RCW 34.05.570. *Seattle Building & Construction Trades Council v. Apprenticeship & Training Council*, 129 Wn.2d 787, 798, 920 P.2d 581(1996).

Under RCW 34.05.570(4)(b): "A person whose rights are violated by an agency's failure to perform a duty that is required by law to be performed may file a petition for review pursuant to RCW 34.05.514, seeking an order pursuant to this subsection requiring performance."

In order to prevail on a claim under RCW 34.05.570(4), a petitioner is entitled to relief only if it is demonstrated that the agency's omission of a mandatory requirement violated the agency's statutory duty or was

otherwise arbitrary or capricious. *Rios v. Dep't. of Labor & Industries*, 145 Wn.2d 483, 493, 39 P.3d 961(2002).

In actions under RCW 34.05.570(4)(b), the appellate court will look to the superior court record and the findings of fact and conclusions of law entered by the trial court. *Trades Council*, 129 Wn.2d 799. Unchallenged findings of fact are verities on appeal. *City of Spokane v. Dep't of Revenue*, 145 Wn.2d 445, 451, 38 P.3d 1010 (2002).

B. The BTA has satisfied its duty to render a decision in Docket No. 13-179.

1. The BTA decision in Docket No. 13-179 is final and not subject to further review.

BTA Docket No. 13-179 was heard by a single BTA tax referee who issued a May 9, 2017 Initial Decision. CP 668.

The Washington Administrative Code provides a procedure for consideration of the tax appeal by fewer than all three board members. WAC 456-09-925.

The initial decision contains findings of fact and conclusions of law, and otherwise meets the requirements of WAC 456-09-920. CP 668-679.

The Strands and the County each had the right to file a petition for review of the initial decision by the entire three member BTA panel within

20 days of the mailing of the initial decision. WAC 456-09-930; WAC 456-09-925(2).

Neither the Strands or the County availed themselves of that right. CP 649. Therefore, this initial decision constitutes the BTA's final decision.

Id.

The Strands did not subsequently appeal that decision pursuant to RCW 34.05.542. CP 646, 649. Therefore, any further review of that decision is barred. *Sprint Spectrum, LC v. Dept. of Revenue*, 156 Wn.App. 949,953, 235 P.3d 849(2010), *review denied*, 170 Wn.2d 1023(2011).

2. The BTA was only required to address the 2013 assessed value of the Strand Property in BTA Docket No. 13-179; and, was not required to address the 2008 through 2017 assessed values of the Strand Property.

The Strands incorrectly assert that the BTA has a duty to address assessment years 2008 through 2017 in BTA Docket No. 13-179. CP 85-87.

They rely upon RCW 84.08.130(2), which defines the scope of the BTA decision:

The Board of Tax Appeals may enter an order, pursuant to subsection (1) that has effect up to the end of the assessment cycle used by the assessor, *if there has been no intervening change of value during that time.*

They incorrectly interpret this provision to mean that the decision must encompass all assessment years between the filing of BTA Docket No. 13-179 in 2013 and the BTA's decision in 2017. CP 85-87.

Applying the plain meaning of the language in RCW 84.08.130(2), the decision in BTA Docket No. 13-179 is applicable up to the end of the assessment cycle in effect in 2013 that is used by the Spokane County Assessor, unless there is an intervening change of value *during* that assessment cycle.

The phrase "assessment cycle" in RCW 84.08.130(2) refers to the frequency with which a county revalues property for purposes of ad valorem taxation. *Belas v. Kiga*, 135 Wn.2d 913, 918, 959 P.2d 1037 (1998).

At the time BTA Docket No. 13-179 was filed, some counties reappraised property every year, and other counties revalued property on a two, three, or four-year cycle.³ For counties that use a multi-year cycle, the appraised values remain constant in the interim years when a property is outside the valuation area. *Belas*, 135 Wn.2d 918, n. 1

³ Until January 1, 2014, county assessors could revalue property at least once every four years. *See*, 2009 Laws, Chapter 308, section 1 and 2015 Laws, Chapter 209, section 102. After that date, all counties are required to value property annually. RCW 84.41.030.

For example, for a property on a two-year assessment cycle, RCW 84.08.130(2) dictates that the BTA decision has effect for both years of the assessment cycle—unless there is an intervening change in value during that two-year assessment cycle. *Shy v. Dept. of Revenue*, 1995 WL 379102 (Wash. Bd. of Tax Appeals Docket No. 46557) *See also, Allingham v. Hand*, 1998 WL 1166864 (Wash. Bd. of Tax Appeals Docket No. 51964) ("In accordance with RCW 84.08.130(2), this order has effect up to the end of the assessment cycle; provided that the Okanogan County assessor may revalue the subject properties under the provisions of RCW 36.21.080.").

As the administrative agency charged with applying RCW 84.08.130(2), substantial weight should be given to the BTA's interpretation of RCW 84.08.130(2). *Ames v. Medical Quality Assurance Commission*, 166 Wn.2d 255, 261, 208 P.3d 549(2009).

For the 2013 assessment year decided in BTA Docket No. 13-179, Spokane County was on an annual revaluation cycle. CP 788-789. This means the property is revalued every year.

Therefore, under RCW 84.08.130(2), the decision in BTA Docket No. 13-179 only has effect as to the 2013 assessment year as there were no intervening value changes to the Strand property during 2013.

The phrase “during that time” in RCW 84.08.130(2) refers to the phrase “assessment cycle used by the assessor.” Therefore, the clause “if there has been no intervening change of value *during that time*” references any changes in value during the one-year 2013 assessment cycle in Spokane County.

The revaluations for the 2008 through 2012 and 2014 through assessment years relied upon by the Strands are outside the 2013 assessment cycle used by Spokane County; and, such revaluations--done during *separate* assessment cycles--fall outside the scope of the BTA’s decision-making authority in Docket No. 13-179.

Put another way, there was no statutory “duty” under RCW 34.05.570(4)(b) for the BTA to decide the 2008-2012, and 2014 through 2017 assessed values in BTA Docket No. 13-179.

C. The trial court lacked authority under RCW 34.05.570(4)(b) to re-determine the 2008 through 2017 assessed values of the Strand Property.

The remedy in an action brought under RCW 34.05.570(4)(b) is as follows:

"In a review under RCW 34.05.570, the court may... (b) order an agency to take action required by law, order an agency to exercise discretion required by law, set aside agency action, enjoin or stay the agency action, remand the matter for further proceedings, or enter a declaratory

judgment order.... *In reviewing matters within agency discretion, the court shall limit its function to assuring that the agency has exercised its discretion in accordance with law, and shall not itself undertake to exercise the discretion that the legislature has placed in the agency....*" (Emphasis supplied.)

RCW 34.05.574(1).

The court may order a remedy that requires the agency to comply with the law; and, require the agency to act where it is failed to act. But it may not exercise the agency's discretion, which has been vested by the legislature. *Boeing Company v. Gelman*, 102 Wn.App. 862, 871-72, 10 P.3d 475(2000); RCW 34.05.574(1).

The legislature granted the BTA the authority to review the assessed values of real property for tax purposes. RCW 84.08.130. The court cannot undertake the BTA's discretion to independently determine the value of the Strand property.

Likewise, under RCW 34.05.570(4)(b) and RCW 34.05.574(1), the court may not issue an advisory opinion to forestall future errors by the BTA. *Boeing*, 102 Wn.App.at 871. For this reason also, the trial could not address the 2014 through 2017 assessment years.

D. The Strands have failed to exhaust their remedies for the 2011, 2012, 2014, 2015, and 2016 assessment years; and, are barred from having the court decide those years in this action.

A person may file a petition for judicial review under Chapter 34.05 RCW 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. RCW 34.05.534.

An individual must exhaust his/her administrative remedies before seeking relief under RCW 34.05.570(4)(b). *N.W. Ecosystem Alliance v. Forest Practice Bd.*, 149 Wn.2d 67, 75, 66 P.3d 614(2003).

Exhaustion of remedies is required when: (1) a claim is cognizable in the first instance by an agency alone; (2) the agency has clearly established mechanisms for the resolution of complaints by aggrieved parties; and (3) the administrative remedies can provide the relief sought. *Buechler v. Wenatchee Valley College*, 174 Wn.App. 141, 153, 298 P.3d 110, *review denied*, 178 Wn.2d 1005 (2013).

The exhaustion doctrine advances a number of sound policies; among others, it avoids premature interruption of the administrative process, provides for full development of the facts, and gives an agency the opportunity to correct its own errors. *Buechler*, 174 Wn.App. at 153.

Where the record fails to show that an aggrieved party has attempted to use the administrative appeals process, the court will

conclude that no appeal was made. *CLEAN v. City of Spokane*, 133 Wn.2d 455, 465, 947 P.2d 1169(1997).

There is an administrative process to appeal the assessed valuation of real property for tax purposes. The issues now before the court could have raised through this process prior to judicial review. This procedure is capable of providing the relief sought by the Strands in this action.

A taxpayer may challenge the annual assessed valuation of his or her property by appealing initially to the county board of equalization (BOE). Chapter 84.48 RCW; WAC 458-14-056.

The BOE decision may be appealed within 30 days to the BTA. RCW 84.08.130.

Failure to timely appeal a BOE decision renders the BOE's determination final. RCW 84.08.130; WAC 456-09-315(1)(b).

A final decision in a formal appeal before the BTA may be appealed to superior court under chapter 34.05 RCW within 30 days of the BTA decision. RCW 34.05.542 and RCW 34.05.510 to 34.05.598. Failure to appeal within that time renders the BTA decision final. *Sprint Spectrum, LC v. Dept. of Revenue, supra*, 156 Wn.App. at 953.

A superior court decision in an APA appeal may be appealed to the Washington Court of Appeals. RCW 34.05.526.

The exhaustion of administrative remedies requirement applies to property tax appeals. *Wright v. Woodward*, 83 Wn.2d 378, 382, 518 P.2d 718(1974):

[W]here a property owner complains of an overassessment of land and seeks to have it reduced, the board of equalization alone has the power to afford a remedy and is the proper body before which to make a complaint...

Thus, it is apparent that each of the respondents has an administrative remedy, and it is not denied that no attempt has been made to pursue that remedy...

Inasmuch as there is an adequate remedy through administrative channels, provided by statute, the court erred in entertaining this action. (Citations omitted.)

The Strands did not appeal their 2011, 2012, and 2014 assessments to the BOE or BTA. CP 687-688. They did appeal their 2016 assessed value to the BOE, but did not appeal the BOE decision to the BTA. *Id.*

The Strands appealed their 2015 assessed value to BOE, and filed an appeal to the BTA which is currently pending under BTA Docket No. 16-070. CP 688. The administrative procedure is not yet complete because no final decision has been issued in this case.

Because the Strands have not exhausted their administrative remedies regarding the 2011, 2012, 2014, 2015 and 2016 assessments, this court lacks jurisdiction over the Strands' current claims for those

years under RCW 34.05.570(4)(b). *Evergreen Wash. Healthcare v. Dept. of Social & Health Services*, 171 Wn.App. 431, 453, 287 P.3d 40(2012), *review denied*, 176 Wn.2d 1028(2013); *Klineberger v. King County*, 189 Wn.App. 153, 170, 356 P.3d 223(2015).

E. The 2008, 2009 and 2010 assessed values have been fully litigated on the merits and the Strands are barred by res judicata from re-litigating those values.

Res judicata prohibits the court from deciding claims and issues that were litigated--or could have been litigated--in a prior action. *Loveridge v. Fred Meyer, Inc.*, 125 Wn.2d 759, 763, 887 P.2d 898 (1995); *Pederson v. Potter*, 103 Wn.App. 62, 67, 11 P.3d 833 (2000). The doctrine prevents multiple lawsuits and harassment in the courts. *Bordeaux v. Ingersoll Rand Co.*, 71 Wn.2d 392, 395, 429 P.2d 207 (1967).

In order for res judicata to apply, a prior judgment must have a concurrence of identity with a subsequent action in: (1) subject matter, (2) cause of action, (3) persons and parties, and (4) the quality of the persons for or against whom the claim is made. *Rains v. State*, 100 Wn.2d 660, 663, 674 P.2d 165 (1983); *Berschauer Phillips Construction Co. v. Mutual of Enumclaw Insurance Co.*, 175 Wn.App. 222, 227-28, 308 P.3d 681 (2013). *Williams v. Leone Keeble, Inc.*, 171 Wn.2d 726, 730-31, 254 P.3d 818(2011).

Res judicata also requires that the prior judgment be final. *Leija v. Materne Brothers, Inc.*, 34 Wn.App. 825, 827, 664 P.2d 527 (1983).

There are final judgments on the merits in the 2008, 2009 and 2010 tax appeals (“tax appeals”). CP 704-788.

As noted above, the Strands have already unsuccessfully appealed the 2008 through 2010 assessed values by appealing to the Spokane County Board of Equalization (BOE), the BTA and the Spokane County Superior Court. CP 704-788. They were afforded full evidentiary hearings before the BOE and the BTA, and appeals to Superior Court as provided by statute.⁴

Additionally, with their appeal of the 2009 assessed value, the Strands' appealed the Superior Court decision to the Washington Supreme Court, which transferred the case to Division III of the Washington Court of Appeals. On November 26, 2013, the Court of Appeals by unpublished opinion affirmed the Superior Court decision. *Strand v. Spokane County Assessor*, 178 Wn.App. 1007, 2013 WL 6200166(2013).⁵ CP 758-769.⁶

⁴ The property tax appeal process is discussed ante at 18-19.

⁵ Unpublished decisions of the Court of Appeals issued after March 1, 2013, may be cited as non-binding authorities, if identified as such by the citing party, and may be accorded such persuasive value as the court deems appropriate. GR 14.1.

⁶ The Strands argue extensively that the County conducted an unlawful search of their property. *Appellant's Brief*, at 22-25, 33-35, and 40-42. However, in *Strand v. Spokane County Assessor*, *supra*, this Court unanimously found no unconstitutional search occurred because the County employees were lawfully on the Strand property pursuant to RCW

Identity of subject matter exists between the 2008, 2009, and 2010 tax appeals (“tax appeals”). Based on purported failures of duty by the BTA and the County, the Strands in the present action seek to relitigate the assessed values decided in the prior tax appeals.

There is also identity of cause of action.

Washington courts use a four-factor test for determining whether there is an identity of cause of action:

- (1) Whether rights or interests established in the prior judgment would be destroyed or impaired by prosecution of second action;
- (2) whether substantially the same evidence is presented in the two actions;
- (3) whether the two suits involve infringement of the same right; and
- (4) whether the two suits arise out of the same transactional nucleus of facts.

Emeson v. Department of Corrections, 194 Wn.App. 617, 628, 376 P.3d 430(2016).

The rights established in the prior tax appeals would be impaired by this action. A re-litigation of the assessed values of the Strand Property previously established would change the Strands’ tax liability.⁷

84.40.025 and did not enter the Strands’ residence after being denied entry, relying upon *State v. Vonhoff*, 51 Wn.App. 33, 751 P.2d 1221(1988). *Atkinson v. Gurich*, 2011 OK 12, 248 P.3d 356(2011), cited by the Strands, is an Oklahoma decision involving an interior inspection of a residence; and, is distinguishable from *Vonhoff* and *Strand v. Spokane County Assessor. Atkinson*, fn. 13. *Seymore v. Department of Health*, 152 Wn.App. 156, 216 P.3d 1039(2009) is also distinguishable because it involved an interior inspection of a commercial building.

⁷ Washington appellate courts have announced a strong public policy in favor of values for property tax becoming final and certain and for the valuation process to come to an end. *Wood Lumber Co. v. Whatcom County*, 5 Wn.2d 63, 104 P.2d 912(1940); *Tacoma*

Substantially, the same evidence was presented in the prior tax appeals as is presented in the current action. The Strands attempt to boot strap the prior appeals to the BTA into this action because they involve facts common to those decided in BTA Docket No. 13-179. *Appellant's Brief*, at 10-38.

Both the prior tax appeals and the current action allege infringement of the same rights. As the Strands readily acknowledge, the issues raised in the current action are those previously raised in the 2008 through 2010 tax appeals. *Appellant's Brief*, at 10-38.

Both actions arise out of the same transactional nucleus of facts. Both the prior tax appeals and the present action are predicated on the Strands' allegation of the BTA's and County's purported failures of duty.

There is identity of parties. Both the Strands, the BTA and the County are parties to both the prior tax appeals and the current action.

Finally, the quality of the parties is the same.

Therefore, the Strands are barred by res judicata from re-litigating in this action the issues decided--as well as any issues that could have been decided--in these prior appeals. *See, i.e., Martin v. Baker*, 2007 WL 4379389 (Wash. Bd. of Tax Appeals Docket No. 66040).

Goodwill Industries v. Pierce County, 10 Wn.App. 197, 199, 518 P.2d 196(1973). Application of res judicata promotes that policy.

F. This Court cannot consider the Strands' claims of statutory violations, which are not supported by legal analysis.

The Strands allege violations of numerous statutes and claims serious misconduct by the BTA and the Assessor without presenting supporting legal argument or analysis to back up her conclusions. *Brief of Appellant*, at 10-37. This court is asked simply to accept the Strands legal conclusions as true.

This court will not consider such bald legal conclusions without supporting legal analysis and argument. *Graves v. Employment Security Department*, 144 Wn.App. 302, 311-312, 182 P.3d 1004(2008). If a party raises an issue but fails to provide argument relating to the issue in his or her brief, the party waives any challenge. *Yakima County v. Growth Management Hearings Bd.*, 146 Wn.App. 679, 698, 192 P.3d 12(2008), citing *Fosbre v. State*, 70 Wn.2d 578, 583, 424 P.2d 901(1967).

V. CONCLUSION

Based on the foregoing, the Respondents Spokane County and Spokane County Assessor respectfully request that the September 18, 2017 Order and Final Judgment be affirmed.

RESPECTFULLY SUBMITTED this 30th day of March,
2018.

LAWRENCE H. HASKELL

Prosecuting Attorney

A handwritten signature in cursive script, appearing to read "Ronald P. Arkills", written in black ink over the typed name.

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DECLARATION OF SERVICE

I declare, under penalty of perjury, that March 29, 2018, I sent via electronic mail and U.S. mail, with the postage prepaid, true and correct copies of the foregoing Brief of Respondents Spokane County and Spokane County Assessor:

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