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III. INTRODUCTION

Appellants, Mr. Crawford and Ms. Miles (the “co-executors”) appeal from a decision of the Washington Superior Court, Clark County, which upheld a decision of the Washington Board of Tax Appeals denying the benefit of the senior citizen property tax exemption that accrued to an 83 year old woman who undeniably met all of the age, income, residency and ownership requirements of the statute.

The pertinent facts are undisputed. The senior citizen, Mrs. Crawford, filed for and received the benefit of the senior citizen exemption from 1995 or before, through 1999. Because of increased income during a single year, 2000, she was ineligible for the senior citizen exemption for taxes due in 2001. Nevertheless, her 2001 income made her again eligible for the exemption for taxes due in 2002. However, she died on November 22, 2002 without having requested the senior citizen exemption for taxes due that year. As specifically permitted by the refund statute, Wash. Rev. Code (hereinafter “RCW”) 84.69.020, Mr. Crawford informed the Clark County assessor of Mrs. Crawford’s eligibility, and filed for a refund as co-executor, which refund was denied.

The refund statute specifically permits retroactive refunds of senior citizen exemption amounts, and permits executors to receive such refunds.

The assessor admits that had Mrs. Crawford herself filed for a refund that it most likely would have been granted.

The Superior Court's basis for the denial revolves around the construction of the phrase "the time of filing" in RCW 84.36.381. Appellants argue that the statutes, legislative history, regulations, and procedures adopted by the Washington Department of Revenue require only a single filing, which occurred in 1995 or before, and that the exemption continues thereafter in the absence of the assessor being informed of change in status, a distinctly separate procedure described in the statutes and regulations. Thus, the "time of filing" requirement in the statute has no applicability to the undisputed facts of this case.

Nevertheless, the Superior Court ruled that appellants' construction of the statute would unreasonably grant a perpetual exemption, ignoring the fact that the statutory and regulatory scheme provides that a change in status may disqualify a person from subsequently receiving the benefit of the exemption. The distinction between an initial claim and a change in status is important, because RCW 84.36.381 requires that the residence be owned and occupied at the "time of filing," of the claim, but nothing in the change in status procedure ties the time that the change in status information is provided to eligibility for the senior citizen exemption or a refund of overpaid amounts.

Furthermore, even if Mr. Crawford's communication with the assessor were deemed to be a claim, the construction of RCW 84.36.381 advanced by defendant Linda Franklin (the "Assessor") and the Superior Court cannot be squared with the refund procedures set forth in RCW 84.69.020 and the applicable regulations and procedures promulgated by the Washington Department of Revenue. These statutes must be taken as a whole, not in isolation. The construction adopted by the Assessor and the Superior Court would permit persons just reaching the age of eligibility for the exemption to receive the exemption for prior years.

A number of the arguments advanced by appellants in the Superior Court remained completely unaddressed by that Court. Specifically, it failed to consider that both the common law and RCW 4.20.046 provide that causes of action, with exceptions not applicable here, survive for the benefit of heirs. Furthermore, the Court failed to consider appellants due process and equal protection arguments, which are repeated herein.

IV. ASSIGNMENTS OF ERROR

1. The Superior Court erred in construing RCW 84.36.381 to require, even though a senior citizen has previously qualified for the senior citizen exemption, that the provision of income information constituted a new "filing" that, in order to be effective, had to occur while the senior citizen owned and occupied the property. Issue presented: Does the "time

of filing” requirement appearing in the text of RCW 84.36.381 apply when the senior citizen has previously qualified for and received the senior citizen tax exemption?

2. In the alternative, even if the provision of change of status income information by Mr. Crawford constituted a “filing” within the meaning of RCW 84.36.381, the Superior Court erred by failing to construe that statute together with the refund provisions of RCW 84.69.020, and by failing to consider applicable regulations and publications of the Washington Department of Revenue that clearly demonstrate that the “time of filing” requirement of RCW 84.36.381 must be construed to refer to the time at which an application should have been filed. Issue presented: Should the “time of filing” clause contained in RCW 84.36.381 be construed to mean the time that an application should have been filed, or the time that it actually was filed?

3. The Superior Court erred by failing to construe RCW 84.36.381 in light of the common law and RCW 4.20.046, both of which clearly provide that causes of action survive for the benefit of heirs. Issue presented: In the absence of any statutory requirement to the contrary, should RCW 84.36.381 be construed to permit heirs of a senior citizen to receive the benefits of a senior citizen exemption that the senior citizen was undeniably entitled to while she was alive and occupied the property?

4. The Superior Court erred by failing to consider or address the due process and equal protection arguments presented by appellants. Issue presented: Would the construction of RCW 84.36.381 to deny appellants the right to a refund of taxes that, but for the timing of the provision of information, would not have been owed, violate the due process and equal protection provisions of the Washington and United States constitutions?

V. STATEMENT OF THE CASE

A. JURISDICTION AND PROCEDURAL HISTORY

The Assessor issued her decision denying the senior citizen exemption on November 21, 2003¹. Exhibit L.² Appeal was taken to the Clark County Board of Equalization on January 14, 2004. Exhibit M. The Board of Equalization denied the exemption, and mailed notice thereof on July 27, 2004. Exhibit N. Appeal to the Washington Board of Tax Appeals was taken; notice of the appeal was received by the Board on August 20, 2004. Exhibit B, fourth page, entitled "Document Index." The Board issued its decision denying the exemption on September 19, 2005. Exhibit A. Action was filed in the Clark County Superior Court on

¹ A copy of this decision was first sent only to the new property owner. A second denial was issued to Mr. Crawford on February 2, 2004.

² Appellants have reproduced in the Appendix hereto Exhibits A-T of Plaintiff Crawford's Affidavit in Support of his Motion for Summary Judgment (docket 11 in Superior Court case) as Exhibits A-T, respectively, of the Appendix. Thus, references to Exhibits A-T herein apply equally to the affidavit or the appendix. Exhibits commencing with "U" in the Appendix are new.

October 17, 2005 pursuant to RCW 82.03.180. Exhibit V, docket entry 2. Venue was proper pursuant to RCW 34.05.514(1) as the Property is in Clark County and plaintiff Miles resides in Clark County. As the proceedings before the Board were formal, review was based upon the agency record pursuant to RCW 82.03.180 and RCW 34.05.558.

On March 12, 2007, the Superior Court issued its decision denying the co-executors' petition. Exhibit U. The decision was docketed on March 13, 2007. Exhibit V, docket entry 20. On March 20, 2007, the co-executors' motion for reconsideration pursuant to CR 59(a) was docketed. Exhibit V, docket entry 21. On June 3, 2008, the motion for reconsideration was denied. Exhibit V, docket entry 26. On June 23, 2008, the Notice of Appeal in the instant case was filed, pursuant to RCW 34.05.526. Exhibit V, docket entry 27.

The facts stated herein are from three sources. First, the parties submitted Stipulated Facts that the Board incorporated into its decision. Exhibit A at 2-3. These are reproduced below. Second, testimony was taken at the hearing before the Board on August 30, 2005. Exhibit T. Selected pages from the transcript of the August 30, 2005 hearing are included in Exhibit T (hereinafter the "Transcript") (Mr. Crawford, Ms. Miles and Ms. Humbert were sworn in at page 11). Third, a number of documents were entered into evidence at the hearing. The exhibits

introduced during the hearing are included as Exhibits G through Q³.

These were accepted by the Board and entered into evidence during the hearing. See Transcript at 14. Additional exhibits numbered A21-1 and R1-1 were entered into evidence later in the hearing. See Exhibits R, S, Transcript at 61, 89-90.

B. STIPULATED FACTS

The stipulated facts are reproduced from the Board of Tax Appeals Decision. Exhibit A at 2-3.

1. The subject property is located at 16213 S.E. 18th Circle, Vancouver, WA (Property).
2. For calendar years 1995-1999, Mrs. Crawford applied for and received the senior citizen exemption for the Property.
3. For the calendar year 2000, Mrs. Crawford had one-time capital gains which caused her income to exceed \$30,000.
4. Mrs. Crawford informed the Clark County Assessor her income exceeded \$30,000, making her ineligible for a senior citizen exemption for taxes due in 2001.
5. Mrs. Crawford paid her 2001 property tax in full.

³ The pages of Exhibits G through Q are marked in the lower right hand corner with the number used during the Board of Tax Appeals hearing. They are in order, but do not correspond one for one. Exhibit B, pages 6 and 7, entitled "Exhibit List," lists the Board of Tax Appeals Exhibits. Exhibits R and S lack numbers marked on them as they were introduced after the hearing had begun.

6. The 2001 property tax was paid in two separate installments: \$666.56 on April 9, 2001, and \$1139.58 on August 26, 2002. The second amount was larger as it was determined Mrs. Crawford did not meet the senior citizen exemption eligibility requirements for 2001 tax year.

Therefore, she was required to submit full payment.

7. For the calendar year 2001, Mrs. Crawford's Combined Disposable Income, did not exceed \$30,000.

8. Mrs. Crawford failed to request the senior citizen exemption for taxes due in 2002.

9. During 2002, Mrs. Crawford failed to pay any taxes on the Property for the 2002 tax year.

10. Mrs. Crawford died on November 22, 2002 at the age of 83.

11. On December 2, 2002, a notice was delivered by mail to the Property, which stated an amount due for taxes in 2002 of \$2367.41 plus \$236.74 in interest and penalties.

12. On December 5, 2002, a payment of \$2604.15 was received by the Clark County Treasurer for taxes due in 2002 on the property.

13. In March, 2003 the Property was sold and property taxes of \$1174.17 were subsequently submitted on March 12, 2003 to the Clark County Treasurer for first half 2003 property taxes.

14. On November 17, 2003, Peter Crawford submitted a Senior Citizen's and Disabled Person's Exemption from Real Property Taxes for the Property, setting forth Mrs. Crawford's 2001 income of \$27,410, and a Petition for Property Tax Refund for taxes due during 2002, setting forth "mistake, inadvertence or lack of knowledge" as a reason for erroneous payment.

15. At the time of the November 17, 2003 exemption application, the property was not Mrs. Crawford's primary residence.

16. Written notice denying the Senior Citizen's and Disabled Person's Exemption from Real Property Taxes was mailed to Peter Crawford on February 2, 2004.

17. Peter Crawford timely appealed the denial to the Clark County Board of Equalization.

18. On July 15, 2004, the Clark County Board of Equalization denied the exemption.

19. Notice of the denial was mailed to Peter Crawford on July 27, 2004.

20. The Washington State Board of Tax Appeals received notice of Peter Crawford's appeal on August 20, 2004.

C. FACTUAL FINDINGS OF THE BOARD OF TAX APPEALS THAT ARE CLEARLY ERRONEOUS AND UNSUPPORTED BY THE EVIDENCE

The Board also made Findings of Fact that it incorporated into its decision. The erroneous findings relate largely to the fact that Mrs. Crawford held the property in trust for herself through an inter vivos trust. At the hearing in the Superior Court on January 4, 2007, the assessor's attorney specifically abandoned its earlier arguments relating to the trust, and admitted that the Board of Tax Appeals erred on that issue. Thus, the Superior Court did not consider this ground. Exhibit U at 3.

In its opinion at 5 (see Exhibit A) ¶2, the Board found that "Mrs. Crawford did not occupy the property as her principal residence at the date the application for Senior Exemption was filed. The application was filed subsequent to her death." While the documents setting forth her renewed eligibility, based on lower income, were provided after her death, the initial application was made during the 1990s as indicated in Stipulated Facts ¶2.

In its opinion at 5 ¶3, the Board found that "Mrs. Crawford did not, at any time, own the residence she occupied. It was owned by the Trust." This finding is directly contradicted by the documents entered into evidence at the hearing and the testimony of Peter Crawford at the hearing, and the Assessor introduced no evidence to contradict either. During her lifetime, the Property was owned by Mrs. Crawford as trustee

for the Juliet C. Crawford Trust. Transcript at 34-35, 95. See Exhibit I at A10-2, which specifically states that “[t]he Trustor, desiring to establish a revocable trust, is causing the trustee to be named as owner in trust of various assets...” The Trustor is defined as Juliet C. Crawford. The Trustee is defined as Juliet C. Crawford until she dies, relinquishes the trusteeship or is declared incompetent. Exhibit I at A10-2, A10-5.

In its opinion at 6 ¶5, the Board finds that “Mrs. Crawford did not have a life estate in the Trust residence. If she had owned a life estate in the residence, it would have expired at her death, prior to the application for Senior Exemption.” The trust instrument, not contradicted by any evidence introduced by the Assessor, provides that “the trustee shall pay to the trustor the entire net income of the trust estate as received.” Exhibit I at A10-5. Furthermore, Mrs. Crawford lived in the Property, that was owned by her as trustee for the Juliet C. Crawford Trust, until her death. Transcript at 20, Exhibit G at A2-1. Mrs. Crawford was trustee with full authority to revoke the trust and return all property to herself at any time. Exhibit I at A10-3 ¶4.

D. ADDITIONAL FACTS

The following additional facts are all supported by the record of the proceedings before the Board of Tax Appeals:

1. Ms. Miles is the sister of Peter Crawford and the daughter of Juliet Crawford. She and Mr. Crawford are co-trustees of the Juliet C. Crawford Trust and co-executors of Mrs. Crawford's estate. Transcript at 19.

2. Mrs. Crawford moved to the property at 16213 S.E. 18th Circle in 1990 and occupied that property alone through November 22, 2002. Transcript at 20.

3. During 2002, Mrs. Crawford was increasingly unable to handle her affairs and experienced a certain amount of mental confusion, particularly with respect to documents that she might receive. Transcript at 22-23. It was typical of her that she would simply not pay bills that she found confusing or that she did not believe that she owed. Transcript at 24.

4. At the time that the 2002 taxes were paid in December, 2002, Mr. Crawford was unaware that Mrs. Crawford's income for 2001 would be below \$30,000, and he was not aware that the bill that he received from the County for approximately \$2300 plus \$200 in penalties did not reflect the senior citizen exemption. Transcript at 27-28.

5. The bill for the 2002 taxes, with a due date of April 30, 2002, that Mr. Crawford found in Mrs. Crawford's effects failed to mention

taxes due in 2001 that were not paid until on or about August 22, 2002.

Transcript at 29, 24-25 Exhibit G at A2-1.

6. Mrs. Crawford held title to the assets of the Juliet C. Crawford Trust as trustee and those assets passed to Mr. Crawford and Ms. Miles as successor co-trustees at the moment of Mrs. Crawford's death. A trust cannot own property as a corporation, which is a legal person, can.

Exhibit I, Transcript at 34-35.

7. When Mr. Crawford telephoned the assessor's office and informed them that Mr. Crawford was below \$30,000 they sent him the application entitled Senior Citizen's and Disabled Person's Exemption from Real Estate Taxes. That was the form he filled out because that was the form they sent him. Transcript at 41, Exhibit H at A5-1.

8. According to Maureen Humbert, Clark County Office Supervisor, if a senior citizen of age 65 was previously unaware of the availability of the exemption, and files for it, and would have qualified at ages 64, 63 and 62, the person would be granted the exemption for those prior years. Transcript at 2, 58, 71. However, if the senior citizen were 62 or 63 at the time they came in to the assessor's office, they would not be able to go back 3 years, as there is no exemption at age 61, the exemption starts at age 62. Transcript at 72, 86-88.

9. Plaintiff Miles resides in Camas, WA within Clark County.

Transcript at 19-20.

VI. ARGUMENT

A. STANDARD OF REVIEW

The Superior Court's review was based on the record as it existed before the Board of Tax Appeals. RCW 34.05.558. As the Superior Court considered no oral evidence, the Appeals Court stands in the same position as the Superior Court in looking at the facts of the case, and should review the record de novo. Standard Pressed Steel Co. v. Department of Revenue, 10 Wn. App. 45, 46 (Div. 2 1973). Relief is mandatory if the Appeals Court determines that the Board of Tax Appeals or the Superior Court erroneously interpreted or applied the law. RCW 34.05.570(3)(d). While the co-executors contest herein certain factual findings of the Board of Tax Appeals relating to whether or not Mrs. Crawford had a life estate in the property, the Assessor admitted during oral argument before the Superior Court that the Board had erred on this issue, thus the Superior Court did not consider the issue, which the Assessor abandoned. The pertinent facts are therefore undisputed, and the case revolves around issues of law that are reviewed de novo on appeal.

B. THE SUPERIOR COURT ERRED IN REJECTING THE CO-EXECUTORS' ARGUMENT THAT THE "TIME OF FILING" WAS 1995 OR EARLIER

The Superior Court's opinion is largely based upon its reading of RCW 84.36.381 and the phrase "time of filing" which appears in subsections (1) and (2) thereof. It rejects the petitioners' argument that the "time of filing" refers to the date of Mrs. Crawford's original application for the Senior Citizen Exemption in 1995 or before. Exhibit U at 2. Rather, it considers Mr. Crawford's November 17, 2003 submission to the Assessor (see Stipulated Facts, above, ¶14) as a legally significant filing. It thereby concludes that, since RCW 84.36.381(1) and 84.36.381(2) require occupancy and ownership as of, or at, the "time of filing," that the requirements of the statute were not met and the exemption must be denied.

However, the statutory scheme, the legislative history, and the regulations implementing the statute all are to the contrary. Once a senior citizen has qualified for the senior citizen exemption, no renewed "filing" of a claim is required, rather the process is one of updating the status when a change of income occurs. RCW 84.36.381 provides that "[a] person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter..." (emphasis supplied). It is undisputed that Mrs. Crawford "applied for and

received the senior citizen exemption for the Property” for the “calendar years 1995-1999.” Stipulated Facts ¶2. She therefore clearly filed a claim during the 1990s, as required by the statute, and that filing entitled her to the senior citizen exemption for all years thereafter, unless additional reports demonstrated a subsequent change in eligibility.

The statute, provides further for the procedure when, as here, the person qualifying has income that exceeds the limit for a single year.

RCW 84.36.381(6) provides that:

“[f]or a person who otherwise qualifies under this section and has a combined disposable income of thirty thousand dollars⁴ or less, the valuation of the residence shall be the assessed value of the residence on the later of January 1, 1995 or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation shall be used upon requalification...

By failing to use the words “claim” or “filed” in this subsection, the Washington Legislature indicates that a different procedure from filing a claim is followed when income changes result in a failure to qualify followed by requalification. The difference in procedure is underscored in RCW 84.36.385(2) which provides that “[a] person granted an exemption

⁴ The \$30,000 limit applied to the 2001 assessment year. The statute has since been amended to increase the limit. Other amendments to RCW 84.36.381 were made by 2008 Wash. Laws c. 6, but these relate to domestic partners, not applicable here. The statute is quoted here as it existed at the applicable time. The full text of RCW 84.36.381, 84.36.385 and 84.69.020 is in the Appendix.

under RCW 84.36.381 shall inform the county assessor of any change in status affecting the person's entitlement to the exemption..." (emphasis supplied). The terms "file" and "claim" appear nowhere in RCW 84.36.385(2). Conversely, RCW 84.36.385(1) provides that "[a] claim for exemption under RCW 84.36.381 as now or hereafter amended, shall be made and filed at any time during the year for exemption from taxes payable the following year and thereafter..." (emphasis supplied). Clearly, the legislature uses different terms to refer to the provision of information after a senior citizen has once qualified for the exemption. RCW 84.36.385(1) goes on to provide for a "renewal application" every four years or upon an "amendment of the income requirements." Thus, RCW 84.36.385 provides for three different means by which the senior citizen is to communicate with the assessor: the initial filing of a claim, the renewal application and the change in status.

The fact that the statute requires only a single filing of a claim once the senior citizen has qualified is underscored by the legislative history. The words "and thereafter" were inserted in RCW 84.36.381 and RCW 84.36.385 by 1983 Wash. Laws ex. sess. c. 11 §5 and 6. The legislature, in connection with that enactment, stated that

"[s]enior citizens are no longer required to submit annual renewal applications to remain eligible for property tax exemptions. Once a senior citizen has become qualified for

the exemption, she or he never has to reapply. The taxpayer is, however, required to inform the county assessor of any change in his or her status that affects eligibility.” (emphasis supplied) Final Legislative Report 1983, Regular, First and Second Special Sections, at 133 (for SHB 496, that became 1983 Wash. Laws ex. sess. c. 11). See Exhibit F at 133.

Thus, the Washington Legislature, in inserting the words “and thereafter,” clearly intended that a separate change of status/renewal application, not claim filing, process apply to senior citizens who had once qualified for the exemption. Furthermore, the legislative history unequivocally so demonstrates.

The regulations adopted by the Department of Revenue are in accord with this entirely reasonable construction of the statute. Wash Admin. Code (hereinafter “WAC”) 458-16A-150 is entitled “Senior citizen and disabled person exemption – Requirements for keeping the exemption.” The word “claim” is used only once in this regulation, in WAC 458-16A-150(3)(b)(iii), in connection with disabled persons, not senior citizens. Instead, WAC 458-16A-150(1) uses different terminology, stating that “[t]his rule explains how and when a senior citizen or disabled person must file additional reports with the county assessor to keep the senior citizen or disabled person property tax exemption...” (emphasis supplied). Thus, the Department of Revenue agrees with the Washington Legislature that there is no need to file a claim

once the senior citizen has qualified for the exemption. Rather, “additional reports” are submitted, namely a “renewal application” or a “change in status form.” See WAC 458-16A-150(2).

Furthermore, the Washington Department of Revenue has clearly contemplated the situation in the instant case. According to WAC 458-16A-150(3)(b)(ii), changes in status include “[c]hanges to the property owner’s annual income that increase or decrease property taxes due under the program...” (emphasis supplied). WAC 458-16A-150(2) specifically provides that “[i]n some circumstances, the change in status form may be submitted by an executor...” (emphasis supplied). Finally, the regulation permits the assessor to refund property taxes even in the absence of a formal notification of a change in status. WAC 458-16A-150(3)(e) provides that “[i]f the change in status results in a refund of property taxes, the treasurer may refund property taxes and interest for up to the most recent three years after the taxes were paid as provided in chapter 84.69 RCW.”

Thus, both the Washington Legislature and the Washington Department of Revenue anticipate not the filing of a new claim, but rather the submission of an “additional report” setting forth the new income. “In interpreting a statute, [a court must accord] great weight to the contemporaneous construction placed upon it by officials charged with its

enforcement.” In re Sehome Park, 129 Wash. 2d 774, 780, 903 P.2d 443 (1995) (en banc). While the Assessor may attempt to argue that her, or the Board of Tax Appeals’, construction of the senior citizen tax exemption is entitled to deference, in fact the Department of Revenue, with the advice of the Attorney General is charged with interpreting the statute. RCW 84.08.080. Deference is owed only to the DOR’s construction.

Since RCW 84.36.381 speaks of “the year following the year in which a claim is filed, and thereafter,” the phrase “time of filing” in RCW 84.36.381 subsections (1) and (2) clearly refer to the filing of a claim, not the submission of an “additional report.” The “time of filing” was during the 1990s while Mrs. Crawford was alive, residing in the Property and meeting all other requirements.

C. A LITERAL CONSTRUCTION OF THE “TIME OF FILING” REQUIREMENT WOULD LEAD TO AN ABSURDITY AND GROSS INJUSTICE

Even if RCW 84.36.381 were to be construed to require the filing of a second claim in the case where a senior citizen seeks to requalify for the senior citizen exemption following a year of high income, a literal application of the “time of filing” phrase in RCW 84.36.381(1) and RCW 84.36.381(2) would lead to an absurd and unjust result. “It is a rule of such universal application as to need no citation of sustaining authority that no construction should be given to a statute which leads to gross

injustice or absurdity.” Wilson v. Lund, 74 Wash. 2d 945, 947 (1968) (en banc).

In fact, Ms. Humbert of the County Assessor’s Office admitted at the hearing that the assessor does not follow the “time of filing” language literally. See Additional Facts, above, ¶8. Rather, the assessor’s office admits that she construes the “time of filing” to mean the time that the application was due when such an interpretation benefits her.

Furthermore, a recent Department of Revenue publication adopts the time the application was due construction in the case of refunds. See Exhibit C, third page, under “Refunds for Prior Years.”

To see that the literal application of a purported “time of filing” rule would lead to absurd results, the interaction between RCW 84.36.381 and RCW 84.69.020(7) must be considered. The latter section permits taxes paid to be refunded if they were paid “[a]s a result of mistake, inadvertence or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW 84.36.381 through 84.36.389, as now or hereafter amended.” RCW 84.36.381 through 84.36.389 are the sections applicable to the senior citizen and disabled person exemption. Taken alone, RCW 84.36.381 appears to prohibit refunds in the case where a claim for property tax exemption was not filed in the year prior to that in which the tax is due, as the statute

literally provides that the exemption from taxation is “in the year following the year in which a claim is filed, and thereafter...” Nothing in the language of RCW 84.36.381, taken alone, provides for exemption from taxation for years prior to those in which a claim is filed.

Clearly, however, the literal language of 84.36.381 must be considered in light of RCW 84.69.020(7). See Ginochio v. Hesston Corp., 46 Wn. App. 843, 733 P.2d 551 (1987) (each part of a statute must be construed with every other part to produce a harmonious whole). The implementing regulation, WAC 458-16A-135(2), consistent with such harmonizing requirement, provides that:

“[i]f the claimant does not apply when he or she meets the age or disability requirements, then he or she may apply for the exemption in any subsequent year. The exemption may be claimed on his or her principal residence for previous years by applying with separate applications for each year. However, refunds based upon an exemption made in previous years may be refunded only for up to three years after the taxes were paid as provided in chapter 84.69 RCW.”

Therefore, it is clear that retroactive applications are permitted by RCW 84.69.020(7). The meaning of the “time of filing” clause in RCW 84.36.381 is therefore subject to a harmonizing construction.

Clearly, the common reason for a refund request under RCW 84.69.020(7) is that the person paying the tax was unaware of the availability of the exemption, or due to mistake or inadvertence neglected

to apply for it, as the regulation recognizes. In that case, the “time of filing” might be up to three years after the taxes to be refunded were paid. A 65 year old would be able to receive a refund for the years that person was 62, 63 and 64 in accordance with the statute, the regulation and the apparent legislative intent. Ms. Humbert admitted as much. Additional Facts ¶8. In the case, however, where a 63 year old applied for and sought a refund for three prior years, a refund for at least some of those prior years would not be consistent with the legislative intent, which is clearly to provide exemptions for persons who are 62 or older. That is clear from a review of RCW 84.36.381(3) which requires that persons must be at least 61 or older when applying, with the benefit accruing the following year, when the person turns 62. Nevertheless, read literally, the late filing would result in the person meeting the age requirement at the time of filing, and they would be eligible for three years of refunds because at the time of filing the person was 63.

Not surprisingly, the Assessor does not read the statute this way, instead construing the “time of filing” requirement to mean the time the application was due, namely the year before the taxes became due. Additional Facts ¶8. On the other hand, in Mrs. Crawford’s case, she adopts an inconsistent and literal reading of a purported “time of filing”

requirement to deny the exemption, apparently because in that case such a construction benefits the County. The Assessor cannot have it both ways.

Furthermore, WAC 458-16A-150(3)(e) purports to permits the Assessor, after discovering that a claimant failed to notify her of a change of status, to collect additional property taxes from a claimant's estate. It would be incongruous to hold an estate liable for underpayment, while refusing to refund overpayments (also made due to an undisclosed change of status) made by, or on behalf of, deceased senior citizens. Nothing in the statutory scheme or regulations suggests such a one-sided policy.

In fact, a recently published Washington Department of Revenue bulletin, attached to the Affidavit as Exhibit C⁵, indicates that the DOR agrees with the plaintiff's position. It provides, at the third page, under the heading "Refunds for Prior Years" that

“[i]f you paid prior years' taxes because of a mistake, oversight or a lack of knowledge about this program, you

⁵ Obtained at http://dor.wa.gov/Docs/Pubs/Prop_Tax/SeniorExempt.pdf (last visited August 21, 2008). The document that is Exhibit C remains unchanged at this URL as of this date. The issue of the admissibility of this exhibit came up during the hearing before the Superior Court on January 4, 2007 and the Superior Court purported to deny that this exhibit was admissible as it was promulgated after the Board of Tax Appeals decision. However, the Superior Court's decision was an abuse of discretion as the document does not relate to the facts of the instant case, but rather to an issue of law, namely the proper construction of RCW 84.36.381. Furthermore, it falls squarely within the provisions of RCW 34.05.562(2)(b) as the new exhibit had not been promulgated at the time of the Board of Tax Appeals' decision, and could not have been discovered, and the interests of justice require that the Department of Revenue's construction of the applicable statutes and regulations be fully considered.

may apply for a refund by filing an application for refund with your county assessor. You must meet all of the qualifications for the exemption as if you had applied at the time the application was due... (emphasis supplied)

An apparent literal statutory requirement that a premises be occupied at the time of filing was rejected by the Board in Institute for Systems Biology v. State of Washington, Department of Revenue, Nos. 59668 through 59674 (Wash. Bd. Of Tax Appeals, heard March 18, 2004), see Exhibit E. In that case, the taxpayer was a tax exempt public research institute that had neglected to file for an exemption from property taxes until after it had moved out of the premises for which it sought the exemption. The Department of Revenue argued that RCW 84.36 “always use[s] [the] present or future tense” and argued that the law required a physical inspection to confirm that the activity conducted on the premises qualified the property for the exemption. However, the taxpayer cited WAC 458-16-110(8) which permits, as do the completely analogous provisions of WAC 458-16A-135(2), retroactive applications, and the Board allowed the refund of taxes erroneously paid. The instant case is even more compelling, where it is clear that occupation of the residence by Mrs. Crawford was never an issue, and there is no legal requirement or evidence that the Assessor would have, or indeed ever has, visited a senior citizen’s residence to confirm that the person lives there.

Even if the statute is clear and unambiguous, the Board ignores basic principles of statutory construction. Sutherland, Statutory Construction (6th ed) (hereinafter Sutherland) 46:05 provides that:

“...even apparently plain words, divorced from the context in which they arise and which their creators intended them to function, may not accurately convey the meaning the creators intended to impart... The result is that a ‘clear and unambiguous’ statutory provision generally is one having a meaning that is not contradicted by other language in the same act.

Even if a statute is clear and unambiguous, a construction may not be adopted which leads to absurd results.

“...if the literal import of the text of an act is inconsistent with the legislative meaning or intent, or such interpretation leads to absurd results, the words of the statute will be modified to agree with the intention of the legislature.”
Sutherland 46:07.

See also Sutherland 46:04 (plain meaning can be ignored if legislature could not have meant what it said, or natural reading would lead to an absurd result).

Furthermore, literal application of the time of filing requirement is inconsistent with RCW 84.40.360 which provides for proration of taxes in the event that an exemption is lost. Such proration makes no sense if qualification for the exemption for the entire following year is based upon the applicant’s status as of an arbitrary, and potentially unrelated, single date of filing, as RCW 84.36.381, taken alone, appears to mandate. For

example, if Mrs. Crawford had estimated her 2001 income as being below \$30,000 and submitted such information to the Assessor on January 1, 2001, but died on January 2, 2001, a literal reading of RCW 84.36.381, taken alone, would indicate that the property would be entitled to the exemption for the entire 2002 tax year, the taxes finally increasing nearly two years after her death. However, the proration requirements of RCW 84.40.360 clearly indicate that the legislature intended to cause the exemption to be canceled following a disqualifying event such as death.. A literal reading of the purported time of filing requirement RCW 84.36.381 cannot be squared with the proration requirements of RCW 84.40.360. See also WAC 458-16A-150(3)(f) (also providing for proration).

The policy of proration is specifically followed in a document published by the Washington Department of Revenue, Exhibit D⁶. That document provides that “[i]f you pass away before the taxes are paid, the taxes will be recalculated to the full assessed amount of the principal residence on a pro rata basis beginning the day following the date of your death for the remainder of the year.” The unavoidable implication of this

⁶ This document was before the Board as it was attached to Appellant’s Reply Brief, filed with the Board on or about August 19, 2005. At that time it was available at http://dor.wa.gov/Docs/Pubs/Prop_Tax/SeniorExempt.pdf, but Exhibit C replaced Exhibit D at that URL between the time of the Board of Tax Appeals decision and the submission of the plaintiff’s memorandum to the Superior Court. on November 15, 2006. Exhibit V, docket 11.

statement is that taxation at the lower amount, taking into account the exemption, applies through the date of death. Nothing in this document, or indeed anywhere else in the statutes or regulations, suggests that the benefit of an exemption, accrued prior to death, is extinguished upon death.

Additionally, a literal “time of filing” requirement cannot be squared with the provision of WAC 458-16A-150(3)(f) that provides that the exemption is not lost upon death if a surviving spouse also qualifies for it. Taken literally, RCW 84.36.381 would require the spouse to apply in his or her own right, delaying taxation at the exempt rate until the following year.

The Washington Attorney General first rejected literal “time of filing” requirements in connection with senior citizen property tax exemptions nearly forty years ago. In Attorney General’s Opinion (“AGO”) 1969 No. 21, the predecessor to the current exemption statute required a “time of filing” between February 15 and April 30 of the year in which the taxes were payable. However, the refund statute permitted an application for a refund to be filed as late October 30 of that year. Noting that the statute “is rendered coherent and meaningful” and the “obvious legislative intention” is achieved by construing the two statutes together, the Attorney General concluded that it would be sufficient to comply with

the statute if the taxpayer proves eligibility at the same time that a refund is applied for. AGO 1969 No. 21 at 15-16.

It is not necessary that Appellant demonstrate absurd results in his case, only that an alternate construction of the statute could lead to absurd results in general. Sutherland in no way supports a requirement of absurd results in the particular case before a court.

In State v. Neber, 52 Wn. App. 298, 759 P.2d 475 (Div. 1 1988) a statute which literally read “the proximate cause” was construed to mean “a proximate cause” after the court noted that the literal words “would prevent prosecution in a case where the reckless or intoxicated conduct of two drivers combines to cause serious bodily injury to a third person. This result would be absurd. We will reject a literal reading of a statute if it will result in strained or absurd consequences.” The hypothetical situation described in Neber did not match the circumstances of that case, but the court nevertheless used the absurdity of the hypothetical situation in construing the language otherwise than in accordance with its plain meaning.

Similarly, in State v. McDougal, 120 Wash 2d 334, 841 P.2d 1232 (1992), a literal interpretation of the statute was rejected the court holding that “[u]nlikely, absurd or strained consequences resulting from a literal reading should be avoided,” and citing Sutherland (4th ed.) §45.12 with

approval:

“It has been called a golden rule of statutory interpretation that unreasonableness of the result produced by one among alternative possible interpretations of a statute is reason for rejecting that interpretation in favor of another which would produce a reasonable result. It is a ‘well established principle of statutory interpretation that the law favors rational and sensible construction.’ It is fundamental, however, that departure from the literal construction of a statute is justified when such a construction would produce an absurd and unjust result and would clearly be inconsistent with the purposes and policies of the act in question. (emphasis supplied).

See also State v. Rhodes, 58 Wn. App. 913, 917, 795 P.2d 724 (Div. 2 1990) (killing of doe during buck hunting season illegal even though statute literally referred to “species” which would encompass deer of both sexes); State v. Elgin, 118 Wash. 2d 551, 825 P.2d 314 (1992) (en banc) (repeat DWI offense is not a felony even though statute clearly provides for a sentence exceeding one year, and another statute defines offenses which could result in imprisonment for more than a year as felonies, as legislature could not have intended this result); State v. Day, 96 Wash. 2d 646, 638 P.2d 546 (1981) (literal language of statute prohibiting DWI “elsewhere throughout the state” does not always encompass private property as law was intended to “control or reduce the drunk-driver hazard to highway safety”). See also State v. McCraw, 127 Wash 2d. 281, 296, 898 P.2d 838 (1995) (en banc), Talmadge, J., dissenting. "The purpose or

policy of the enactment should prevail even over express, but inept, wording... ‘Statutes cannot be read intelligently if the eye is closed to considerations evidenced in affiliated statutes, or in the known temper of legislative opinion,’" citing Felix Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum. L. Rev. 527, 539 (1947).

When the statutory scheme is viewed as a whole, it is clear that the Washington Legislature intended that the benefit of the senior citizen exemption, accrued by a senior citizen during his or her life, pass to that person’s heirs upon death. The findings in RCW 84.36.379 provides that

“[t]he legislature finds that the property tax exemption authorized by Article VII, section 10 of the state Constitution should be made available on the basis of a retired person's ability to pay property taxes and that the best measure of a retired person's ability to pay taxes is that person's disposable income as defined in RCW 84.46.38.

Nothing in these findings discusses the net worth of the retired person, nor does that statute include any net worth requirement for receiving the exemption. Implicit in this is a legislative intent to preserve, for the benefit of the senior citizen or his or her heirs, assets that might otherwise have to be liquidated to pay the taxes on a qualifying residence. The senior citizen is free to spend the proceeds of the exemption, or save it and pass it to his or her heirs, as the senior citizen sees fit. Nothing in the statutory scheme prohibits this, and nothing in the statutes denies the right

of heirs to succeed to the rights of the senior citizen if the senior citizen is due a refund at death. Indeed, the statutory scheme specifically permits executors to file for and receive refunds. See RCW 84.69.030(1), RCW 84.69.090. Compare RCW 43.20B.080(3) (right of state to recover medical costs from estates).

Numerous statutory provisions providing for proration, submission by persons other than the senior citizen, and three year refund provisions (including to executors) indicate that the legislature intended to remove, rather than erect, procedural barriers. The removal of these barriers ensures that the senior citizen, or his or her heirs, receive the benefit of the senior citizen exemption that accrued while the senior citizen met the ownership, occupancy, age and income requirements for the exemption.

Finally, this Court should consider the unfairness of the Assessor's actions in the case of Mrs. Crawford. The Assessor presented a bill to Mrs. Crawford for taxes due in 2002 that failed to mention taxes that remained due for 2001. Additional Facts ¶5. Mrs. Crawford, increasingly unable to handle her affairs and experiencing some mental confusion, understandably was baffled by what was presented. Additional Facts ¶3. Indeed, many people would be confused by the sporadically provided and incomplete documents sent to her by the Assessor. See Exhibit G. Mrs. Crawford paid her 2001 taxes on August 22, 2002, but evidencing her

confused state, drafted a check with inconsistent amounts. See Exhibit S. When the Assessor sent a bill that arrived just after Mrs. Crawford's death, the co-executors simply paid it to avoid the accrual of further penalties, not being aware that it did not include the benefit of the senior citizen exemption, which fact appeared nowhere on the notice. Transcript at 27-28, Exhibit O at A18-1, A18-2. Further demonstrating the obfuscatory effect (intentional or not) of the Assessor's actions, she sent the initial notice denying the exemption to the new property owner rather than Mr. Crawford. See Exhibit L.

D. MRS. CRAWFORD QUALIFIES FOR THE EXEMPTION
BECAUSE SHE BOTH OWNED THE PROPERTY IN FEE AND AS A
LIFE ESTATE

As an additional basis for its decision (see opinion at 5), the Board of Tax Appeals found that "Mrs. Crawford did not, at any time, own the residence she occupied. It was owned by the Trust." It further found (at 6) that "Mrs. Crawford did not have a life estate in the Trust residence." It also states (at 4) that "Peter Crawford contends Mrs. Crawford had a life estate although no documents to that effect were presented nor did Peter Crawford cite statute or rule applicable to 2001 that inferred a life estate." This issue was not addressed by the Superior Court, and the Assessor, during the hearing on January 4, 2007, abandoned this argument, thus it will only be addressed briefly. The Board is incorrect on three counts.

First, trusts are not legal persons that may own property, and the terms of Mrs. Crawford's trust provided that she in fact owned the Property as trustee, meeting the "in fee" prong of the statute. Second, the trust document and amendment thereto were entered into evidence at the hearing and referred to, and they provide that Mrs. Crawford received the benefit of the Property until her death. Third, while the regulation changed in 2003, the one applicable prior to then was actually more liberal and defined any revocable trust (which this was) as a life estate.

A trust, unlike a corporation, is not a legal person that may own property, sue or be sued in its own name. See RCW 23B.03.020(2)(a), RCW 1.16.080(1). The very essence of a trust is that the res (i.e. the property of the trust) is vested in the trustee, who holds legal title, while the beneficiary of the trust has equitable ownership. See Am. Jur. 2d Trusts §45. This is precisely what is indicated by the trust documents. See Exhibit I at A10-2 ("[t]he Trustor, desiring to establish a revocable trust, is causing the trustee to be named as owner in trust of various assets...") (emphasis supplied).

Clearly then, Mrs. Crawford owned the Property in fee as Trustee of the Juliet C. Crawford Trust. See RCW 84.36.381(2), "[t]he person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property

taxes have been imposed...” See City of Kennewick v. Benton County, et al., 131 Wash. 2d 768, 771 (1997) (en banc) (discussing the holding of fee simple title to property held in trust, clearly demonstrating that a trustee holds such title).

The analysis could stop there as Mrs. Crawford meets the first prong of the ownership requirement. Addressing the Board’s second error, however, it is also true that she had a life estate in the Property, and the Board ignored the documents entered into evidence so demonstrating. Under the terms of these documents, it is clear that Mrs. Crawford received the benefit of the Property prior to her death, both in fact, and under the terms of the trust. Mrs. Crawford had a right to “the entire net income of the estate as received” during her lifetime (Exhibit I at A10-5) and the right to revoke the trust agreement, in which case “all property of the trust estate [would] be delivered by the trustee to the trustor [i.e. Mrs. Crawford].” Exhibit I at A10-3.

Finally, addressing the Board’s third error, the applicable regulation, which changed in 2003, specifically provides that Mrs. Crawford had a life estate under these circumstances. Prior to 2003, WAC 456-16-010(7) provided the requisite definition:

“‘[o]wned’ includes ‘contract purchase’ as well as ‘in fee,’ a ‘life estate,’ and any ‘lease for life.’ ‘Revocable’ trusts will be considered as life estates, ‘irrevocable’ trusts may

qualify as a life estate if the trust terminates on the claimant's demise...

In 2003, the above regulation was repealed and replaced by WAC 456-16A-100(17). See Wash. St. Reg. 03-03-099 and Wash. St. Reg 03-09-002. The new regulation defines "life estate" to mean

"an estate whose duration is limited to the life of the party holding it or of some other person.

- (a) Reservation of a life estate upon a principal residence placed in trust or transferred to another is a life estate.
- (b) Beneficial interest in a trust is considered a life estate for the settlor of a revocable or irrevocable trust who grants to himself or herself the beneficial interest directly in his or her principal residence, or the part of the trust containing his or her personal residence, for at least the period of his or her life...

Regardless of whether the old or the new definition of "life estate" applies, it is clear that Mrs. Crawford had a life estate in the property.

E. PRE-1984 REGULATIONS AND OPINIONS MUST BE UNDERSTOOD IN LIGHT OF A 1984 STATUTORY AMENDMENT REQUIRING PRORATION

Defendant is likely to cite a regulation and an Attorney General Opinion, both of which were promulgated prior to a 1984 amendment of RCW 84.40. RCW 84.40.350 was amended by 1984 Wash. Laws c. 220 §13 to read as follows:

"Real property, previously exempt from taxation, shall be assessed and taxed as provided in RCW 84.40.350 through 84.40.390 when transferred to private ownership by any exempt organization including the United States of America, the state or any political subdivision thereof by

sale or exchange or by a contract under conditions provided for in RCW 84.40.230 or when the property otherwise loses its exempt status (emphasis supplied).

Similarly, RCW 84.40.360 was amended at the same time by 1984

Wash. Laws c. 220 §14 to read:

“Property which no longer retains its exempt status shall be subject to a pro rata portion of the taxes allocable to the remaining portion of the year after the date that the property lost its exempt status. If a portion of the property has lost its exempt status only that portion shall be subject to tax under this section. (emphasis supplied)

In each case, the underlined text was added to the statutes.

Previously, these statutes, enacted by 1971 Wash. Laws ex. sess. c. 44, referred only to property transferred to private ownership, and did not encompass property which lost its exempt status for other reasons, including property already privately owned by a senior citizen which lost its exempt status through the death of the senior citizen or the sale of the property.

WAC 458-16-070, likely to be cited by defendant, appears to have at one time provided for cancellation of exemptions upon transfer of the property, or the death of a claimant. It read:

“[a]s the exemption contained in WAC 458-16-010 through 459-16-079 is a personal exemption and is considered claimed when the tax is paid, it shall cease to exist and be cancelled upon transfer of the property or upon the claimant’s demise. In such a case, any previous years or portion of that year’s taxes due and/or owing in the year of

the canceling event which have not yet been paid shall be levied and collected without consideration of the exemption.

WAC 458-16-070 had been promulgated by Order PT 81-6, and Order PT 74-6, in 1974 and 1981, respectively, prior to the 1984 amendments referenced above. However, WAC 458-16-070 was repealed in 2003, before the plaintiffs filed for a refund of taxes erroneously paid on the property in 2002, although after Mrs. Crawford's death. In Wash. St. Reg. 03-03-099, Proposed Rules, filed January 17, 2003, the Department of Revenue states the reason for the repeal of WAC 458-16-070:

“...the discussion of the cancellation of the exemption has been moved to subsection (3) of WAC 458-16A-150 Requirements for keeping the exemption. The timing of the period the exemption applies has been changed to a prorata (sic) split based upon the period the senior qualifies for the program and no longer upon whether or not the taxes have been paid. This change is consistent with other property tax exemptions and the statutory direction of RCW 84.40.360 (emphasis supplied).

The actual repeal was accomplished by Wash. St. Reg. 03-09-002, effective May 3, 2003. WAC 458-16A-150 contains none of the forfeiture provisions that WAC 458-16-070 purported to mandate. The repealed regulation, adopted prior to the 1984 amendments of RCW 84.40.350 and RCW 84.40.360, simply did not take into account the policy of proration upon the loss of an exemption that is required by those statutes. By basing

entitlement to the exemption upon whether or not the taxes had been paid at the time the senior citizen died, the repealed regulation was fundamentally inconsistent with the requirement of proration mandated by the legislature in 1984.

Contrary to respondent's likely contention that WAC 458-16-070 was in effect at the time of Mrs. Crawford's death, RCW 84.40.360 had long before rendered it null and void, a fact which the Department of Revenue acknowledged when promulgating the new regulation at the statutory direction of RCW 84.40.360. Any court interpreting the language of WAC 458-16-070 after 1984 would be forced to ignore it as "[s]tatutes may not be amended by administrative construction." Smith v. Northern Pacific Railway Co., 7 Wash. 2d 652, 664, 110 P.2d 851 (1941) (en banc).

Furthermore, Attorney General's Opinion 1971 No. 31, also likely to be cited by defendant, must be understood in light of the 1984 amendments to RCW 84.40. Citing 51 Am. Jur. Taxation §533 (which became 71 Am. Jur. 2d State and Local Taxation §243 with little change), the Attorney General correctly states that "the exemption or immunity does not attach to or follow the property of the person in whose favor it is given, when the title passes to another." AGO 1971 No. 31 at 6. Of course, that is not what is sought here, as plaintiffs seeks only the benefit

of the exemption that accrued during the lifetime of Mrs. Crawford before her death and before title passed to them.

AGO 1971 No. 31 must be understood in light of the statutory scheme as it existed at the time, prior to the 1984 amendments to RCW 84.40 requiring proration. 1971 Wash. Laws, 1st ex. sess. c. 288 §§4 and 5, as does the current RCW 84.36.381, appeared to base entitlement for the exemption upon residence, ownership and age at the time of filing of the claim for exemption. Nothing in the earlier statute provided for loss or proration of the exemption upon death or transfer of the property. See AGO 1971 No. 31 at 2-4.

AGO 1971 No. 31 supports, rather than undermines, the co-executors' case. They argue that RCW 84.36.381 must be read in conjunction with the proration requirements of RCW 84.40.360, as amended in 1984, just as the statute that the Attorney General considered was read in conjunction with the enabling constitutional amendment. As the Attorney General did, plaintiffs argue that a literal "time of filing" reading of the statute, taken in isolation, is inappropriate.

While AGO 1971 No. 31 provides that the exemption "does not follow the property for the benefit of the claimant's heirs or grantees," that is not what plaintiffs seek here. They do not seek any exemption from taxes that accrued after Mrs. Crawford's death on November 22, 2002.

Rather they seek the benefit of the exemption that Mrs. Crawford was without argument entitled to during her lifetime. The distinction between the scope of the exemption and the “manner of obtaining the fruits of the exemption” was made in AGO 1969 No. 21 at 11, the Attorney General determining that strict construction against the taxpayer was not applicable when only the latter was at issue.

The Board of Tax Appeals cites WAC 458-16-100(2) and appears to hold that strict construction of exemption statutes somehow mandates its holding. However, the Assessor admits that Mrs. Crawford met all of the requirements for exemption through the date of her death. The Board admits that “Mrs. Crawford, had she been alive, would meet both the age and income criteria of the Senior Exemption.” Thus, the facts of this case clearly indicate that no strict construction is required, as the issue is the “fruits of the exemption,” not the scope of the exemption. The Assessor’s attorney admitted at the Board of Tax Appeals hearing that “had Ms. Crawford herself come in in late 2003, if she had not passed away, she most likely would have been granted the exemption in 2002. However, the problem we have here is she never applied herself.” Transcript at 71-72. The Assessors’ attorney asserts no requirement that Mrs. Crawford own or occupy the property at that time. Thus, it appears that even the Assessor rejects the fundamental basis of the decisions of the Board and

the Superior Court: the requirement of ownership and occupancy at the time of filing. Instead, the Assessor seems to apply yet a different standard: that the senior citizen need only be alive at the time of filing.

While it is true that exemptions to property taxation must be construed strictly in favor of taxation, see Spokane County v. City of Spokane, 169 Wash. 355, 358, 13 P.2d 1084 (1932), what is at issue here is not the scope of the exemption, but the procedure for obtaining its fruits. Any application of Spokane County to this case is therefore inapposite.

Furthermore, WAC 458-16-100(2)(c) requires that “[s]tatutes exempting property from taxation shall be strictly construed, though fairly and in keeping with the ordinary meaning of the language employed.” (emphasis supplied). Even if the issue were one of construing the exemption, as opposed to construing the procedural requirements, the construction adopted by the Board is not fair. By applying a literal “time of filing” requirement, when the County itself admitted that they do not do so in the case of a 63 year old seeking the benefit of the last three years of exemptions, the Assessor effectively admits that the construction which they proposed, and which the Board adopted, is unfair. When it suits the County, the Assessor refuses to apply the time of filing requirement literally, but rather bases her decision on when the application was due (as the Department of Revenue also does, see Exhibit C, third page). But,

when the County would benefit from a literal application of the “time of filing” clause, it construes the statute literally, and not in conjunction with other related statutes. Such a construction is inherently unfair.

F. THE SUPERIOR COURT FAILED TO CONSTRUE THE SENIOR CITIZEN EXEMPTION AND REFUND STATUTES IN LIGHT OF COMMON LAW AND STATUTORY SURVIVORSHIP PROVISIONS

As an additional basis for granting a refund, plaintiffs rely upon RCW 4.20.046(1) which provides that:

“[a]ll causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether such actions arise on contract or otherwise, and whether or not such actions would have survived at the common law or prior to the date of enactment of this section...

The sweeping language of this statute has been held to be broadly inclusive by the Washington Supreme Court. “In unequivocal language the legislature has established that all causes of action survive, provided, however, that there can be no recovery by a personal representative of damages for ‘pain and suffering, anxiety, emotional distress or humiliation personal to and suffered by a deceased.’ Any other element of damage... would appear to survive and thus be assignable.” Harvey v. Cleman, 65 Wash. 2d 853, 857-858, 400 P.2d 87 (1965). “[W]e are convinced that the ‘legislature was intent in preserving causes of action, rather than pleas of abatement’ when it adopted RCW 4.20.046 in 1961.” Warner v.

McCaughan, 77 Wash. 2d 178, 184, 460 P.2d 272 (1969). Furthermore, the Washington Courts have ruled that not only existing suits, but potential suits, even those that did not ripen during the lifetime of a decedent, may be brought by a decedent's estate. "The general survival action, codified as RCW 4.20.046, continues a decedent's cause of action for damages decedent could have claimed." Ginochio v. Hesston, 46 Wn. App. 843, 733 P.2d 551 (1987). "What survives to the personal representatives are not only the decedents' ripe causes of action but include their potential causes of action which may not have accrued at the time of death." White v. Johns-Manville Corp., 103 Wash. 2d 344, 693 P.2d 687 (1985).

While the Washington legislature and courts have expanded the causes of action that personal representatives may bring to encompass the enforcement of nearly any right which the decedent had at death, it is not necessary even to expand the common law rule, which has existed since 1330, to reach the same result. "The common law of England, including the English statutes in force at the date of the Declaration of Independence, continues to be the law of this state except as it is inconsistent with state and Federal constitutions, or incompatible with the institutions and society of this state, or modified by statute." Cooper v. Runnels, 48 Wash. 2d 108, 112, 291 P.2d 657 (1955). In 1330, 4 Edw. III c. 7 was enacted, which "eventually gave him [the executor] the right to

bring either detinue, trespass, trespass on the case, or trover in appropriate cases in respect of different wrongs to these goods and chattels." Cooper at 111, citing 3 Holdsworth's History of English Law (6th ed. Rev.) 584. See also 3 W. Blackstone Commentaries *302 (in actions involving property, as opposed to persons, "executors have now the same interest that their testator had before"). It has since 1330 been the law that rights relating to property survived to executors.

The Superior Court has construed the Washington statutes so as to deny to Mrs. Crawford's executors, and the co-trustees of the Juliet C. Crawford Trust, any remedy for enforcement of the right to which the Trust and/or Mrs. Crawford were undeniably entitled, thus running afoul of the common law as it has existed since 1330. In Washington, statutes in derogation of the common law must be strictly construed, Wells v. Scott, 75 Wash. 2d 922, 925, 454 P.2d 378 (1969). Nothing in Washington law explicitly extinguishes the right to senior citizen exemption benefits accrued prior to death upon the death of the senior citizen, nor does any Washington statute specifically prohibit an executor or successor trustee from filing for a senior citizen exemption on behalf of a deceased senior citizen. Construing RCW 84.36 contrary to the common law, which permits executors to step into the shoes of decedents for all actions involving property, violates Wells.

G. ARBITRARILY PREVENTING THE BENEFIT OF THE SENIOR CITIZEN EXEMPTION FROM PASSING TO THE HEIRS OF SENIOR CITIZENS WHO OTHERWISE QUALIFY VIOLATES EQUAL PROTECTION

Furthermore, even if Washington law were to be construed so as to deny the refund sought in this case, such a construction would create an invidious discrimination by arbitrarily denying refunds to the heirs of some senior citizens but allowing refunds to others, in violation of the Fourteenth Amendment to the United States Constitution and Article I §12 of the Washington Constitution. There is no rational reason why a senior citizen who submitted (through his or her heirs to be) updated income information qualifying him or her for the exemption, and requested a refund the day before he or she died, should be treated differently from a senior citizen whose heirs submitted such information the day after he or she died. Neither senior citizen would have benefited from the exemption during his or her lifetime, but the heirs of the second person would be unfairly penalized. By adopting a literal “time of filing” basis for determining eligibility, the Superior Court, without any rational basis, makes just such a distinction.

In Armijo v. Wesselius, 73 Wash. 2d 716, 440 P.2d 471 (1968) (en banc), it was held that an illegitimate daughter could collect under Washington’s wrongful death statute, RCW 4.20.020, where the statute

referred to “child or children” without qualifying the words as to legitimacy. In construing the words “child or children” to include the illegitimate, the court held that “a very persuasive argument can be made that a decision contrary to ours would deny appellant's daughter her Fourteenth Amendment right to equal protection of the laws, since there is no valid social reason, for purposes of welfare legislation, for distinguishing between members of the class ‘illegitimate children’ and other members of the broader class ‘children’ to which the members of the more narrow class belong.” Armijo at 721-722. Courts, as well as legislatures, can violate the equal protection clause when they construe statutes in an unconstitutional manner.

The equal protection clause would not permit such an irrational classification to stand. In Hooper v. Bernalillo County Assessor, 472 U.S. 612 (1985), a property tax exemption which benefited only veterans who were New Mexico residents prior to a particular date. The Supreme Court held that “[w]hen a state distributes benefits unequally, the distinctions it makes are subject to scrutiny under the Equal Protection Clause of the Fourteenth Amendment. Generally, a law will survive that scrutiny if the distinction rationally furthers a legitimate state purpose.” Hooper at 618. However, the court went on to hold that the statute failed that rationality test and was therefore unconstitutional as it was enacted after the

qualification date and could not fulfill a stated purpose of encouraging veterans to settle in New Mexico. See also Quaker City Cab Co. v. Commonwealth of Pennsylvania, 277 U.S. 389, 402 (1928) (tax applicable to corporate taxicab owners, but not taxicab owners that were natural persons or partnerships, violates equal protection). The Assessor can cite no rational reason to distinguish between the case of updated income information provided before death with that after.

H. BY ESTABLISHING VAGUE, VARYING AND ARBITRARY STANDARDS GOVERNING REFUNDS OF SENIOR CITIZEN EXEMPTION AMOUNTS, THE STATE OF WASHINGTON AND THE CLARK COUNTY ASSESSOR HAVE VIOLATED THE CO-EXECUTORS' DUE PROCESS RIGHTS

Defendants admit that they do not interpret the purported “time of filing” requirements in RCW 84.36.381 literally in every case. If a senior citizen of age 63 applies for the exemption and refund of the last three years of taxes, a refund will be denied for at least some of those years, apparently because “time of filing” is construed in that case to mean the time the application was originally due. Additional Facts ¶8. But, where a senior citizen is deceased, the Assessor reads the statute literally and refuses to grant a refund. An ambiguous or ineptly worded statute is not a license for the executive branch to adopt whatever inconsistent and varying constructions of that law it wants to support its position, tailoring its construction of the statute to meet the changing requirements of each

particular case. That violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I §3 of the Washington Constitution.

“[O]ne of the basic purposes of the Due Process Clause has always been to protect a person against having the Government impose burdens upon him except in accordance with the valid laws of the land. Implicit in this constitutional safeguard is the premise that the law must be one that carries an understandable meaning with legal standards that courts must enforce.” Giaccio v. Pennsylvania, 382 U.S. 399, 403 (1966). In this case, plaintiffs have effectively been deprived of their property without due process of law by an arbitrary and previously undisclosed interpretation of a vague statute. See Bynum v. U.S. Capitol Police, 93 F. Supp. 2d 50, 59 (D.D.C. 2000) (arbitrary application of undisclosed policy makes statute void for vagueness and violates Due Process Clause); Small Co. v. American Sugar Refining Co., 267 U.S. 233, 239 (1925) (void for vagueness doctrine is applicable in civil context). Here, it is undeniable that Mrs. Crawford met all of the requirements for the senior citizen exemption. This, the Assessor does not deny. However, they seek to deny the plaintiffs the means to enforce that right by construing the applicable statute so as to defeat the remedy, thus violating the Due Process Clause.

See Marbury v. Madison, 5 U.S. 137, 163 (1803) (essence of liberty is in the right to a remedy to enforce legal rights).

VII. CONCLUSION

Mrs. Crawford was undeniably entitled to the senior citizen exemption for that portion of 2002 during which she was living. Appellants seek an order of this Court reversing the Superior Court, and directing that judgment enter in their favor for the amount of the senior citizen exemption to which Mrs. Crawford is entitled, together with interest, costs and fees of litigation in the various fora. RCW 84.69.020.

Respectfully submitted,



Peter A. Crawford, pro se
23 Newcastle Dr. #11
Nashua, NH 03060
(603)888-4574

Date: August 27, 2008



Deborah C. Miles, pro se
3404 N.E. Country Dr.
Camas, WA 98607
(360)834-9472

Date: Sept. 2, 2008

TABLE OF CONTENTS

<u>Exhibit</u>	<u>Description</u>
A	Final Decision of Board of Tax Appeals
B	Record transmittal documents from Board of Tax Appeals
C	Washington Department of Revenue: Property Tax Exemption for Senior Citizens and Disabled Persons (Sept. 2006)
D	Washington Department of Revenue: Property Tax Exemptions for Senior Citizens and Disabled Persons (August 2005)
E	Board of Tax Appeals Decision in <u>Institute for Systems Biology v. State of Washington, Department of Revenue</u> (59669-59674, 2004)
F	Final Legislative Report, Regular, First and Second Special Sections (for SHB 496, that became 1983 Wash. Laws ex. sess. c. 11)
G	Exhibits A1, A2 and A3 before Board of Tax Appeals: 2001, 2002 and 2003 tax bills
H	Exhibits A4 to A9 before Board of Tax Appeals. Change in status information provided to Clark County Assessor on November 17, 2003
I	Exhibits A10 and A11 before Board of Tax Appeals. Documents establishing and amending Juliet C. Crawford Trust
J	Exhibit A12 before Board of Tax Appeals. Death certificate of Juliet C. Crawford
K	Exhibit A13 before Board of Tax Appeals. Insurance bill demonstrating that Mrs. Crawford resided at the subject property
L	Exhibits A14 and A15 before Board of Tax Appeals. Communications from Clark County Assessor denying the senior citizen exemption
M	Exhibit A16 before Board of Tax Appeals. Petition to Clark County Board of Equalization
N	Exhibit A17 before Board of Tax Appeals. Decision of Clark County Board of Equalization
O	Exhibit A18 before Board of Tax Appeals. 2002 bill for delinquent taxes

P Exhibit A19 before Board of Tax Appeals. Payment for 2002 taxes, made December 3, 2002

Q Exhibit A20 before Board of Tax Appeals. Property Tax Information Inquiry information for 2001, 2002 and 2003

R Exhibit A21 before Board of Tax Appeals. Voided check for Juliet C. Crawford Trust

S Exhibit R-1 before Board of Tax Appeals. Property tax payment check signed by Juliet Crawford, dated August 22, 2002

T Selected pages from transcript of hearing before Board of Tax Appeals, August 30, 2005

U Decision of Clark County Superior Court in appeal of Board of Tax Appeals decision

V Docket sheet in Clark County Superior Court case

W Full text of RCW 84.36.381, 84.36.385 and 84.69.020

EXHIBIT A

BEFORE THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

JULIET C. CRAWFORD TRUST,)	
)	
Appellant,)	Docket No. 04-286
)	
v.)	RE: Property Tax Appeal
)	
LINDA FRANKLIN)	FINAL DECISION
Clark County Assessor,)	
)	
Respondent.)	
)	

This matter came before Georgia A. Gardner, presiding for the Board of Tax Appeals (Board) on August 30, 2005 for a formal hearing pursuant to the rules and procedures set forth in Chapter 456-09 Washington Administrative Code. Peter A. Crawford and Deborah Miles, Co-Trustees, represented Appellant, Juliet C. Crawford Trust (Trust). Quinn Posner, Clark County Deputy Prosecuting Attorney, represented Respondent, Linda Franklin, Clark County Assessor (Assessor). Maureen Humbert, Clark County Assessor's Office Supervisor, also appeared on behalf of the Assessor.

This Board heard testimony, reviewed the evidence, and considered the arguments made on behalf of both parties. This Board now makes its decision as follows:

EXEMPTION STATUS FOR THE 2001 ASSESSMENT YEAR

<u>PARCEL NO.</u>	<u>BOARD OF EQUALIZATION DETERMINATION</u>	<u>BOARD OF TAX APPEALS DETERMINATION</u>
092008-446	Not Exempt	Not Exempt

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ISSUE

Does Juliet Crawford qualify for exemption from paying property tax on her residence by reason of the Senior Citizen and Disabled Persons Exemption (Senior Exemption) under RCW 84.36.381 for assessment year 2001 for taxes payable in 2002?

FACTS

Gardner, Chair. Juliet C. Crawford was, at the time of her death, living in a home owned by the Juliet C. Crawford Trust. Subsequent to her death, application was made, on Mrs. Crawford's behalf, for the Senior Exemption under RCW 84.36.381.

The parties stipulate to the following facts:

1. The subject property is located at 16213 S.E. 18th Circle, Vancouver, WA (Property).
2. For calendar years 1995-1999, Mrs. Crawford applied for and received the senior citizen exemption for the Property.
3. For the calendar year 2000, Mrs. Crawford had one-time capital gains which caused her income to exceed \$30,000.
4. Mrs. Crawford informed the Clark County Assessor her income exceeded \$30,000, making her ineligible for a senior citizen exemption for taxes due in 2001.
5. Mrs. Crawford paid her 2001 property tax in full.
6. The 2001 property tax was paid in two separate installments: \$666.56 on April 9, 2001, and \$1139.58 on August 26, 2002. The second amount was larger as it was determined Mrs. Crawford did not meet the senior citizen exemption eligibility requirements for 2001 tax year. Therefore, she was required to submit full payment.
7. For the calendar year 2001, Mrs. Crawford's Combined Disposable Income, did not exceed \$30,000.
8. Mrs. Crawford failed to request the senior citizen exemption for taxes due in 2002.
9. During 2002, Mrs. Crawford failed to pay any taxes on the Property for the 2002 tax year.
10. Mrs. Crawford died on November 22, 2002 at the age of 83.

- 1 11. On December 2, 2002, a notice was delivered by mail to the Property,
2 which stated an amount due for taxes in 2002 of \$2367.41 plus \$236.74 in
3 interest and penalties.
- 4 12. On December 5, 2002, a payment of \$2604.15 was received by the Clark
5 County Treasurer for taxes due in 2002 on the property.
- 6 13. In March, 2003 the Property was sold and property taxes of \$1174.17
7 were subsequently submitted on March 12, 2003 to the Clark County Treasurer
8 for first half 2003 property taxes.
- 9 14. On November 17, 2003, Peter Crawford submitted a Senior Citizen's and
10 Disabled Person's Exemption from Real Property Taxes for the Property, setting
11 forth Mrs. Crawford's 2001 income of \$27,410, and a Petition for Property Tax
12 Refund for taxes due during 2002, setting forth "mistake, inadvertence or lack of
13 knowledge" as a reason for erroneous payment.
- 14 15. At the time of the November 17, 2003 exemption application, the property
15 was not Mrs. Crawford's primary residence.
- 16 16. Written notice denying the Senior Citizen's and Disabled Person's
17 Exemption from Real Property Taxes was mailed to Peter Crawford on February
18 2, 2004.
- 19 17. Peter Crawford timely appealed the denial to the Clark County Board of
20 Equalization.
- 21 18. On July 15, 2004, the Clark County Board of Equalization denied the
22 exemption.
- 23 19. Notice of the denial was mailed to Peter Crawford on July 27, 2004.
- 24 20. The Washington State Board of Tax Appeals received notice of Peter
25 Crawford's appeal on August 20, 2004.

ANALYSIS

17 The criteria for claiming the Senior Exemption are enumerated in RCW 84.36.381. Sub-
18 Section (1) states, in pertinent part, that "[t]he property taxes must have been imposed upon a
19 residence which was occupied by the person claiming the exemption as a principal place of
20 residence as of the time of filing..." At the time of filing, Mrs. Crawford was deceased and not
21 occupying the property as her principal residence.

23 Sub-section (2) states [t]he person claiming the exemption must have owned, at the time
24 of filing, in fee, as a life estate, or by contract purchase, the residence on which the property
25 taxes have been imposed..." The Co-Trustees strongly assert that the residence was never owned

1 by Mrs. Crawford, that it was owned by the Trust, and that taxes and other expenses to maintain
2 the residence were paid by the Trust. Peter Crawford contends Mrs. Crawford had a life estate
3 although no documents to that effect were presented nor did Peter Crawford cite statute or rule
4 applicable to 2001 that inferred a life estate. It is clear, however, that Mrs. Crawford could not
5 meet the requirements of Section (2) at the time of filing, since she did not own the property and
6 any supposed life estate would have expired at her death.

7
8 RCW 84.36.381 Sub-section (3) includes the requirement that the person claiming the
9 exemption be 61 years of age; and Section (4) gives the income requirements. The Board notes
10 that Mrs. Crawford, had she been alive, would meet both the age and income criteria of the
11 Senior Exemption.

12
13 The Co-Trustees provide testimony and argument on a number of other topics, such as
14 the requirements for late-filed application, applications by other than the senior qualifying for the
15 exemption, and “invidious discrimination against the heirs of senior citizens.”¹ However, the
16 issue is answered by the statute. Chapter 458-16 WAC provides regulations that expand upon
17 and give instructions to implement the statute. Both are unambiguous in specifying the criteria
18 for claiming the Senior Exemption.

19
20 Additionally Peter Crawford maintains he was acting for the Trust, as Co-Trustee, in
21 making application for the 2001 Senior Exemption. He states the Trust is owed the refund
22 (estimated by Peter Crawford to be \$1,000) generated by the Senior Exemption since the Trust
23 paid the property taxes. The Assessor considers Peter Crawford to be the applicant in his own
24

25 ¹ Appellant’s Brief, Page 20

1 behalf. The Board does not consider these questions since they are predicated on the
2 qualification of Mrs. Crawford for the Senior Exemption.

3
4 FINDINGS OF FACT

5
6 1. Statute provides specific criteria for qualification for the Senior Exemption.

7 RCW 84.36.381, in pertinent part: A person shall be exempt from any legal obligation to
8 pay all or a portion of the amount of excess and regular real property taxes due and payable in
9 the year following the year in which a claim is filed, and thereafter, in accordance with the
10 following:

11 (1) The property taxes must have been imposed upon a residence which was occupied by
12 the person claiming the exemption **as a principal place of residence as of the time of filing...**

13 (2) The person claiming the exemption **must have owned, at the time of filing, in fee,
14 as a life estate, or by contract purchase, the residence** on which the property taxes have been
15 imposed...

16 (3) The person claiming the exemption must be sixty-one years of age or older on
17 December 31st of the year in which the exemption claim is filed, or must have been, at the time
18 of filing, retired from regular gainful employment by reason of disability...

19 (4) The amount that the person shall be exempt from an obligation to pay shall be
20 calculated on the basis of combined disposable income... (Emphasis added.)

21 2. Mrs. Crawford did not occupy the property as her principal residence at the date the
22 application for Senior Exemption was filed. The application was filed subsequent to her death.

23 3. Mrs. Crawford did not, at any time, own the residence she occupied. It was owned by the
24 Trust.

25 4. WAC 458-16-100 (2) provides general rules regarding property tax exemptions:

General rules of construction. All property located in Washington is subject to
assessment and taxation, except property expressly exempted from taxation by law. The
following principles shall govern the construction of statutes that exempt property from taxation:

(a) There is no need to construe a statute when its language is plain.

(b) The burden of proving entitlement to a property tax exemption rests upon the taxpayer
claiming exemption.

(c) Statutes exempting property from taxation shall be strictly construed, though fairly
and in keeping with the ordinary meaning of the language employed.

(d) If there is any doubt regarding the exact meaning of a statute exempting property
from taxation, the statute shall be construed in favor of the power to tax and against the person
claiming the exemption because taxation is the rule and exemption is the exception.

1 (e) If the legislature has created an exemption, the exemption must not be enlarged by
2 construction since it is reasonable to presume that the legislature has granted in express terms all
3 that it intended to grant. An exemption must be limited to the very terms of the statute enacted;
4 if not so limited, the exemption would be enlarged beyond what the legislature intended to
5 exempt.

6 (f) Property shall be exempt from taxation only when the legislature has created an
7 exemption by clear and explicit language.

8
9 5. Mrs. Crawford did not have a life estate in the Trust residence. If she had owned a life
10 estate in the residence, it would have expired at her death, prior to the application for Senior
11 Exemption.

12
13 Any Conclusion of Law that should be deemed a Finding of Fact is hereby adopted as
14 such.

15
16 From these findings, this Board comes to these

17 CONCLUSIONS OF LAW

18
19 1. Exemptions are to be strictly construed and are not to be extended by judicial construction to
20 property other than that which is expressly designated by law.²

21
22 2. Mrs. Crawford did not occupy or own the subject property at the time application was made
23 for the Senior Exemption. Since statute requires both occupation and ownership, Mrs. Crawford
24 does not qualify for the exemption.

25

² *Pacific Northwest Conference v. Barlow*, 77 Wn.2d 487, 463 P.2d 626 (1969).

1 Any Findings of Fact that should be deemed a Conclusion of Law is hereby adopted as
2 such.

3
4 From these conclusions, this Board enters this

5
6 DECISION

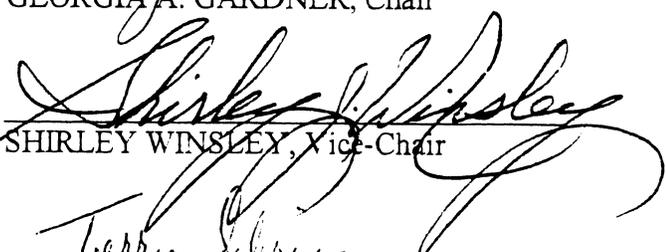
7
8 In accordance with RCW 84.08.130, this Board sustains the determination of the Clark
9 County Board of Equalization and orders the exemption status as shown on page 1 of this
10 decision.

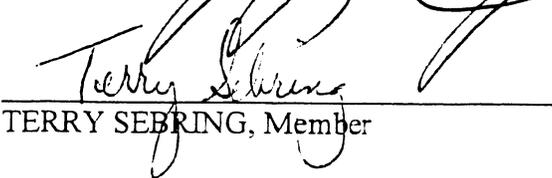
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12 The Clark County Assessor and Treasurer are hereby directed that the assessment and tax
13 rolls of Clark County are to accord with and give full effect to the provisions of this decision.

14
15 DATED this 19 day of September, 2005.

16 BOARD OF TAX APPEALS

17
18 
19 GEORGIA A. GARDNER, Chair

20 
21 SHIRLEY WINSLEY, Vice-Chair

22 
23 TERRY SEBRING, Member

1 **Right of Reconsideration of a Final Decision**

2 Pursuant to WAC 456-09-955, you may file a petition for reconsideration of this
3 Final Decision. You must file the petition for reconsideration with the Board of
4 Tax Appeals within ten business days of the date of mailing of the Final Decision.
5 The petition must state the specific grounds upon which relief is requested. You
6 must also serve a copy on all other parties and their representatives of record. The
7 Board may deny the petition, modify its decision, or reopen the hearing.
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CERTIFICATE OF MAILING

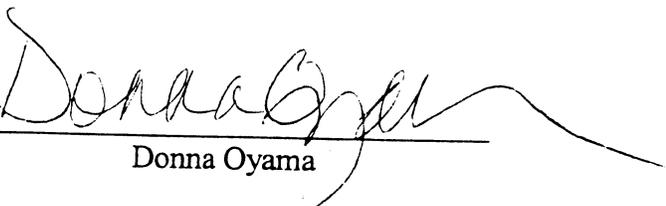
I certify that on the 19th day of September, 2005, I personally forwarded by United States mail or e-mailed, a true and correct copy of the attached document to the following:

PETER CRAWFORD - TRUSTEE
23 NEWCASTLE DR #11
NASHUA NH 03060

QUINN POSNER
CLARK CO DEP PROS ATTY
CIVIL DIVISION
PO BOX 5000
VANCOUVER WA 98666-5000

LINDA FRANKLIN
CLARK COUNTY ASSESSOR
PO BOX 5000
VANCOUVER WA 98666-5000

DARREN WERTZ - CLERK
CLARK COUNTY BOARD
OF EQUALIZATION
PO BOX 5000
VANCOUVER WA 98666-5000



Donna Oyama

EXHIBIT B



STATE OF WASHINGTON
BOARD OF TAX APPEALS

910 5TH Avenue SE • P.O. Box 40915 • Olympia, Washington 98504-0915 • (360) 753-5446 (Voice/TDD)
FAX (360) 586-9020 • E-mail bta@bta.state.wa.us • <http://bta.state.wa.us/>

December 2, 2005

Peter Crawford
23 Newcastle Drive #11
Nashua, NH 03060

Deborah Miles
3404 NE Country Drive
Camas, WA 98607

Re: Petition for Judicial Review
Cause No. 05 2 05413 5
Peter A. Crawford/Deborah C. Miles co-trustees and co-executors v.
Linda Franklin, Clark County Assessor
Board of Tax Appeals Formal Docket No. 04-286

Dear Petitioners:

Pursuant to the PETITION FOR JUDICIAL REVIEW, certified copies of the record and the transcript in the above referenced matter were filed with the Clark County Superior Court. Enclosed for your records are copies of the certificates, document index, correspondence index, exhibits list (appellant and respondent) and Board of Equalization documentary evidence list.

Sincerely,

A handwritten signature in cursive script that reads "Carol Lien".

Carol Lien
Clerk of the Board

CL: dlo

cc: Quinn Posner, Clark County Deputy Prosecuting Attorney
Linda Franklin, Clark County Assessor
Darren Wertz, Clark County Board of Equalization

Enclosures



1
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3
4 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

5 JULIET C. CRAWFORD TRUST,)
6)
7 Appellant,)
8)
9 v.)
10)
11 LINDA FRANKLIN)
12 Clark County Assessor,)
13)
14 Respondent.)
15)
16)
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19)
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21)
22)
23)
24)

No. 05 2 05413 5
CERTIFICATE
BTA DOCKET NO. 04-286

11
12 THIS IS TO CERTIFY that the materials transmitted herewith are originals or true and exact
13 copies of original documents compiled by the Board of Tax Appeals (Board) relating to the hearing
14 conducted in the above-entitled action (BTA Docket No. 04-286) on August 30, 2005, and that the
15 written materials transmitted herewith constitute the entire record considered by the Board in
16 reaching its decision in this matter.

17
18 The Board did not cause a transcript of the oral testimony adduced at the hearing to be
19 printed. It shall be the obligation of the party wishing a transcript to order the same from the Board
20 and assume the cost of printing same.

21
22 DATED this 10 day of November, 2005.

23 BOARD OF TAX APPEALS
24 Carol A. Lien
CAROL A. LIEN, Clerk

1
2
3
4 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
5 IN AND FOR THE COUNTY OF CLARK

6 JULIET C. CRAWFORD TRUST,)
7 Appellant,)
8 v.)
9 LINDA FRANKLIN)
Clark County Assessor,)
10 Respondent.)
11

No. 05 2 05413 5

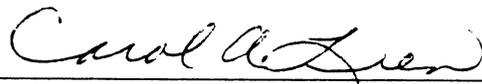
CERTIFICATE

BTA DOCKET NO. 04-286

12 THIS IS TO CERTIFY that the Transcript of Proceedings transmitted herewith is an original
13 of the true and exact transcript prepared by court reporter Connie Church, pursuant to the hearing
14 conducted in the above-entitled action (BTA Docket No. 04-286) on August 30, 2005.

15
16 DATED this 10 day of November, 2005.

17 BOARD OF TAX APPEALS

18 
19 CAROL A. LIEN, Clerk

**CRAWFORD vs.
LINDA FRANKLIN, CLARK COUNTY ASSESSOR**

Board of Tax Appeals Formal Docket No. 04-286

CORRESPONDENCE INDEX

NO.	ORIGINATOR /SUBJECT	DATE
1	Peter A. Crawford, Appellant, Re: Appeal of petition 03-00907-1, Clark County Parcel No. 092008-446	August 31, 2004
2	Board of Tax Appeals (BTA) Re: Senior Citizen Exemption Appeal Acknowledgement	September 13, 2004
3	Board of Tax Appeals (BTA) Re: Notice of Pre-hearing and Hearing	May 23, 2005
4	Mindy Lambertson, Legal Assistant for Attorney to Assessor, Clark County Re: New Association of Counsel	August 4, 2005
5	Mindy Lambertson, Legal Assistant for Attorney to Assessor, Clark County Re: Stipulated Facts	August 9, 2005
6	Mindy Lambertson, Legal Assistant for Attorney to Assessor, Clark County Re: Respondent's Trial Brief	August 15, 2005
7	Mindy Lambertson, Legal Assistant for Attorney to Assessor, Clark County Re: Stipulated Facts	August 15, 2005
8	Mindy Lambertson, Legal Assistant for Attorney to Assessor, Clark County Re: Respondent's Supplement to Trial Brief	August 22, 2005
9	Board of Tax Appeals (BTA) Re: Petition for Reconsideration	September 30, 2005
10	Board of Tax Appeals (BTA) Re: Petition for Judicial Review	October 26, 2005
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**Crawford vs. Linda Franklin, Clark County Assessor
Board of Tax Appeals Formal Docket No. 04-286**

EXHIBIT LIST

Juliet C. Crawford (deceased) v. Linda Franklin, Clark County Assessor

DOCKET NO. 04-286

HEARING DATE: 8-30-05

APPELLANT X

RESPONDENT

OTHER

NO.	DESCRIPTION	A	E	W
1	Appellant's Designation of Proposed Exhibits Certificate of Service (Dated 7/11/05)	X		
A 1	Clark County Treasurer 2001 Property Tax Statement	X		
A 2	Clark County Treasurer 2002 Property Tax Statement	X		
A 3	Clark County Treasurer 2003 Property Tax Statement	X		
A 4 (1-3)	Letter to Mr. Doug Lasher from Peter A. Crawford Re: Account number 092008-446, 16213 S.E. 18th Cir., Vancouver, WA	X		
A 5 (1-2)	Senior Citizen's & Disabled Person's Exemption from Real Property Taxes -- Disposable Income (Form REV 64-0043)	X		
A 6 (1-2)	Petition for Property Tax Refund	X		
A 7 (1-7)	2001 IRS Tax Return	X		
A 8 (1-2)	2001 Amended US Individual Income Tax Return	X		
A 9	2001 SSA-1099-SM	X		
A 10 (1-7)	Juliet C. Crawford Trust Document	X		
A 11 (1-4)	Amendment to Juliet C Crawford Trust	X		
A 12	Certificate of Death	X		
A 13	USAA Insurance Statement	X		
A 14	Letter from Joan Booth, Senior Citizen Coordinator at Department of Assessment to Hanington Yasue Re: Account # 092008-446 - Application for a Senior Citizen or Disabled Persons Exemption	X		
A 15	Letter from Joan Booth, Senior Citizen Coordinator at Department of Assessment to Peter A Crawford Re: Account # 092008-446 - Application for a Senior Citizen or Disabled Persons Exemption	X		
A 16 (1-2)	Taxpayer Petition to the Clark County Board of Equalization for Review of Senior Citizen/Disabled Person Exemption or Deferral Determination	X		
A 17 (1-2)	Order of the Clark County Board of Equalization	X		
A 18 (1-2)	2002 Clark County Treasurer Property Tax Statement *Reissued* and Letter from Dough Lasher, Clark County Treasurer	X		
A 19	Copies of Official Checks to Clark County Treasurer	X		
A 20	Property Tax Information- Account History	X		
A 21	Voided Trust Checks	X		

KEY: A - Admitted E - Excluded W - Withdrawn

**Crawford vs.
Linda Franklin, Clark County Assessor**

Board of Tax Appeals Formal Docket No. 04-286

Clark County Board Of Equalization Material

Pages 1 through 41

EXHIBIT C

Property Tax Exemption

for Senior Citizens and Disabled Persons

WASHINGTON STATE DEPARTMENT OF REVENUE

If you are a senior citizen or disabled, Washington has two programs that may help you pay your property taxes and/or special assessments. Your household income and your age or disability determine your eligibility for both programs.

This publication provides an overview of the property tax exemption program that helps senior citizens and disabled persons reduce their payment of property taxes.

For information about the property tax deferral program, see the Property Tax Deferral for Senior Citizens and Disabled Persons fact sheet.

Program Overview

Under the exemption program, the value of your residence is frozen for property tax purposes, and you become exempt from all excess and special levies and possibly regular levies – resulting in a reduction in your property taxes. The exemption is available for your primary residence and up to five acres* of land. A mobile home may qualify, even if the land where the mobile home is located is leased or rented.

* The exemption is available for a primary residence and one acre of land. If local zoning and land use regulations require more than one acre of land per residence in the area where you live, you may be eligible for a property tax exemption on up to five acres of land.

ELIGIBILITY REQUIREMENTS

To be eligible for this program you must meet the age or disability, ownership, residency, and income requirements.

AGE AND DISABILITY

You must be at least 61 years old on December 31 of the application year, or unable to work because of a disability, or a veteran with a 100 percent service connected disability. Your application must include proof of your age or disability.

Example: Your 61st birthday is in November 2006. You may file a 2006 application requesting an exemption on your 2007 taxes.

OWNERSHIP

You must own the home for which the exemption is claimed in total (fee owner), as a life estate (including a lease for life), or by contract purchase.

If you transfer your home under a revocable trust agreement, you must retain the full use of the property and be able to revoke the trust and take ownership at any time. Irrevocable trusts qualify, if they can be deemed a life estate.

A home owned jointly by a married couple or by co-tenants is considered owned by each spouse or co-tenant. Only one person must meet the age or disability requirement. If you share ownership in a cooperative housing unit and your share represents the specific unit or portion where you live, you will be eligible for the exemption of your unit.

If your primary residence or the land under your primary residence is owned by a government entity, you are eligible for a comparable exemption, if you meet the minimum qualifications.

RESIDENCY

The property must be your primary residence at the time your application is due. You must occupy the home for more than six months each year.

Your residence may qualify even if you are temporarily in a hospital, nursing home, boarding home or adult family home. You may rent your residence to someone else during your stay in one of these facilities if the rental income is used to pay the facility costs.

Property used as a vacation home is not eligible for the exemption program.

HOUSEHOLD INCOME

Your annual household disposable income may not exceed \$35,000. If your household income is between \$35,000 and \$40,000, you may qualify for the deferral program. See the Property Tax Deferral for Senior Citizens and Disabled Persons fact sheet for more information.

Household income includes disposable income of you, your spouse, and any co-tenants. A co-tenant is a person who lives in your home and has an ownership interest in your home.

Household income does not include income of a person who:

- Does not have ownership interest and lives in your home, except for a spouse. However, you must include any income that person contributes to the household.
- Has ownership interest in your home but does not live in the home. If someone living elsewhere has any ownership interest, the amount of your exemption will be based on the percentage of your interest in the property.

PROPERTY TAX AND LEVIES ELIGIBLE FOR EXEMPTION

The value of your residence is "frozen" as of January 1, 1995, or January 1 of the initial application year, whichever is later.

Example: If you meet the qualifications in the 2006 application year, the assessed value of your residence will remain at the 2006 level, unless there is a change in your status or new construction.

The assessor will continue to establish the property market value, but you will only be billed for taxes on the frozen value.

If your annual income for the application year is \$35,000 or less, your home will be exempt from all excess and special levies. Excess and special levies are in addition to regular levies. They require voter approval and provide money for a specific purpose, for example, school bonds and maintenance and operation levies.

In addition, if your income is \$30,000 or less, a portion of the regular levy amount may be exempt.

- If your household income is between \$25,001 and \$30,000, you are exempt from regular levies on \$50,000 or 35 percent of the assessed value, whichever is greater (but not more than \$70,000 of the assessed value). For example:

Household income \$26,000
Assessed home value \$150,000
Taxable property value $\$150,000 - \$52,500 = \$97,500$
(35% of \$150,000 = \$52,500)

- If your household income is \$25,000 or less, you are exempt from regular levies on the first \$60,000 or 60 percent of your home's assessed value, whichever is greater. For example:

Household income \$12,000
Assessed home value \$150,000
Taxable property value $\$150,000 - \$90,000 = \$60,000$
(60% of \$150,000 = \$90,000)

COMPUTING DISPOSABLE INCOME

The maximum amount of annual income you may receive and qualify for the exemption is \$35,000. The disposable income you receive during the application year determines your eligibility.

Example: You are filing a 2006 application requesting an exemption on your 2007 taxes. You must use your 2006 income to qualify.

Disposable income includes income from all sources, regardless if the income is taxable for federal income tax purposes. Losses and depreciation cannot be deducted. Some of the most common sources of income include:

- Wages, salaries, and tips.
- Social Security benefits.
- Railroad retirement benefits.
- Pension and annuity receipts, including retirement bonds, Individual Retirement Accounts, and distributions from Keogh plans. For purposes of this program, "annuity" is defined as a series of payments under a contract. Annuity contracts typically pay a fixed sum of money at regular intervals for more than one full year. Some examples of annuity payments include: proceeds from life insurance contracts, unemployment compensation, disability payments, and welfare receipts (excluding amounts received for the care of dependent children).

- Interest and dividend receipts.
- Business income. Depreciation and business losses cannot be deducted.
- Rental income. Depreciation and rental losses cannot be deducted.
- Capital gains other than the gain from the sale of your primary residence that was reinvested in another primary residence within the same calendar year. Capital losses may not be deducted from income or used to offset capital gains.

If there was a change in your income prior to November 1 that is expected to last indefinitely, you may estimate your income. Multiply your new average monthly income by 12.

Example: You retired in September and your monthly income is reduced from \$2,000 to \$1,000 beginning in October. Multiply \$1,000 x 12. The total \$12,000, is your new estimated annual disposable income.

DEDUCTIONS FROM DISPOSABLE INCOME

To determine your disposable income you may take deductions for the following expenses paid by you or your spouse:

- Non-reimbursed amounts paid for you or your spouse to live in a nursing home, boarding home, or adult family home.
- Non-reimbursed amounts for prescription drugs for you or your spouse.
- Insurance premiums for Medicare under Title XVIII of the Social Security Act.
- Non-reimbursed amounts paid for goods and services that allow you or your spouse to receive in-home care. The care must be similar to the care provided by a nursing home. In-home care includes medical treatment, physical therapy, Meals-on-Wheels (or similar services), and household and personal care. Personal care includes assistance with meals, getting dressed, eating, taking medications, or personal hygiene. Special furniture and equipment such as wheelchairs, hospital beds, and oxygen also qualify.

APPLYING FOR THE EXEMPTION

Your county assessor administers this program and is responsible for determining if you meet the qualifications. Please contact your local assessor's office to request an application form.

You may apply for the exemption the year before the taxes are due and payable. For example, if you want an exemption for taxes due in 2007, the application is due December 31, 2006 and you should report your 2006 income information.

If your application is filed after the due date, you must use the income from the same year as you would have if you had filed your application on time. For example, if you wait until February 2007 to apply for an exemption on your 2007 taxes, you would still use your 2006 income.

APPEAL PROCESS

Your county assessor must notify you in writing if your application is denied. You may appeal the assessor's decision to the county Board of Equalization. The county Board of Equalization must receive your appeal by July 1, or within 30 days of when the denial was mailed, whichever date is later.

REFUNDS FOR PRIOR YEARS

If you paid prior years' taxes because of a mistake, oversight, or a lack of knowledge about this program, you may apply for a refund by filing an application for refund with your county assessor. You must meet all of the qualifications for the exemption as if you had applied at the time the application was due. Separate applications must be submitted for each of the tax years. In order to receive a refund, applications must be filed within three years of the date the taxes were paid. Refunds will not be made beyond the three years.

RENEWAL APPLICATIONS EVERY FOUR YEARS

A renewal application is required at least once every four years. After your initial application and approval, you will be notified by your county assessor when it is time to submit a renewal application.

FREQUENTLY ASKED QUESTIONS

Q. What if my circumstances change?

A. A Change in Status Report must be filed with the assessor's office if changes in your income or living circumstances affect the exemption. Change of Status Reports are available from your county assessor or on the Department of Revenue's web site at <http://dor.wa.gov> under forms, Property Tax.

Change in status includes:

- Death of the eligible applicant (survivors must notify assessor)
- Change in income
- Sale or transfer of the property
- Move to an alternate primary residence
- Change in disability status
- Change in zoning or land use designation if your principle residence includes more than one acre of land.

Q. In the event of my death, will my surviving spouse continue to receive the exemption?

A. Your surviving spouse may continue to receive the exemption if he or she is at least 57 years old and meets all of the other eligibility requirements.

Q. If I sell my home, will the new owner continue receiving the exemption?

A. If you sell your home, the exemption will continue through your period of ownership. The taxes will be recalculated without the exemption for the remainder of the tax year and the new owner will be billed for the portion of taxes for his/her period of ownership.

Q. Can my exemption be transferred to a different residence?

A. If you sell, transfer, or are otherwise displaced from your residence, you may transfer the exempt status to a replacement residence. However, you may not receive an exemption on more than the equivalent of one residence in any year. When an exemption is transferred to a new residence, the value of the new residence is frozen as of January 1 of the year of change.

If you are moving to Washington, you may transfer an exemption from another state to your new Washington residence, providing you meet all other eligibility requirements and provide proof of the prior exemption and its cancellation date.

LAWS AND RULES

Revised Code of Washington (RCW)

Chapter 84.36 379- 389—Exemptions (Property Tax)

Washington Administrative Code (WAC) Chapter 458-16A-100 through 150—Senior Citizen/Disabled Persons Property, Tax Exemptions

FOR MORE INFORMATION

If you need help or have questions regarding the property tax exemption, application form, or the application process, contact your local county assessor's office. The telephone number is listed in the local county government pages (usually the blue pages) of your telephone book.

If you have questions about the laws and rules governing this program contact the Washington State Department of Revenue at (360) 570-5867.

Visit our web site at <http://dor.wa.gov>

To inquire about the availability of this publication in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users please call 1-800-451-7985.



This material is intended for general information purposes and does not alter or supersede any administrative regulations or rulings issued by the Department of Revenue.

EXHIBIT D

Property Tax Exemptions

for Senior Citizens and Disabled Persons

If you are a senior citizen or if you are disabled, Washington has two programs that may help you to pay your property taxes and/or special assessments. Your household income and your age or disability determine your eligibility for both programs.

This publication provides a basic description of the property tax exemption program for senior citizens and persons with disabilities. See the fact sheet titled *Property Tax Deferrals for Seniors Citizens and Disabled Persons* for more information on the deferral program. This fact sheet is current at the time of publication, however, future law changes may make some of this information incorrect. This material is intended for general information purposes, it does not alter or supersede any administrative regulations or rulings issued by the Department of Revenue.

The Senior Citizen and Disabled Person Property Tax Exemption Program freezes the value of your residence, exempts all excess levies, and may exempt a portion of regular levies. This results in:

1. freezing the value of your residence as of January 1, 1995, or January 1 of the initial application year, whichever is later.
2. providing you with a reduction in your property taxes.

The assessor will continue to establish the market value of the property, however, you will only be billed for the taxes on the frozen value.

Eligibility Requirements

Age or Disability

You must be at least 61 years old on December 31 of the year in which you apply, or you must be unable to work because of a disability, or you must be a veteran with a 100 percent service connected disability. Your application must include proof of your age or disability.

Ownership

The exemption is available for your principal home and up to one acre of land. A mobile home may qualify as your residence, even if you do not own the land where the mobile home is located.

The property must be your principal home at the time you apply for the exemption. You must occupy the home for at least six months each year.

Your residence may qualify even if you are temporarily in a hospital, nursing home, boarding home, or adult family home. You may rent your residence to someone else during your hospital, nursing home, boarding home, or adult family home stay, if the income is used to pay the hospital, nursing home, boarding home, or adult family home costs.

Property used as a vacation home is not eligible for the exemption program.

You must own the home for which the exemption is claimed, either in total (fee owner), as a contract purchaser, mortgagee, deed of trust, or as a life estate (including a lease for life). If you transfer your home under a revocable trust agreement, you must retain the full use of the property and be able to revoke the trust and take ownership at any time. Irrevocable trusts qualify, if they can be deemed a life estate.

A home owned by a married couple or by co-tenants is considered owned by each spouse or co-tenant. Only one person must meet the age or disability requirement.

If you share ownership in a cooperative housing unit and your share represents the specific unit or portion where you live, you will be eligible for the exemption of your unit.

Leasehold Interest

If your primary residence or the land under your primary residence is owned by a government entity, you are eligible for a comparable exemption, if you meet the minimum qualifications.

Household Income

Your annual household income may not exceed \$35,000. If your household income is between \$35,000 and \$40,000, you may qualify for the deferral program. See the fact sheet titled *Property Tax Deferrals for Senior Citizens and Disabled Persons* for more information about the program.

Household income includes your disposable income, that of your spouse, and any co-tenants. A co-tenant is a person living in your home who also has an ownership interest.

Household income does **not** include:

the income of a person, other than a spouse, who does not have ownership interest and lives in your home. However, the application must show any income the person contributes to the household.

the income of a person who has ownership interest and lives elsewhere. However, if someone living elsewhere has any ownership interest, the amount of your exemption will be based on the percentage of **your** interest in the property.

Computing Disposable Income

The maximum amount of annual income you may receive to qualify for the exemption is \$35,000. The disposable income you receive during the year you apply determines your eligibility. (The assessor will require proof of income.)

Disposable income includes all sources, whether or not they are taxable for federal income tax purposes. Losses and depreciation may not be deducted. Some of the most common sources of income include:

Wages, salaries, and tips.

Social Security benefits.

Railroad retirement benefits.

Pension and annuity receipts, including retirement bonds, Individual Retirement Accounts, and distributions from Keogh plans. An annuity is a payment of a fixed sum of money received at regular intervals. Some examples of annuity payments include unemployment compensation, disability payments, and welfare receipts (excluding amounts received for the care of dependent children).

Interest and dividend receipts.

Business income. Depreciation and business losses may not be deducted.

Rental income. Depreciation and rental losses may not be deducted.

Capital gains.

If you were retired for two or more months during the application year, your household income will be computed by multiplying the average monthly disposable income received during the months you were retired by 12. If your spouse died before November 1 of the application year or you have a significant change in income that is expected to last an indefinite period of time, your household income is computed by multiplying the average monthly disposable income, after the occurrence, by 12.

Deductions from Disposable Income

To determine your disposable income, you may take deductions for the following:

Capital gains you receive from the sale of your principal residence, **IF** the gain is reinvested in a replacement principal residence.

Non-reimbursed amounts you pay for your spouse or yourself to live in a nursing home, boarding home, or adult family home.

Non-reimbursed amounts paid for prescription drugs for yourself or your spouse.

Insurance premiums for Medicare under Title XVIII of the Social Security Act.

Non-reimbursed amounts you pay for goods and services that allow you or your spouse to receive in-home care. The care received must be similar to the care provided by a nursing home.

In-home care including medical treatment, physical therapy, Meals on Wheels (or similar meal delivery service), and household and personal care. Personal care includes assistance with preparing meals, getting dressed, eating, taking medications, or areas of personal hygiene.

Special furniture and equipment, such as wheelchairs, hospital beds, and oxygen.

Exemptions

When your annual income for the application year is \$35,000 or less, your home will be exempt from all excess or special levies. Excess or special levies are in addition to regular levies. They require voter approval and provide money for a specific purpose, such as school bonds and maintenance and operation levies.

In addition, when your income is \$30,000 or less, a portion of the regular levy amount may be exempt. These exemptions are:

When your household income is \$25,000 or less, you are exempt from regular levies on the first \$60,000 or 60 percent of your home's assessed value, whichever is greater.

For example, if your household income is \$12,000 and the assessed value of your property is \$150,000, the taxable value of your property is \$60,000 ($\$150,000 - \$90,000 = \$60,000$). Sixty percent of \$150,000 (\$90,000) is greater than \$60,000.

When your household income is between \$25,001 and \$30,000, you are exempt from regular levies on \$50,000 or 35 percent of the assessed value, whichever is greater, not to exceed \$70,000 or the assessed value.

For example, if your household income is \$26,000 and the assessed value of your property is \$150,000, the taxable value of your property is \$97,500 ($\$150,000 - \$52,500 = \$97,500$). Thirty-five percent of \$150,000 (\$52,500) is greater than \$50,000, but less than \$70,000.

Effective Date

The effective date of the exemption is the date the taxes are paid.

Death of the Applicant

If you pass away before the taxes are paid, the taxes will be recalculated to the full assessed amount of the principal residence on a pro rata basis beginning the day following the date of your death for the remainder of the year. Your surviving spouse may continue to receive the exemption if he or she is at least 57 years old and meets all the other eligibility requirements.

Sale or Transfer of Property/Exemption

If you sell your home before the taxes are paid, the exemption will continue through your period of ownership, provided you pay the portion of taxes owing for your period of ownership and the new owner pays the portion of taxes for his/her period of ownership. If the new owner pays the entire amount, the taxes will be recalculated without using the exemption.

If you sell, transfer, or are otherwise displaced from your residence, you may transfer the exempt status to a replacement residence. However, you may not receive an exemption on more than the equivalent of one residence in any year. When an exemption is transferred to a new residence, the value of the new residence is frozen as of January 1 of the year of change.

If you are moving to Washington, you may transfer an exemption from another state to your new Washington residence, providing you meet all other eligibility requirements and provide proof of the exemption.

How to Apply

Your county assessor administers this program. Applications are available from that office.

When to Apply

You may apply for the exemption program during the year before the year the taxes are due and payable. For example, if you want an exemption for taxes due in 2005, you must apply no later than December 31, 2004, using your 2004 income.

When your application is filed after the deadline, you must use the income from the same year as you would have, if you had filed your application on time. For example, you would use your 2004 income, for a 2004 application to receive the exemption from the 2005 taxes.

Refunds

If you have paid prior years' taxes because of a mistake, oversight, or a lack of knowledge, you may apply for a refund by filing an application for refund with the county assessor. You must file the application within three years of the dates the taxes were paid. Refunds will **not** be made beyond the three-year period.

Renewals

After approval, the exemption applies until a new application is required. This happens:

at least once every four years (you will be notified by the county assessor).

when you sell your property and move to a new home.

Changes in Circumstances

You must file a Change in Status report with the assessor's office if changes in your income or living circumstances affect the exemption.

Change of Status reports are available from your county assessor.

Appeal Process

The county assessor must notify you if your application is denied. You may appeal the assessor's decision to the County Board of Equalization. The County Board of Equalization must receive your appeal by July 1, or within 30 days of when the denial was mailed, whichever date is later.

For More Information

If you have questions regarding the property tax exemption for senior citizens or disabled persons, contact your local county assessor's office at the telephone number listed in the blue pages of your telephone book.

Or you may contact:

State of Washington
Department of Revenue
Property Tax Division
Post Office Box 47471
Olympia, Washington 98504-7471
FAX: (360) 586-7602
Telephone: (360) 570-5867

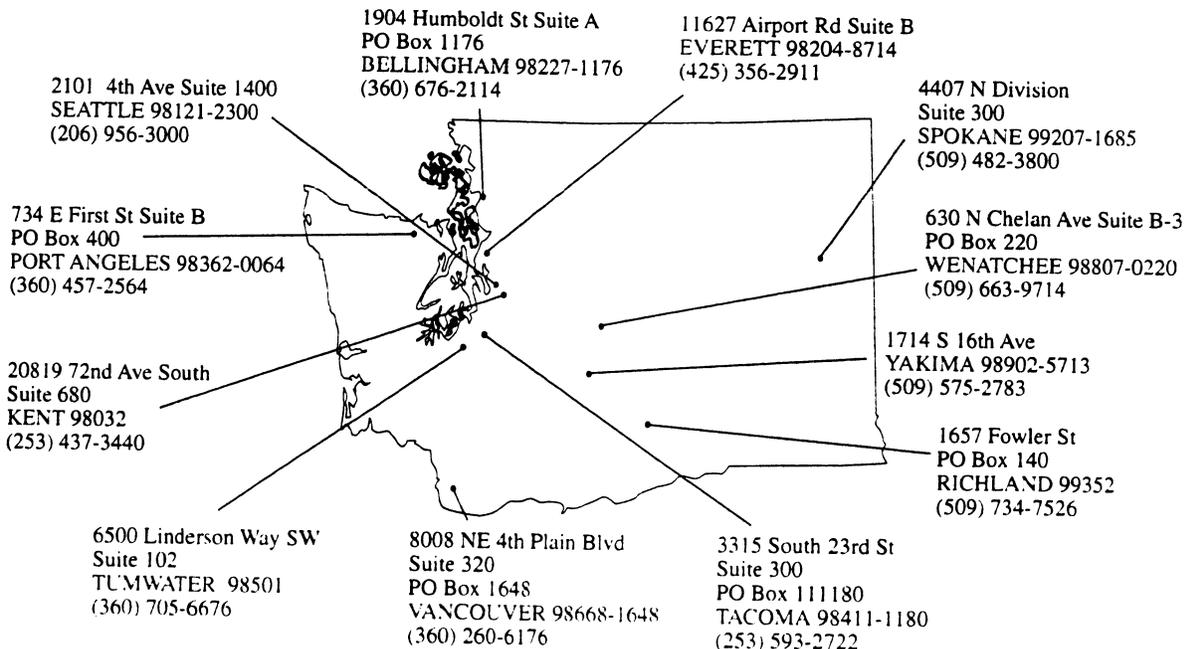
Laws and Rules

Revised Code of Washington (RCW) Chapter 84.36 379-389—Exemptions (Property Tax)

Washington Administrative Code (WAC) Chapter 458-16A-100 through 150—Senior Citizen/Disabled Persons Property Tax Exemptions

The Department of Revenue will provide copies of specific laws and rules, upon request. Please call our Telephone Information Center at 1-800-647-7706 for this service.

Department of Revenue Taxpayer Assistance Local Offices



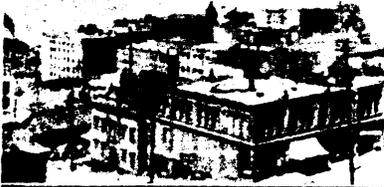
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EXHIBIT E



Washington State Board of Tax Appeals

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**BEFORE THE BOARD OF TAX APPEALS
STATE OF WASHINGTON**

**INSTITUTE FOR SYSTEMS BIOLOGY,
Appellant,**

v.

**STATE OF WASHINGTON,
DEPARTMENT OF REVENUE,**

Respondent.

)))))))))

Docket Nos. **59668**,
59669, 596670, 596671,
59672, 59673, 59674.

RE: Property Tax Exemption

Appeal

PROPOSED DECISION

This matter came before Stephen P. Zagelow, Tax Referee, presiding for the Board of Tax Appeals (Board), on March 18, 2004 for an informal hearing pursuant to the rules and procedures set forth in Chapter 456-10 Washington Administrative Code. Mark Hugh and Jennifer Deger, CPAs of Clark Nuber Certified Public Accountants and Consultants, and Louis Coffman, Chief Operating Officer represented Appellant, Institute for Systems Biology (ISB). Harold Smith, Exemption Specialist represented Respondent, Department of Revenue (Department).

This Board heard the testimony, reviewed the evidence, and considered the arguments made on behalf of both parties. This Board now makes its decision as follows:

TAX YEAR
DOCKET NO.
PARCEL NO. DEPARTMENT OF REVENUE
DECISION BOARD OF

TAX APPEALS
DECISION

2001
59668
1145000200

2002
59669
1145000200

2003
59670
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2004
59671
1145000200

2002
59672
5335200281

2003
59673
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2004
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5335200281

NOT EXEMPT

NOT EXEMPT

NOT EXEMPT

NOT EXEMPT

NOT EXEMPT

NOT EXEMPT

NOT EXEMPT
EXEMPT

PARTIALLY EXEMPT

NOT EXEMPT

NOT EXEMPT

EXEMPT

NOT EXEMPT

NOT EXEMPT

ISSUE

When the application for exemption is submitted after ISB ceased using the property, is ISB entitled to the exemption for the tax years it qualified for the exemption?

FACTS AND CONTENTIONS

ISB was established in Seattle in October 1999, as an IRS § 501(c)(3) tax exempt public research institute devoted to systems biology, an emerging field made possible by rapid advancements in genomic, proteomic and computer technologies. Unlike traditional scientific approaches that examine single genes or proteins, systems biology focuses on studying the complex interaction of vast numbers of biological elements.²

ISB's medical research was initially conducted at the two leased premises at issue in this appeal. Docket Nos. 59668-72 is ~~located~~ at 4225 Roosevelt Way NE. Its 28,711 square feet³ was leased beginning January 15, 2000 and occupied from February 2000 to January 2002. The lease expired January 22, 2003.⁴ The Lease is a triple net lease providing that ISB reimburses its Landlord for the payment of taxes and other expenses. It states at page 6:

A. Landlord is obligated to pay additional rent under the Prime Lease. Such additional rent includes amounts necessary to reimburse Prime Landlord for Property Taxes, Operating Costs or other expenses incurred by the Prime Landlord in connection with the property. Tenant shall pay to Landlord, with its monthly Base Rent payment, the percentage of the Prime Landlord's estimated monthly additional rent obligation (to the extent such additional rent is attributable to events occurring during the term of this Sublease) set forth in sections 1 (M) as the Sublease Share. Landlord shall advise Tenant of Tenant's Share of Prime Landlord's estimated monthly additional rent obligation promptly after receiving each annual estimate, and any and all adjustments thereto, from the Prime Landlord. Landlord shall reconcile the estimated Additional Rent Payments paid by Tenant each Lease year with the annual reconciliation made between Landlord and Prime Landlord under the Prime Lease promptly following such reconciliation. Landlord shall return or credit any additional rent overpayments in the manner and within the same time frames imposed on the Prime Landlord under the Prime Lease and Tenant shall pay any additional rent underpayments in the manner and within the same time frames imposed upon Landlord under the Prime Lease.

B. The Sublease Share provided for in section 1(M) is calculated by dividing the rentable area of the Premises by the rentable area of the premises leased by Prime Landlord to Landlord pursuant to the Prime Lease. In the event the rentable area of the Premises or the area leased pursuant to the Prime Lease shall be changed

during the Term, then the Sublease Share shall be recalculated.

Docket Nos. 59672-4 are located at 4555 Roosevelt Way NE. It contains 6,800 square feet⁵ and was leased in December 1, 2000 and occupied in January 2001 until January 2002.⁶ The lease term is sixty months. The Lease is a triple net lease providing that ISB reimburses its Landlord for the payment of taxes and other expenses. It states at pages 2-3:

(a) This is a triple net lease. All operating expenses (as hereinafter defined below) shall be additional rent from the Lease Commencement Date through the term of the Lease. With respect to each Lease Year, the Tenant shall pay, in monthly installments and as "Additional Rent", an amount equal to the "Tenant's Proportional Share" (as hereinafter defined) of actual Operating Expenses. . . .

(b) "Tenant's Proportional Share" shall be computed by dividing the Total Rentable Area of the Premises by the Total Rentable Area of the Building. Tenant's Proportional Share upon the Lease Commencement Date for the entire Premises is specified in the Lease Summary.

(c) "Rentable Area of the Building" and "Rentable Area of the Premises" are defined as those areas obtained by measuring the Building and Premises in accordance with the method of measuring rentable office space specified in the 1996 American National Standards Institute Publication (otherwise known as "BOMA Standard").

The Total Rentable Area of the Building and the Total Rentable Area of the Premises, as of the Lease Commencement Date are as specified in the Lease Summary. The Total Rentable area of the Premises exceeds the usable area of the Premises to include a pro rata share of hallways, restrooms, and other common elements located on the floor on which the Premises are located.

(f) "Operating Expenses" as used herein shall mean all costs, expenses, and other charges incurred by the Landlord in connection with the ownership, operation, repair and maintenance of the Property and the Building including, but not limited to:

(ix) Reasonable cost of all taxes and assessments and governmental charges whether federal, state, county, or municipal or any other taxes and assessments attributable to the Property and/or Building (including any parking facilities used in connection therewith) or its operation, including without limitation, real property taxes and assessments and any tax or other levy, however denominated, on or measured by the rental collected by the Landlord with respect to the Building but excluding federal and state taxes on income.

In January, 2002, ISB moved into its newly remodeled leased premises on Lake Union at 1441 N. 34th Street. The Department has approved ISB's property tax exemption for the Lake Union property.

On February 14, 2003 ISB applied for exemption from property taxes for the two parcels located on Roosevelt Way, the subject properties of this appeal.⁷ The

Department denied the exemption for both parcels in separate denial letters dated April 11, 2003. The Department denied Docket Nos. 59668-71 for Tax Years 2001 through 2204 (Assessment Years 2000 through 2003) and Docket Nos. 59672-74 for Tax Years 2002 through 2204 (Assessment Years 2001 through 2003). The Department's denial letter states the exemption was denied because "Property not used for actual operation of exempt activity." Following ISB's application, in March 2003, the Department inspected the two subject parcels and found ISB was no longer occupying the premises.⁸ The Department contends the ISB must actually occupy the premises for which the exemption is sought at the time of application.

In support of its position the Department submits a Memorandum citing RCW 84.36.045, 84.36.805, and 84.36.815.;

Beginning on page two the Memorandum reads as follows:

The Department contends that the statutes and rules governing exemptions require that the property be currently in use for a qualifying exempt purpose. The interpretation of chapter 84.36 RCW has always been that the exempt activity has to be there for us to verify when we determine whether a property qualifies for exemption.

Throughout chapter 84.36 RCW, the statutes always use present or future tense. Nowhere have legislators suggested an exemption for property that was "once used," "no longer used," "no longer owned," or "no longer leased" by the nonprofit. We believe the statutes presume a prompt application, timely processing by the Department, and an accurate tax-roll that properly reflects which properties are taxable and which are exempt.

Usually, the nonprofit applicant makes a timely application and is using the property both at the time of application and when the Department arrives to inspect the property. The Legislature must have had this in mind as well. RCW 84.36.830 describes the approval process and the requirement for verification of the exempt activity, stating in part:

"...The department of revenue shall make a physical inspection of the property and satisfy itself as to the use of all parcels prior to approving or denying the application, and thereafter at regular intervals designed to insure compliance with this chapter... "

If the lawmakers did not expect the Department to find the exempt activity, they would not have required us to make this inspection.

In response to the Department's denial, ISB citing WAC 458-16-110(8) (Rule 110(8)) argues even though it did not occupy the subject facilities at the time of the applications, ISB qualified for the exemption during the periods it did occupy the facilities. Therefore, its applications were proper and erroneously denied by the Department.<

Rule 110(8))provides:

If an application is approved, the property is exempt from property taxes due the year immediately following the year the application for exemption is submitted.

(a) For example, if an application for exemption is submitted to the department in 2000 and the application is approved in assessment year 2000, the property will be exempt from taxes due in 2001.

(b) Retroactive applications for exemption for previous years are accepted, up to a maximum of three years from the date taxes were paid on the property, if the applicant provides the department with acceptable proof that the property qualified for exemption during the pertinent assessment years and pays the initial application filing fee, renewal declaration fees, and late filing penalties. (Emphasis added).

ISB argues it meets the elements of Rule 110(8): (1) it filed the applications for tax years 2001, 2002, 2003 and 2004 on February 14, 2003 which is less than three years from the date the taxes were paid; (2) the Department does not dispute ISB's activities qualified it for the exemption for the period it occupied the facilities; and, (3) all fees have been paid.

The Department disagrees with ISB's reliance on Rule 110(8) and finds it inapplicable:=-

This rule only explains what applications can be accepted and how the Department will process them. Retroactive, in this context, means "late filing," nothing more. The rule does not attempt to explain whether a property actually qualifies now or in the past. Whether the subject properties qualify for exemption is to be found in RCW 84.36.045, RCW 84.36.805, and the rules that attempt to explain those laws.

The Department explains:>

"Retroactive" filing is not introduced nor defined in statute. It is merely referenced in the Department's rule, WAC 458-16-110. This rule explains how applications are made under the administrative statutes. The portion dealing with retroactive filing comes from the Department's reading of portions of three of those statutes. RCW 84.36.825 specifies a late fee to be collected when either an initial application or a renewal declaration is submitted late, but it does not describe exemption for past periods. RCW 84.36.815 tells us that taxes paid for a period for which exemption is granted can be refunded, but does not discuss qualifying for exemption in the past. RCW 84.69.030 prevents the county treasurer from refunding taxes that have been paid for more than three years.

At the hearing, this Board asked both parties to present argument on the application of RCW 84.36.045 and RCW 84.36.805(3) that each requires the benefit of the exemption to inure to the exemption qualified lessee and not the non-exemption qualified lessor or other non-qualified tenants. The Board was concerned with the lease provisions of both subject properties that requires a pro rata allocation of all taxes to all tenants with the result that the tax exemption, if granted, would not inure solely to the benefit of ISB, but proportionally to the

other tenants of the building. The Department testified that its practice when lease provisions may prevent the benefits from inuring to the applicant is to allow the lessee applicants to obtain letters from their lessors specifying the exemption benefit will inure solely to the applicant lessee. If the lessor letters are obtained, the Department finds RCW 84.36.805(3) has been satisfied.?

This Board allowed ISB to obtain letters from its lessors specifying that the benefit of the exemption would inure only to ISB. This Board received statements from Lessors ZymoGentics@ and University of Washington/Educational Research PropertiesA for the property located at 4225 Roosevelt Way NE, and, Blum CompanyB for the property located at 4555 Roosevelt Way NE.

ANALYSIS AND CONCLUSIONS

RCW 84.36.865 authorizes the Department of Revenue to make rules and regulations to permit effective administration of the exemption statutes. WAC 458-16-100 provides the rules of construction when determining the qualifications/availability of an exemption for tax:

(1) Introduction. This section explains how statutes exempting property from taxation should be read and interpreted.

(2) General rules of construction. All property located in Washington is subject to assessment and taxation, except property expressly exempted from taxation by law. The following principles shall govern the construction of statutes that exempt property from taxation:

(a) There is no need to construe a statute when its language is plain.

(b) The burden of proving entitlement to a property tax exemption rests upon the taxpayer claiming exemption.

(c) Statutes exempting property from taxation shall be strictly construed, though fairly and in keeping with the ordinary meaning of the language employed.

(d) If there is any doubt regarding the exact meaning of a statute exempting property from taxation, the statute shall be construed in favor of the power to tax and against the person claiming the exemption because taxation is the rule and exemption is the exception.

(e) If the legislature has created an exemption, the exemption must not be enlarged by construction since it is reasonable to presume that the legislature has granted in express terms all that it intended to grant. An exemption must be limited to the very terms of the statute enacted; if not so limited, the exemption would be enlarged beyond what the legislature intended to exempt.

(f) Property shall be exempt from taxation only when the legislature has created an exemption by clear and explicit language.

(3) General requirements. Applicants seeking an initial or continuing property tax exemption shall make the subject property available to the department of revenue at reasonable times for physical inspection, investigation, or examination. Applicants shall also provide to the department of revenue, upon request, all records, documents, or facts necessary for the department to determine the exempt or taxable status of the

property. Failure to fully cooperate with the department may result in a determination that the property is taxable for the current year.

Upon review of all the evidence and the applicable statutes and rules we hold ISB is entitled to exemption from tax for Tax Year 2002 for Docket No. 59672, for Docket No. 59668 Tax Year 2001, and, for Docket No. 59669 partially exempt for ~~the~~ Tax Year 2002 for ISB's qualified use to March 1, 2002. We have no evidence of qualified use of either property following the departure of ISB from each of the properties, including the University of Washington 2002 sublease of the property located at 4225 Roosevelt Way NE. Therefore, we deny exemption for Tax Years 2003 and 2004, Docket Nos. 59670, 59673, 59671, and 59674 and that period of tax Year 2002, Docket No, 59669 after ISB's departure in March 1, 2002. Since common areas, by definition, are not exclusively used by ISB, the property exempt for Docket No. 59672 is limited to the net rentable area of 28,711 square feet. For Docket Nos. 59668 and 59669, the ~~property~~ exempt is limited to the 6,800 square feet of net rentable area.

We agree with ISB. We hold Rule 110(8) applies and agree that ISB has met all of the Rule 110(8) elements. We find: (1) it filed the applications for tax years 2001, 2002, 2003 and 2004 on February 14, 2003 which is less than three years from the date the taxes were paid. (2) We find ISB has met its burden to prove its activities during the period it occupied the facilities qualified it for the exemption. The Department does not dispute ISB's activities qualified it for the exemption for the period it occupied the facilities. And, (3), we find all fees have been paid.

We hold the statutory basis for the retroactive application in Rule 110(8) is found in the last sentence in RCW 84.36.815. That sentence specifically authorizes the refunding of taxes in a year the Owner qualified for exemption. It reads as follows:

If the owner has paid taxes for the year following the year the property qualified for exemption, the owner is entitled to a refund of the amount paid on the property so acquired or converted.

While we acknowledge and appreciate the Department's statutory duty to inspect the premises, we hold inspection by the Department is not the Department's exclusive method to prove the property is used for the exempt purpose. The key sentence is in RCW 84.36.830:

The department of revenue shall make a physical inspection of the property and satisfy itself as to the use of all parcels prior to approving or denying the application, and thereafter at regular intervals designed to insure compliance with this chapter. (Emphasis added).

Statutory phrases separated by the word "and" are construed in the conjunctive. RCW 84.36.830 imposes upon the Department the duties to both "make a physical inspection of the property" and "satisfy itself as to the use of all parcels." We hold that RCW 84.36.830 is clear and unambiguous and we hold the statute does not require the use element be exclusively satisfied by the physical inspection element. We decline to add to the statute, as suggested by the Department, that the use requirement is exclusively met by the Department's physical inspection.

If a letter of exception is not filed, the Proposed Decision becomes the Board's Final Decision twenty calendar days after the date of mailing of the Proposed Decision.

-
- 1 Exhibit A-1.
 2 Exhibit A-7.
 3 Exhibit A-2. ISB contends from January 15, 2000 to June 10, 2002, and January 23, 2003 to current, it rented 28,711 sq ft. of net rentable area and 24,270 feet of common area for a total area rented of 52,981 square feet (one-half the structure). From June 11, 2002 to January 22, 2003, it rented part of its space to the University of Washington.
 4 Exhibit A-2.
 5 Exhibit A-1. ISB contends of the 87,402 square feet of the building it leased 6,800 square feet of net rentable area plus a 12% load factor for common areas, resulting in total rented area of 7,616 square feet.
 6 Exhibit A-1.
 7 Statutory late fees and renewal fees were paid by ISB.
 8 Memorandum of the Department of Revenue, page 1.
 9 Memorandum of the Department of Revenue, page 2: RCW 84.36.045 is the statute that specifically creates the exemption for medical research facilities and states in part:
 All real and personal property owned or used by any nonprofit...used for medical research...shall be exempt... If the real or personal property is leased, the benefit of the exemption shall inure to the nonprofit corporation or association. To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805. [Emphasis added in the Memorandum.]
 10 Memorandum of the Department of Revenue, page 2: RCW 84.36.805 is the statute that lists conditions that apply to nearly all of the nonprofit exemptions and states in part:
 ... (1) In order to qualify for an exemption under this chapter, the nonprofit organizations, associations, or corporations must satisfy the conditions in this section. (2) The property must be used exclusively for the actual operation of the activity for which exemption is granted., and does not exceed an amount reasonably necessary for that purpose ...
 (3) The property must be irrevocably dedicated to the purpose for which exemption has been granted, and on the liquidation, dissolution, or abandonment by said organization, association, or corporation, said property will not inure directly or indirectly to the benefit of any shareholder or individual, except a nonprofit organization, association, or corporation which too would be entitled to property tax exemption. This property need not be irrevocably dedicated if it is leased or rent
 11 Memorandum of the Department of Revenue, page 3: RCW 84.36.815 describes how and when a nonprofit applies and qualifies for exemption. It states in part:
 When an organization acquires real property qualified for exemption or converts real property to exempt status, such organization shall file an initial application for the property within sixty

days following the acquisition or conversion. If the application is filed after the expiration of the sixty-day period a late filing penalty shall be imposed pursuant to RCW 84.36.825, as now or hereafter amended.

When organizations acquire real property qualified for exemption or convert real property to an exempt use, the property, upon approval of the application for exemption, is entitled to a property tax exemption for property taxes due and payable the following year... [Emphasis added in the Memorandum.]

- 12 ISB Supplements to Notice of Appeal-Exemption.
- 13 Memorandum of the Department of Revenue, page 4.
- 14 Memorandum of the Department of Revenue, page 3.
- 15 Testimony of Harold Smith.
- 16 Dated April 4, 2004 - "I agree 100% of any property tax refund received by ZymoGenetics as a result of a property tax exemption qualified for by the Institute for Systems Biology for the time period it subleased the space noted above will be passed on to the Institute for Systems Biology."
- 17 Dated April 15, 2004 - "I agree 100% of any property tax refund received by Educational Research Properties as a result of a property tax exemption qualified for by the Institute for Systems Biology for the time period it subleased the space noted above will be passed on to the Institute for Systems Biology."
- 18 Dated April 30, 2004 - "I agree 100% of any property tax refund received by Blume Company as a result of a property tax exemption qualified for by the Institute for Systems Biology for the time period it subleased the space noted above will be passed on to the Institute for Systems Biology."
- 19 "[s]tatutes should be construed so that no language is superfluous". *Ski Acres, Inc. v. Kittitas Cy.*, 118 Wn.2d 852, 860, 827 P.2d 1000 (1992).
- 20 RCW 84.36.830: The department of revenue shall review each application for exemption and make a determination thereon prior to August 1st of the assessment year for which such application is made: PROVIDED, That each exemption application received after March 31 shall be reviewed and determination made thereon within thirty days of the date received or by August 1, whichever is later. The department of revenue may request such additional relevant information as it deems necessary. The department of revenue shall make a physical inspection of the property and satisfy itself as to the use of all parcels prior to approving or denying the application, and thereafter at regular intervals designed to insure compliance with this chapter. When the department of revenue has examined the application and the subject property, it shall either approve or deny the request and clearly state the reasons for denial in written notification by mail to the applicant. The department shall also notify the assessor of the coun
21 *HJS Dev., Inc. v. Pierce County*, 148 Wn.2d 451, 61 P.3d 1141 (2003) citing 1A Norman J. Singer, *Statutes and Statutory Construction* § 21:14, at 179-81 (6th ed. 2002). See also, *State v. Brunson* (In re Brunson), 128 Wn.2d 98,110, 905 P.2d 346 (1995)("And" implies a conjunctive standard -- the inference must be both the sole and sufficient

proof of an element.) *Ski Acres, Inc. v. Kittitas County*, supra at 855. (The statute contains an "and", not an "or". We thus read the "and" as simply being an "and". The Legislature would have used the word "or" if it had intended to convey a disjunctive meaning. See *State v. Carr*, 97 Wn.2d 436, 439, 645 P.2d 1098 (1982) (where the lower court erred in reading an "and" in former JCrR 4.10 as conveying a disjunctive meaning); *Childers v. Childers*, 89 Wn.2d 592, 596, 575 P.2d 201 (1978) (the word "and" does not mean "or").

22 See also: *Moe v. Hansen (In re Estate of Hansen)*, 128 Wn.2d 605, 910 P.2d 1281 (1996); *State v. Enloe*, 47 Wash. App. 165, 170, 734 P.2d 520 (1987); *Addleman v. Board of Prison Terms & Paroles*, 107 Wash. 2d 503, 509, 730 P.2d 1327 (1986); *State v. Taylor*, 97 Wash. 2d 724, 728, 649 P.2d 633 (1982).

TITLE: BEFORE THE BOARD OF TAX APPEALS

SUBJECT:

KEYWORDS:

COMMENTS:

AUTHOR: steve

Last saved by: Donna

EXHIBIT F

FINAL

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LEGISLATIVE REPORT

1 ♦ 9 ♦ 8 ♦ 3

FORTY-EIGHTH LEGISLATURE OF WASHINGTON STATE

Regular, First and Second Special Sessions

1st Ex. Sess.) which provided post retirement adjustments effective July 1, 1979, to eligible members of those retirement systems.

SUMMARY:

For those eligible, there is provided a permanent increase in the monthly benefits by a post-retirement adjustment of \$0.74 per month for each year of membership. The adjustment is effective July 1, 1978.

Only persons receiving benefits from one of the previously mentioned retirement systems may be eligible. To be eligible for the adjustment the person must either (1) be receiving a non-service (disability or survivor) benefit as of December 31, 1982; or (2) be receiving a service retirement benefit as of July 1, 1980.

Appropriation: Appropriates \$3,600,000 of which \$3,561,000 is General Fund-State and \$39,000 is Motor Vehicle Fund monies.

VOTES ON FINAL PASSAGE:

<u>Regular Session</u>			
House	94	0	
<u>First Special Session</u>			
House	96	0	
Senate	38	6	(Senate amended)
House	96	0	(House concurred)

FULL VETO: (See VETO MESSAGE)

SHB 496

C 11 L 83 E1

By Committee on Ways & Means (originally sponsored by Representatives Ristuben, Grimm, Miller, Egger, Struthers, Powers, Fiske, Halsan, Brough, Chamley, Nealey, Long, Vander Stoep, Ebersole, Schmidt, Garrett, Befrozoff, R. King, Allen, Dellwo, Ballard, Heck, Jacobsen, Schoon, Martinis, Fuhrman, Taylor, Van Dyken, Walk, Pruitt, Barrett, Zellinsky, Johnson, Kaiser, J. Williams, Todd, Mitchell, Fisch, Patrick, Fisher, Tilly, Crane, Addison, D. Nelson, Tanner, Wang, McClure, Gallagher, Hine, Kreidler, Burns, Stratton, Appelwick, Niemi, Locke, Isaacson, Silver, Vekich, McMullen, Braddock, Rust, Brekke, B. Williams, Belcher, Holland, Moon, Wilson, Sutherland, O'Brien, Lewis and Armstrong)

Modifying provisions on senior citizen tax relief.

House Committee on Ways & Means

Senate Committee on Ways & Means

BACKGROUND:

The incomes of senior citizen homeowners are generally much lower than those of other homeowners. In 1980, the largest concentration of seniors fell into the \$7,000 to \$8,000 income class and roughly one-half of all senior homeowners had incomes of less than \$21,000.

In recognition of the income gap between senior citizens and other homeowners, the legislature has enacted property tax exemptions to protect senior citizens from rising property taxes. Since the exemptions were first instituted in 1968, the legislature has increased the income limitations and the size of the benefits four times. These increases were enacted in order to protect beneficiaries from inflation.

The law provides the following exemptions to senior citizens: households with incomes of \$14,000 or less per year are exempt from 100 percent of special property tax levies; households with incomes of \$10,000 or less per year are exempt from 100 percent of special levies, plus the assessed value of the taxpayer's home is reduced by \$15,000. For example, if the value of a home was assessed at \$45,000, property taxes would be imposed on only \$30,000 of the home's value.

Senior citizen property tax relief results in a minimal loss of revenue to the state since the cost is shifted to other taxpayers. This shift is a result of the 106 percent limit on annual property tax increases. Under this limit, state and local property tax levies are limited to a six percent annual increase. When property taxes are reduced for some citizens, taxes for other citizens are increased.

The numbers of seniors participating has declined due to the effects of inflation on income levels. Furthermore, rapidly escalating property values have resulted in increasing property taxes for low income senior households.

Many seniors, whose incomes exceed the eligibility levels pay a large percentage of their income in nursing home care costs. Veterans receive attendant care and medical aid benefits as part of their pensions. These benefits could be counted as

income for the purposes of determining eligibility for property tax exemptions.

SUMMARY:

The minimum income of senior citizens eligible for property tax exemptions is increased and the amount of relief provided is increased. Two different relief schedules are provided for the years 1984 and 1985 in order to give property tax assessors more time to make administrative changes in the program.

For taxes paid in 1984 the relief is: households with incomes of \$15,000 or less are exempt from 100 percent of special levies; households with incomes of \$12,000 or less are exempt from 100 percent of special levies plus the assessed value of the taxpayer's home is reduced by \$20,000.

For taxes paid in 1985 the relief is: Households with incomes of \$15,000 or less are exempt from 100 percent of special levies. Households with incomes of \$9,000 to \$12,000 are exempt from 100 percent of special levies, plus the assessed value of the taxpayer's home is reduced by the greater of \$20,000 or 30 percent of its value, with a maximum of \$40,000. Households with incomes of \$9,000 or less are exempt from 100 percent of special levies plus the assessed value of the taxpayers home is reduced by the greater of \$25,000 or 50 percent of its value, with no maximum.

The definition of income for the purposes of eligibility for senior citizen property tax relief is changed. Income is defined as disposable income minus costs incurred for nursing home care. Veterans' military benefits used for attendant care and medical aid are excluded from the definition of income.

Senior citizens are no longer required to submit annual renewal applications to remain eligible for property tax exemptions. Once a senior citizen has become qualified for the exemption, she or he never has to reapply. The taxpayer is, however, required to inform the county assessor of any change in his or her status that affects eligibility.

The increased benefits provided to seniors results in a tax shift of an additional \$14.3 million to other taxpayers. In 1984, a homeowner with a \$75,000 home will pay \$21 per year in additional property taxes as a result of exemptions for seniors.

Revenue: Exemptions for senior citizens from property taxes are increased.

VOTES ON FINAL PASSAGE:

First Special Session

House	93	0
Senate	48	0

EFFECTIVE: May 11, 1983
January 1, 1984 (Sections 5 & 6)

SHB 498

C 150 L 83

By Committee on Judiciary (originally sponsored by Representatives Crane, Armstrong, Padden, Jacobsen, Appelwick, Todd, Isaacson, Silver, Schoon, Holland and Johnson)

Modifying provisions relating to driving while intoxicated.

House Committee on Judiciary

Senate Committee on Judiciary

BACKGROUND:

Any person convicted of driving while intoxicated must attend an alcohol information school approved by the Department of Social and Health Services (DSHS), unless the court recommends immediate enrollment in an intensive treatment program. An alcohol information school may recommend that the individual attend a more intensive treatment program. The treatment school must submit a report to the Department of Licensing (DOL) that the driver has completed the diagnostic and treatment program. DOL may not issue a license until the driver has completed the program.

There is confusion and dispute over whether court probation personnel may, or should be allowed to diagnose alcohol problems and recommend treatment. Private agency alcoholism counselors currently do most diagnoses and treatment recommendations.

SUMMARY:

A person convicted of DWI must attend an alcohol information school or complete more intensive treatment in a program, as determined by the court. The court's determination is made upon a diagnosis done either by an alcoholism agency or

EXHIBIT G

BEFORE THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

JULIET C. CRAWFORD (deceased),)	
)	Docket No. 04-286
Appellant,)	
)	
v.)	RE: Senior Exemption Appeal
)	
LINDA FRANKLIN)	
Clark County Assessor,)	
)	
Respondent)	
_____)	

APPELLANT'S DESIGNATION OF PROPOSED EXHIBITS

Now comes the appellant and designates the attached pages, numbered A1-1 through A20-1 as his proposed exhibits.



Peter A. Crawford
23 Newcastle Dr. #11
Nashua, NH 03060
(603)888-4574

Date: July 11, 2005

CLARK COUNTY TREASURER

ACCOUNT NUMBER

2002 STATEMENT

FOR DELINQUENT AMOUNTS, INTEREST AND PENALTY ARE CALCULATED THRU APRIL 30TH.

092008-446.0

CUSTOMER COPY - RETAIN THIS PORTION FOR YOUR RECORDS

% TAX DOLLARS VOTER APPROVED	TAX BREAKDOWN	YEAR	TAX	FIRE PATROL	INTEREST / PENALTY	TOTAL
0	STATE	02	2,367.41	.00		2,367.41
0	COUNTY					
100	LOCAL SCHOOL					
0	CITY					
0	PORT					
0	FIRE					
0	LIBRARY					
0	CEMETERY					
0	ROADS					
		2001 TOTAL PAID	TAX RATE	2002 FULL DUE OR 2002 FIRST HALF DUE		TOTAL DUE
		666.56	13.95881	2,367.41	1,183.71	2,367.41

PROPERTY ADDRESS

16213 SE 18TH CR

LEGAL DESCRIPTION

HOMESTEAD ACRES AT FISHERS LAN DING PHASE-I LOT 31 SUB 91

ASSESSED VALUE

52,000
117,600
169,600

67,231 092008-446.0 001 001 CLRKRET0202

092008-446.0

CRAWFORD JULIET C TRST
16213 SE 18TH CIR
VANCOUVER, WA 98683

SUPL. DATE DUE **TAX CODE DISTRICT** **LAND USE**

114029

SEE REVERSE FOR INFORMATION - RETURN ENVELOPES ENCLOSED

ACCOUNT NUMBER
092008-446.0

TAX CODE DISTRICT
114029

SECOND HALF DUE
OCTOBER 31, 2002

SUPL. DATE DUE

2 **TREASURER'S COPY** **2**
REAL PROPERTY

RETURN WITH SECOND HALF PAYMENT DUE OCTOBER 31, 2002

YEAR	TAX	FIRE PATROL	DEL INT/PEN	TOTAL
02	1,183.70	.00		1,183.70

For a mailing address change, please fill out the form on the back side of this coupon.

NAME AND ADDRESS

CRAWFORD JULIET C TRST
16213 SE 18TH CIR
VANCOUVER, WA 98683

\$

2002 SECOND HALF	TOTAL DUE
1,183.70	1,183.70

MAKE CHECKS PAYABLE TO CLARK COUNTY TREASURER
P.O. BOX 9808
VANCOUVER, WA 98666-8808

09200844600110100000000000000001183700

ACCOUNT NUMBER
092008-446.0

TAX CODE DISTRICT
114029

FIRST HALF OR FULL
DUE APRIL 30, 2002

SUPL. DATE DUE

1 **TREASURER'S COPY** **1**
REAL PROPERTY

RETURN WITH FIRST HALF OR FULL YEAR PAYMENT DUE APRIL 30, 2002

YEAR	TAX	FIRE PATROL	DEL INT/PEN	TOTAL
02	2,367.41	.00		2,367.41

For a mailing address change, please fill out the form on the back side of this coupon.

NAME AND ADDRESS

CRAWFORD JULIET C TRST
16213 SE 18TH CIR
VANCOUVER, WA 98683

\$

2002 FIRST HALF	TOTAL DUE
1,183.71	2,367.41

MAKE CHECKS PAYABLE TO CLARK COUNTY TREASURER
P.O. BOX 9808
VANCOUVER, WA 98666-8808

092008446001101000023674100001183718

A2-1

CLARK COUNTY TREASURER

2003 STATEMENT

CUSTOMER COPY - RETAIN THIS PORTION FOR YOUR RECORDS

FOR DELINQUENT AMOUNTS, INTEREST AND PENALTY ARE CALCULATED THRU APRIL 30TH.

ACCOUNT NUMBER
092008-446.0

% TAX DOLLARS VOTER APPROVED		TAX BREAKDOWN	YEAR	TAX	FIRE PATROL	INTEREST / PENALTY	TOTAL
0	STATE	472.88	03	2,348.33	.00		2,348.33
0	COUNTY	280.31					
100	LOCAL SCHOOL	886.82					
0	CITY	551.08					
0	PORT	74.23					
0	FIRE	.00					
0	LIBRARY	83.01					
0	CEMETERY	.00	2002 TOTAL PAID TAX RATE		2003 FULL DUE OR 2003 FIRST HALF DUE		TOTAL DUE
0	ROADS	.00	3,743.73	13.84631	2,348.33	1,174.17	2,348.33
			ASSESSED VALUE				

PROPERTY ADDRESS

16213 SE 18TH CR
LEGAL DESCRIPTION

52,000
117,600
169,600

67,670 092008-446.0 001 001 CLARKRET0203

CRAWFORD JULIET C TRST
16213 SE 18TH CIR
VANCOUVER, WA 98683

SUPPL. DATE DUE

TAX CODE DISTRICT

LAND USE

114029

SEE REVERSE FOR INFORMATION - RETURN ENVELOPES ENCLOSED

ACCOUNT NUMBER

092008-446.0

SECOND HALF DUE
OCTOBER 31, 2003

SUPPL. DATE DUE

114029

For a mailing address change, please fill out the form on the back side of this coupon.

NAME AND ADDRESS

CRAWFORD JULIET C TRST
16213 SE 18TH CIR
VANCOUVER, WA 98683

2

TREASURER'S COPY
REAL PROPERTY

2

RETURN WITH SECOND HALF PAYMENT

DUE OCTOBER 31, 2003

YEAR	TAX	FIRE PATROL	DEL INT/PEN	TOTAL
03	1,174.16	.00		1,174.16

\$										2003 SECOND HALF		TOTAL DUE	
										1,174.16		1,174.16	

MAKE CHECKS PAYABLE TO CLARK COUNTY TREASURER
P.O. BOX 9808
VANCOUVER, WA 98666-8808

2

0920084460011010000000000000001174166

ACCOUNT NUMBER

092008-446.0

FIRST HALF OR FULL
DUE APRIL 30, 2003

SUPPL. DATE DUE

114029

For a mailing address change, please fill out the form on the back side of this coupon.

NAME AND ADDRESS

CRAWFORD JULIET C TRST
16213 SE 18TH CIR
VANCOUVER, WA 98683

1

TREASURER'S COPY
REAL PROPERTY

1

RETURN WITH FIRST HALF OR FULL YEAR PAYMENT

DUE APRIL 30, 2003

YEAR	TAX	FIRE PATROL	DEL INT/PEN	TOTAL
03	2,348.33	.00		2,348.33

\$										2003 FIRST HALF		TOTAL DUE	
										1,174.17		2,348.33	

MAKE CHECKS PAYABLE TO CLARK COUNTY TREASURER
P.O. BOX 9808
VANCOUVER, WA 98666-8808

1

092008446001101000023483300001174178

A3-1

EXHIBIT H

Peter A. Crawford
23 Newcastle Dr. #11
Nashua, NH 03060

November 17, 2003

Mr. Doug Lasher
P.O. Box 5000
Vancouver, WA 98666

Dear Mr. Lasher:

Re: Account number 092008-446, 16213 S.E. 18th Cir., Vancouver, WA

Enclosed please find:

1. The completed Senior Citizen's and Disabled Person's Exemption from Real Property Taxes form for the assessment year 2001 for my mother Juliet C. Crawford.
2. The completed Petition for Property Tax Refund based upon the above.
3. A computer printout, obtained from the IRS, of my mother's 2001 federal tax return.
4. A copy of the 1040X amended federal tax return which I submitted for my mother for the calendar year 2001 showing an adjusted gross income of \$18,242.
5. A copy of my mother's 2001 SSA-1099 Social Security Benefit Statement showing additional disposable income of \$9168.
6. A copy of the trust agreement relating to the inter vivos trust of my mother, the Juliet C. Crawford Trust, owner of the subject property, dated April 11, 1972 and the amendment thereto dated May 1, 1987.
7. A certified copy of the death certificate of my mother, indicating that she died on November 22, 2002, and also indicating that she was born on December 14, 1918 and resided in the subject property at 16213 S.E. 18th Cir. in Vancouver, WA.
8. A copy of a bill from USAA received by my mother shortly before her death, also indicating that she resided at the subject property.

The property, as your records no doubt indicate, was sold on March 12, 2003. On or about that date, the Juliet C. Crawford Trust made a payment for the first half of 2003 property taxes on the subject property, of \$1174.17, bringing property taxes on the property current through June 30, 2003.

My mother was over 61 and resided alone year round at the subject property until the day prior to her death. Prior to 2000, her income had been sufficiently low for her to qualify

for the senior citizen exemption pursuant to §84.36.381(5) of the Revised Code of Washington (hereinafter "RCW"). In 2000, she had one-time capital gains which caused her income to exceed the level for the exemption, and she so informed your office. As a result of this, not only did her tax rate increase, but the assessed valuation of the property apparently rose from \$147,600 to \$169,600 as a result.

In 2001, as the enclosed documents demonstrate, my mother's income was again below the \$30,000 limit prescribed by RCW §84.36.381(5)(a) for exemption from excess property taxes. Income for a particular year affects property taxes due the following year. See Washington Administrative Code (hereinafter "WAC") §458-16A-150(3)(h). Thus the exemption must be restored for taxes due in 2002, at least pro rated for the period through my mother's date of death (see RCW §84.40.360, WAC §458-16A-150(3)(f)). In addition, inasmuch as there was only one year of increased income, the assessed valuation for purposes of the tax calculation for the assessment year 2001 must also be restored to its prior frozen level, apparently \$147,600. See RCW §84.36.381(6), WAC §458-16A-140(7)(c).

Through apparent inadvertence, my 83 year old mother, approaching death and increasingly unable to handle her affairs, apparently neglected to file an exemption for the assessment year 2001 which would have caused her property taxes for the year 2002 to be lowered. If one was filed, it apparently was not acted upon by your office.

The 2002 taxes, together with interest, were paid by the property owner, the Juliet C. Crawford Trust (the "Trust") on December 4, 2002. The taxes charged reflected no reduction for my mother's senior citizen exemption. Pursuant to WAC §458-18-210(4) and WAC §458-19-085(3)(b), interest on the overpayment is due from the date of payment to the date of refund. In addition, any interest paid on December 4, 2002 which reflects interest on taxes now due to be refunded, should also be returned as it was based upon an erroneous assessment. The amount of tax payable for 2002 will be reduced by the enclosed application, thus RCW §84.56.020(5) provides for reduced interest as well.

I am aware that certain persons in your office may not believe that a refund is due inasmuch as my mother is deceased and unable to sign the refund application. However, the law is clearly to the contrary. RCW 84.36.387(2) specifically permits a duly authorized agent to submit a claim. RCW §84.69.030(1) specifically permits an executor to verify a refund claim. See also WAC §458-18-210(1)(b)(i). I am duly authorized as co-trustee pursuant to the enclosed amendment to the trust agreement, to act on behalf of the Trust. I am also co-executor of my mother's estate pursuant to her will.

The subject property was owned by the Juliet C. Crawford Trust, a revocable inter vivos trust of which my mother was settlor and, until her death, sole beneficiary. As settlor of that trust, she occupied the property as a life estate, entitling her to the senior citizen exemption pursuant to RCW §84.36.381(2) and WAC §458-16A-100(17)(b). Upon her death, my sister Deborah Miles and I became successor co-trustees of the Trust, and thus duly authorized agents to submit the enclosed refund claim. Furthermore, under the

terms of my mother's will, my sister and I are co-executors of my mother's estate. I am thus authorized and permitted by law to submit the enclosed Exemption form.

The documentation specified by WAC §458-16A-135(5)(e) now having been supplied, I hereby request that a refund of the excess 2002 property taxes be made, with interest, and payable either to the Juliet C. Crawford Trust or to the Estate of Juliet C. Crawford (it does not matter which as my sister and I both share equally in both the estate and the Trust).

Thank you for your prompt attention to this matter.

Sincerely,



Peter A. Crawford

SENIOR CITIZEN'S AND DISABLED PERSON'S EXEMPTION FROM REAL PROPERTY TAXES

File application with your County Assessor by December 31 of the year prior to the year the taxes are due.

1. Type of Residence: (Check one) <input checked="" type="checkbox"/> Single Family Dwelling <input type="checkbox"/> Mobile Home <input type="checkbox"/> One Unit of a Multi-Unit Dwelling <input type="checkbox"/> Cooperative Housing		County of One Assessment for _____ Year _____ Year Taxes Tax Code Area _____
2. Type of Ownership: (Check one) <input type="checkbox"/> Fee or Contract Purchase <input checked="" type="checkbox"/> Life Estate <input type="checkbox"/> Lease for Life Auditor's Recording No.: <u>2908160154</u>		
3. This Property Is: <input type="checkbox"/> In Excess of One Acre <input type="checkbox"/> Improved With More Than One Residence		
4. Property Address: <u>Crawford Juliet C Trst</u> <u>16213 SE 18th Cir</u> <u>Vancouver WA 98683</u> Claimant's Name New mailing addr: <u>23 Newcastle Dr #11</u> <u>Nashua, NH 03060</u> <small>A change of residence requires a new application to be filed.</small>		

5. Description Of Property: Account Number: 092008-446

Mobile Home: Year: _____ Make: _____ Model: _____

Mobile Home Location: _____

6. All Gross Income of Claimant, Spouse, and Co-Tenant:

A. Social Security Before Part B Medicare..... \$ <u>9168</u>	F. All Other Income..... \$ <u>8281</u>
B. Pension, Annuities, and Retirement Bonds..... \$ <u>2095</u>	G. Nursing Home Expenses (Non-Reimbursed)..... (\$ _____)
C. Interest and Dividends.... \$ <u>7866</u>	H. In-Home Care Expenses (Non-Reimbursed)..... (\$ _____)
D. Wages..... \$ _____	I. Prescription Drugs (Non-Reimbursed)..... (\$ _____)
E. Investment Income..... \$ _____	
TOTAL Combined Income For <u>2001</u> <small>(Maximum Income \$30,000)</small>	\$ <u>27,410</u>

7. I, or each of us (if joint owners are filing), apply for exemption on the above described property and certify the following:
 [Please check appropriate box(es).] Claimant was

I will be 61 years of age or older on or before December 31 of the year in which this exemption is filed.

I am physically disabled and, as such, retired from regular gainful employment by reason of such disability.

I am a surviving spouse of a person who was approved for this exemption, and I am at least 57 years old.

8. Claimant's Birthdate: Dec. 14, 1918 Date Property Purchased: 1990 Date Property Occupied: 1990

Any exemption granted through erroneous information shall be subject to the correct tax being assessed for the last three years plus a 100 percent penalty.

I swear under the penalties of perjury that all of the foregoing statements are true.

Assessor or Deputy: Erin Bayce

Witness: Rachelle McDowell

Signed under the laws of the State of Washington at Nashua, NH
 Signature of Claimant: Juliet C. Crawford, claimant
Patsy A. Crawford, trustee and executor
 By: _____
 Phone Number: 603-888-4574

James V Crawford received

DISPOSABLE INCOME - FORM REV 64-0043

These instructions are to assist you in completing the income portion of form REV 64-0043.

Disposable income means adjusted gross income defined by the Internal Revenue Service PLUS:

- (a) Capital Gains, except the portion of gain that resulted from the sale of your primary residence and was reinvested in a replacement primary residence.
- (b) Amounts Deducted for Loss.
- (c) Amounts Deducted for Depreciation.
- (d) Pension and Annuity Receipts.
- (e) Military Pay and Benefits other than Attendant-Care and Medical-Aid Payments.
- (f) Veterans Benefits other than Attendant-Care and Medical-Aid Payments.
- (g) Federal Social Security Act and Railroad Retirement Benefits.
- (h) Interest and Dividend Receipts.
- (i) Interest received on State and Municipal Bonds.

If you file a Form 1040 with the Internal Revenue Service, start with your adjusted gross income figure on the bottom of page 1 of the 1040.

Add to this figure any of the above items that were not included or were deducted from your income.

For residents who do not file an IRS return, you must report all income including, but not limited to, the following sources:

- (a) All Social Security Benefits before Part B Medicare deduction.
- (b) All Railroad Retirement Benefits.
- (c) All Pension and Annuity Receipts.
- (d) All Interest and Dividend Receipts.
- (e) All Wages, Consultation Fees, Speaker Fees, etc.
- (f) All Military Pay and Benefits other than Attendant-Care and Medical-Aid Payments.
- (g) All Veterans Benefits other than Attendant-Care and Medical-Aid Payments.
- (h) All Investment Income.
- (i) All Business Income. Do not deduct depreciation.
- (j) Capital Gains, except the portion of gain that resulted from the sale of your primary residence and was reinvested in a replacement primary residence.
- (k) All Rental Income. Do not deduct depreciation.
- (l) Plus any other source of income.

PETITION FOR PROPERTY TAX REFUND
RCW 84.60.050 or 84.69.020

File With The County Treasurer

Petition No.: _____

Claim for refund must be made within three years following payment of taxes.

The petitioner, Juliet C. Crawford Trust, under the provisions of RCW 84.69.020 or RCW 84.60.050 hereby petitions for a refund of taxes extended upon the tax rolls of Clark County for the year 2002, with respect to the following described property.

Parcel number or legal description of property: Homestead Acres at Fishers Landing, Phase I, Lot 31, Sub 91

Petitioner alleges the following to be facts: The assessed value of said property made in the year 2001, for taxes becoming due in the year 2002, and the tax extended upon said total valuation were as follows:

	Assessed Value	Tax District	Tax Rate	Tax		Date Paid	Receipt No.	Amount Paid
Real Property	\$169,600	114029	13.9588	2367.41	Entire Tax	12/4/02	179588	\$2604.15
Personal Property					First Half			
					Second Half			

Refund is Hereby Claimed For The Following Reason:

A. Under the Provisions of RCW 84.69.020 (Check appropriate box(es))

- (1) Paid more than once; or
- (2) Paid as a result of manifest error in description; or
- (3) Paid as a result of a clerical error in extending the tax rolls; or
- (4) Paid as a result of other clerical errors in listing property; or
- (5) Paid with respect to improvements which did not exist on assessment date; or
- (6) Paid under levies or statutes adjudicated to be illegal or unconstitutional; or
- (7) Paid as a result of mistake, inadvertence, or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW 84.36.381 through 389; or
- (8) Paid or overpaid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person paying the same or paid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee, or by any person paying the same with respect to real property in which the person paying the same has no legal interest; or
- (9) Paid on the basis of an assessed or appraised valuation which was appealed to the county board of equalization and ordered reduced by the board; or
- (10) Paid on the basis of an assessed or appraised valuation which was appealed to the state board of tax appeals and ordered reduced by the board: PROVIDED, that the amount refunded under subsections (9) and (10) shall only be for the difference between the tax paid on the basis of the appealed valuation and the tax payable on the valuation adjusted in accordance with the board's order; or
- (11) Paid as a state property tax levied upon county assessed property, the assessed value of which has been established by the state board of tax appeals for the year of such levy: PROVIDED, HOWEVER, that the amount refunded shall only be for the difference between the state property tax paid and the amount of state property tax which would, when added to all other property taxes within the one percent limitation of Article VII, section 2 (Amendment 59) of the state constitution, equal one percent of the assessed value established by the board; or
- (12) Paid on the basis of an assessed valuation which was adjudicated to be unlawful or excessive: PROVIDED, that the amount refunded shall be for the difference between the amount of tax which was paid on the basis of the valuation adjudged unlawful or excessive and the amount of tax payable on the basis of the assessed valuation determined as a result of the proceeding.
- (13) Paid on property acquired under RCW 84.60.050, and canceled under RCW 84.60.050(2).
- (14) Paid on the basis of an assessed valuation that was reduced under RCW 84.48.065.

B. Under the Provisions of RCW 84.60.050

Pro rata refund due on taxes previously paid on real property which was subsequently acquired by or placed under immediate possession and use of State of Washington, and county or any municipal corporation.

Said tax should be reduced from \$ _____ to \$ _____
Refund should be made to taxpayer for \$ _____ plus interest (RCW 84.69.100).

Explain briefly the reason for the refund claim: The claimant, Juliet C. Crawford, died on November 23, 2002. Her income exceeded \$30,000 in 2000 only, due to capital gains. Her 2001 income was below \$30,000 but she neglected to file for an exemption

STATEMENT BY TAXPAYER

I hereby state that the contents of the foregoing petition are true and correct to the best of my knowledge and belief, and request that the said tax be refunded in conformity with this petition.

Date 11/17/03

Signature of Taxpayer or Agent Juliet C. Crawford

Title Trustee & Executor

Address 23 Newcastle Dr #11

City, State, Zip Nashua, NH 03060

Please fill out ONLY this section

DETERMINATION BY COUNTY ASSESSOR

After due consideration of the facts contained in the taxpayer's signed petition, knowing them to be true and accurate, I have determined that the request for refund be:

- Approved** and the County Treasurer is authorized to make a refund.
- Denied** because the claim does not qualify under RCW 84.69.020 or RCW 84.60.050 for the following reason:

Date _____ County Assessor _____

CERTIFICATION BY COUNTY TREASURER

After due consideration of the facts contained in the taxpayer's signed petition and the decision of the County Assessor, I have determined that the request for refund be:

- Approved** and I am refunding the following amount, \$ _____, plus applicable interest at the amount specified in RCW 84.69.100 from the date of collection of the portion refundable.
- Denied** because the claim does not qualify under RCW 84.69.020 or RCW 84.60.050 for the following reason:

Date _____ County Treasurer _____

To inquire about the availability of this document in an alternate format for the visually impaired or a language other than English, please call (360) 753-3217. Teletype (TTY) users may call (800) 451-7985. You may also access tax information on our Internet home page at <http://www.wa.gov/dor/wador.htm>.
REV 64 0001-2 (4-27-98)

Station Name: Machine: NAH001WA2471422 Date: 12/11/2002 Time: 10:35:49 AM

RTFTP 551-20-5480 30200112 CRAW SP SSN: 000-00-0000 F1040 SUMMARY 1 of 2
JULIET C CRAWFORD
16213 SE 18TH CIR VANCOUVER WA 986834424138
FS: Single
EXEMPT: 01
TOT ADJ/DED: 0

2001 taxes

TOT INC: 9,961 TAX/TPR: 377.00
TOT PYMTS: 1,242.00

*** ALL DEFINER CODES RELEVANT TO THIS RETURN ARE DISPLAYED ON PG. 2 OF THE ***
SUMMARY SCREEN. USE DEFINER "DC" TO ACCESS.

INTERNAL REVENUE SERVICE

DEC 11 2002

TAXPAYER ASSISTANCE CENTER
NASHUA NH 03063

RTFTP 551-20-5480 30200112 R1 CRAW SP SSN: 000-00-0000 F1040 1 of 6

FILING STATUS: Single

EXEMPTIONS: 01

THIRD PRY IND: 0

		PER RETURN
LN 7	WAGES	0
LN 8a	TAXABLE INTEREST: SCH B	554
LN 8b	TAX-EXEMPT INTEREST	0
LN 9	DIVIDEND INCOME: SCH B	7,312
LN 10	REFUNDS OF STATE/LOCAL TAXES	0
LN 11	ALIMONY RECEIVED	0
LN 12	BUSINESS INCOME OR LOSS: SCH C	0
LN 13	CAPITAL GAINS OR LOSS: SCH D	0
LN 14	OTHER GAINS OR LOSSES: F4797	0

RTFTP 551-20-5480 30200112 R2 CRAW SP SSN: 000-00-0000 F1040 2 of 6

		PER RETURN
LN 15a	GROSS IRA DISTRIBUTIONS	8,281
LN 15b	TAXABLE IRA DISTRIBUTIONS	0
LN 16a	GROSS PENSION/ANNUITY AMOUNT	0
LN 16b	TAXABLE PENSION/ANNUITY AMOUNT	2,095
LN 17	RENT/ROYALTY/PARTNERSHIP/ESTATE	0
LN 18	FARM INCOME OR LOSS: SCH F	0
LN 19	UNEMPLOYMENT INCOME	0
LN 20a	GROSS SOCIAL SECURITY BENEFITS	9,168
LN 20b	TXBL SOCIAL SECURITY BENEFITS	0
LN 21	OTHER INCOME	0
	ADDITIONAL F8814 NET INCOME	0
LN 22	TOTAL INCOME	9,961
LN 23	IRA DEDUCTION	0
LN 24	STUDENT LOAN INTEREST DEDUCTION	0
LN 25	MEDICAL SAVINGS ACCT DEDUCTION	0
LN 26	MOVING EXPENSES: F3903	0
LN 27	SELF-EMPLOYMENT TAX DEDUCTION	0
LN 28	SELF-EMP HEALTH INS DEDUCTION	0

RTFTP 551-20-5480 30200112 R3 CRAW SP SSN: 000-00-0000 F1040 3 of 6

	PER RETURN	
LN 29	KEOGH/SEP CONTRBUTION DEDUCTION	0
LN 30	EARLY WTHDRAWL OF SAVINGS PNLTY	0
LN 31	ALIMONY PAID SSN: 000-00-0000	0
EDIT	OTHER ADJUSTMENTS	0
LN 32	TOTAL ADJUSTMENTS	0
LN 33	AGI	9,961.00
LN 39	TAXABLE INCOME	2,511.00
LN 40	TENTATIVE TAX	377.00
LN 41	ADDNL FORM 8814 TAX AMT	0.00
LN 41	ALTERNATIVE MINIMUM TAX	0.00
LN 43	FOREIGN TAX CREDIT: F1116	0.00
LN 44	CHILD & DEP CARE EXP: F2441	0.00
LN 45	CR ELDERLY AND DISABLED: SCH R	0.00

RTFTP 551-20-5480 30200112 R4 CRAW	SP SSN: 000-00-0000	F1040 4 of 6
	PER RETURN	
LN 46	EDUCATION CREDIT: F8863	0.00
LN 47	RATE REDUCTION CREDIT	0.00
LN 48	CHILD TAX CREDIT	0.00
LN 49	ADOPTION CREDIT: F8839	0.00
LN 50	GENERAL BUSINESS CREDITS	0.00
	MORTGAGE CERTIFICATE CR	0.00
	FORM 1040C CREDIT	0.00
	PRIOR YR MIN TAX CREDIT: F8801	0.00
	OTHER STATUTORY CREDITS	0.00
LN 51	TOTAL STATUTORY CREDITS	0.00
LN 53	SELF-EMPLOYMENT TAX	0.00
LN 54	FICA ON UNREPORTED TIPS	0.00
	UNPAID FICA ON REPORTED TIPS	0.00
	TOT SS/MEDICARE WITHHELD: F8812	0.00
LN 55	TAX ON EARLY DISTRIBUTION-F5329	0.00

RTFTP 551-20-5480 30200112 R5 CRAW SP SSN: 000-00-0000 F1040 5 of 6
PER RETURN

LN 56	ADVANCED EIC	0.00
LN 57	HOUSEHLD EMPLOYMENT TXES: SCH H	0.00
LN 58	TOTAL TAX LIABILITY	377.00
	ACCUM DISTR OF TRUSTS: F4970	0.00
LN 59	FEDERAL INCOME TAX WITHHELD	1,242.22
LN 60	ESTMTED TX PMTS & AMT PRV APPLD	0.00
LN 61a	EARNED INCOME CREDIT	0.00
LN 61b	NONTAXABLE EARNED INCOME	0.00
LN 62	EXCESS SOC SEC/RRTA TAX WTHHLD	0.00
LN 63	ADDITIONAL CHILD TAX CR: F8812	0.00
LN 64	AMOUNT PAID WITH F4868	0.00
LN 65	CR FOR FED TX ON FUELS: F4136	0.00
	REGULATED INVST CMPNY CR: F2439	0.00
LN 66	TOTAL PAYMENTS	1,242.00

RTFTP 551-20-5480 30200112 R6 CRAW SP SSN: 000-00-0000 F1040 6 of 6

		PER RETURN
LN 68a	REFUND AMOUNT	865.00-
LN 69	APPLIED TO 2002 ESTIMATED TAX	0.00
LN 70	AMOUNT YOU OWE	0.00
LN 71	ESTIMATED TAX PENALTY	0.00

Deceased Juliet C. Crawford, died 11/22/02
 Debby v. checks to (sign) enu- do IRS Andover

Form **1040X**
 (Rev. November 2002)

Department of the Treasury—Internal Revenue Service
Amended U.S. Individual Income Tax Return

OMB No. 1545-0091

▶ See separate instructions.

This return is for calendar year ▶ **2001**, or fiscal year ended ▶

Please print or type	Your first name and initial Juliet C.	Last name Crawford	Your social security number 551-20-5480	
	If a joint return, spouse's first name and initial Peter A. Crawford, personal representative	Last name	Spouse's social security number	
	Home address (no. and street) or P.O. box if mail is not delivered to your home 23 Newcastle Dr.		Apt. no. 11	Phone number (603) 888-4574
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 2 of the instructions. Nashua, NH 03060			For Paperwork Reduction Act Notice, see page 6.

- A** If the name or address shown above is different from that shown on the original return, check here **B** Has the original return been changed or audited by the IRS or have you been notified that it will be? . . . Yes No
C Filing status. Be sure to complete this line. **Note.** You cannot change from joint to separate returns after the due date.
 On original return ▶ Single Married filing jointly Married filing separately Head of household Qualifying widow(er)
 On this return ▶ Single Married filing jointly Married filing separately Head of household* Qualifying widow(er)
 * If the qualifying person is a child but not your dependent, see page 2.

Use Part II on the back to explain any changes

		A. Original amount or as previously adjusted (see page 2)	B. Net change—amount of increase or (decrease)—explain in Part II	C. Correct amount
Income and Deductions (see pages 2-6)				
	1 Adjusted gross income (see page 3)	9961	8281	18242
	2 Itemized deductions or standard deduction (see page 3)	4550	1100	5650
	3 Subtract line 2 from line 1	5411	7181	12592
	4 Exemptions. If changing, fill in Parts I and II on the back	2900	--	2900
	5 Taxable income. Subtract line 4 from line 3	2511	7181	9692
Tax Liability	6 Tax (see page 4). Method used in col. C	377	1074	1451
	7 Credits (see page 4)			
	8 Subtract line 7 from line 6. Enter the result but not less than zero	377	1074	1451
	9 Other taxes (see page 4)			
	10 Total tax. Add lines 8 and 9	377	1074	1451
Payments	11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 4	1242		1242
	12 Estimated tax payments, including amount applied from prior year's return			
	13 Earned income credit (EIC)			
	14 Additional child tax credit from Form 8812			
	15 Credits from Form 2439, Form 4136, or Form 8885			
	16 Amount paid with request for extension of time to file (see page 4)			
	17 Amount of tax paid with original return plus additional tax paid after it was filed			
	18 Total payments. Add lines 11 through 17 in column C			1242
Refund or Amount You Owe				
	19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			865
	20 Subtract line 19 from line 18 (see page 5)			377
	21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 5			1074
	22 If line 10, column C, is less than line 20, enter the difference			
	23 Amount of line 22 you want refunded to you			
	24 Amount of line 22 you want applied to your estimated tax	24		

Sign Here

Joint return? See page 2. Keep a copy for your records.

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.

Peter A. Crawford 4/28/03
 Your signature Date Spouse's signature, if a joint return, both must sign. Date

Paid Preparer's Use Only

Preparer's signature Date Check if self-employed Preparer's SSN or PTIN
 Firm's name (or yours if self-employed), address, and ZIP code EIN Phone no. ()

Part I Exemptions. See Form 1040 or 1040A instructions.

If you are **not changing your exemptions**, do not complete this part.
 If claiming **more exemptions**, complete lines 25-31.
 If claiming **fewer exemptions**, complete lines 25-30.

	A. Original number of exemptions reported or as previously adjusted	B. Net change	C. Correct number of exemptions
25 Yourself and spouse <i>Caution.</i> If your parents (or someone else) can claim you as a dependent (even if they chose not to), you cannot claim an exemption for yourself.	25		
26 Your dependent children who lived with you	26		
27 Your dependent children who did not live with you due to divorce or separation	27		
28 Other dependents	28		
29 Total number of exemptions. Add lines 25 through 28	29		
30 Multiply the number of exemptions claimed on line 29 by the amount listed below for the tax year you are amending. Enter the result here and on line 4.	30		

Tax year	Exemption amount	But see the instructions for line 4 on page 3 if the amount on line 1 is over:
2002	\$3,000	\$103,000
2001	2,900	98,725
2000	2,800	96,700
1999	2,750	94,975

31 Dependents (children and other) not claimed on original (or adjusted) return:

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see page 5)	No. of your children on line 31 who:
				<input type="checkbox"/>	<input type="checkbox"/> lived with you <input type="checkbox"/> did not live with you due to divorce or separation (see page 5). Dependents on line 31 not entered above
				<input type="checkbox"/>	
				<input type="checkbox"/>	
				<input type="checkbox"/>	
				<input type="checkbox"/>	

Part II Explanation of Changes to Income, Deductions, and Credits

Enter the line number from the front of the form for each item you are changing and give the reason for each change. Attach only the supporting forms and schedules for the items changed. If you do not attach the required information, your Form 1040X may be returned. Be sure to include your name and social security number on any attachments.

If the change relates to a net operating loss carryback or a general business credit carryback, attach the schedule or form that shows the year in which the loss or credit occurred. See page 2 of the instructions. Also, check here

Line 15a of prior return correctly reported \$8281 in gross IRA distributions, however line 15b was zero on Form 1040 filed by the taxpayer, now deceased. Her personal representative discovered the discrepancy. There is no basis for excluding the IRA distributions. On the other hand, the taxpayer was over 65 and is entitled to a standard deduction of \$5650 rather than the \$4650 originally claimed.

Part III Presidential Election Campaign Fund. Checking below will not increase your tax or reduce your refund.

If you did not previously want \$3 to go to the fund but now want to, check here

If a joint return and your spouse did not previously want \$3 to go to the fund but now wants to, check here

2001

• PART OF YOUR SOCIAL SECURITY BENEFITS SHOWN IN BOX 5 MAY BE TAXABLE INCOME.
• SEE THE REVERSE FOR MORE INFORMATION.

Box 1. Name JULIET C CRAWFORD		Box 2. Beneficiary's Social Security Number 551-20-5480	
Box 3. Benefits Paid in 2001 *\$9,168.00	Box 4. Benefits Repaid to SSA in 2001 NONE	Box 5. Net Benefits for 2001 (Box 3 minus Box 4) \$9,168.00	
DESCRIPTION OF AMOUNT IN BOX 3 Paid by check or direct deposit \$8,568.00 Medicare premiums deducted from your benefit \$600.00 Total Additions \$9,168.00 Benefits for 2001 \$9,168.00		DESCRIPTION OF AMOUNT IN BOX 4 NONE	
*Includes: \$12.00 Paid in 2001 for 2000		Box 6. Voluntary Federal Income Tax Withheld NONE	
		Box 7. Address JULIET C CRAWFORD 16213 SE 18TH CIR VANCOUVER WA 98683-4424	
		Box 8. Claim Number (Use this number if you need to contact SSA.) 551-20-5480A	

Form SSA-1099-SM (1-2002)

DO NOT RETURN THIS FORM TO SSA OR IRS

8262881

**SOCIAL SECURITY ADMINISTRATION
WESTERN PROGRAM SERVICE CENTER
PO BOX 2000
RICHMOND CA 94802-1791**

**OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300**

**C
M07
1**

PRESORTED FIRST-CLASS MAIL POSTAGE AND FEES PAID SOCIAL SECURITY ADMINISTRATION PERMIT NO. G-11
--

CU8138963-1A138262881

**JULIET C CRAWFORD
16213 SE 18TH CIR
VANCOUVER WA 98683-4424**



A9-1

EXHIBIT I

JUS. H. GY. GRAPE... 1950

DATED: April 11, 1972

MYERS, HAWLEY, MORLEY & BEBAN
ATTORNEYS AT LAW
166 MAIN STREET
P. O. BOX A-K
LOS ALTOS, CALIFORNIA 94022
TELEPHONE 948-1600

A10-1

JULIET C. CRAWFORD TRUST

K233 PAGE 772

THIS TRUST AGREEMENT is made on the date set forth hereinafter between JULIET C. CRAWFORD, hereinafter referred to as "Trustor", and JULIET C. CRAWFORD, hereinafter referred to as "Trustee".

The Trustor, desiring to establish a revocable trust, is causing the trustee to be named as owner in trust of various assets, listed in Schedule A attached hereto. The Trustee accepts such designation in trust for the purposes and on the conditions hereinafter set forth. Said assets may be held in the name of the trustee's nominee.

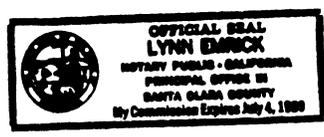
The trust estate, which term includes properties hereby transferred as well as others which may be subsequently transferred, shall be held and administered by the Trustee upon the terms set forth hereinafter.

ADDITIONS TO TRUST. So long as this trust agreement remains unrevoked, the trustor or any other person may add to the trust additional property acceptable to the trustee, by making the proceeds of other insurance policies payable to the trustee, by making the death benefits under any pension plan or profit-sharing plan payable to the trustee, by transferring property to the trustee by deed or assignment, or by bequest or devise under the Will of the trustor, or any other person.

RESERVATION BY TRUSTOR. The trustor reserves during her lifetime the following rights and powers:

1. The right to withdraw any policy or policies deposited under this agreement, upon giving the trustee a proper receipt therefor.
2. The right to change the beneficiary under and to exercise any option or privilege granted by any insurance policy, including the right to borrow any sum in accordance with the

It proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) LS subscribed to the within instrument, and acknowledged that she executed it. WITNESS my hand and official seal.



Lynn Emrick
Notary Signature

provisions of any such policy.

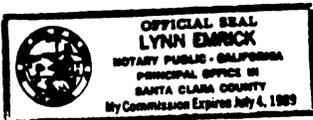
3. The right to receive any dividends or other earnings on any policy or other property in the trust estate, and the right to receive all sickness, disability or other benefits arising under any such policy, without any accountability therefor to the trustee or any beneficiary hereunder.

4. The right at any time and from time to time by an instrument in writing delivered to the trustee to alter, amend, or revoke this agreement, in whole or in part; provided, however, that any amendment changing the duties, powers and responsibilities of the trustee shall require its consent. In case of revocation, the policies deposited with the trustee hereunder, or such of them as to which this agreement shall be revoked, and all property of the trust estate, shall be delivered by the trustee to the trustor.

DEATH OF TRUSTOR. Upon the death of the Trustor, the Trustee shall collect all life insurance policy proceeds and all pension or profit-sharing plan benefits payable to the trustee as beneficiary. The trustee shall not, however, collect from the trustor's estate or from any other person any repayment on any loan secured by any insurance policies or pension or profit-sharing plan benefits. The trustee shall have the power to execute and deliver receipts and other instruments, to compromise or adjust disputed claims in such manner as in its sole discretion seems just, and to take such steps as in its discretion are necessary and proper for collection of any insurance proceeds or pension or profit-sharing plan benefits, and to pay the expenses of collection out of the trust estate. However, if payment on any policy is contested or refused, the trustee shall not be obligated to take any action for collection unless and until it shall have been indemnified to its reasonable

As proved to me on the basis of satisfactory evidence that (to be the persons) whose name(s) _____ subscribed to the within instrument, and acknowledged that _____ executed it WITNESS my hand and official seal.

Lynn Emrick
Notary Signature



A103

satisfaction against any loss, liability or expense, including reasonable attorney's fees.

TRUSTOR'S ESTATE.

K233 PAGE 774

1. The trustee may with trust funds purchase, at market value as of the time of purchase, any securities or other property tendered to it by the executor or administrator of the trustor's estate at any time and from time to time. If there shall be any question as to the market value of such property, it shall be fixed by the trustee and the executor or administrator of the trustor's estate, and their determination as to such value shall be conclusive. If they shall be unable to agree, or if the trustee shall also be the duly appointed and acting executor or administrator of the trustor's estate, such value shall be determined by an appraiser to be agreed upon and appointed by them, whose determination shall be conclusive. The expense of the appraiser shall be borne equally by the trustor's estate and by this trust.

2. The trustee shall have the power to make loans (with or without security) of trust funds to the executor or administrator of the trustor's estate for such term, under such conditions and at such fair and reasonable rate of interest as may be agreed upon between the executor or administrator and the trustee.

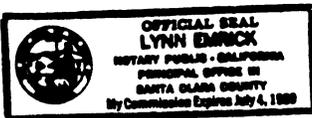
PAYMENT OF CLAIMS. The trustee, in the trustee's sole discretion, may pay out of the trust estate the trustor's debts and those expenses of the trustor's last illness and funeral for which proper bills or claims are presented to the trustee within sixty (60) days after the trustor's death, if the trustee determines that no other funds are reasonably available for that purpose.

ADMINISTRATION. Subject to the foregoing provisions, the Trustee, during the trustor's lifetime shall hold, administer and distribute the trust estate as follows:

3

It proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) LS subscribed to the within instrument, and acknowledged that she executed it. WITNESS my hand and official seal.

Lynn Emrick
Notary Signature



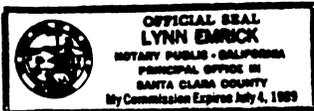
A104

ADMINISTRATION DURING LIFETIME OF TRUSTOR. The trustee shall pay to the trustor the entire net income of the trust estate as received. In the event the trustee in the trustee's discretion, determines that the income of the estate is insufficient for the reasonable care, comfort and support of the trustor, the trustee shall invade the trust estate for such amount of principal as the trustee deems reasonable under the circumstances, and shall pay such sums to the trustor or for the benefit of the trustor.

SUCCESSOR TRUSTEE. In the event that the trustee first named, namely, JULIET C. CRAWFORD, wishes to relinquish as trustee or is declared to be incompetent by a court of competent jurisdiction or is deceased, then in that event, the successor trustee of this trust shall be the sister of the trustor-trustee, namely, REBECCA C. AKERS. In the event that REBECCA C. AKERS is unable or unwilling to act as successor trustee, then the person appointed to be successor trustee shall be ROBERT W. CABANISS, or if he is unable or unwilling to act as such, then ARTHUR R. CABANISS shall be successor trustee.

ADMINISTRATION OF TRUST UPON TRUSTOR'S DEATH. Upon the death of the trustor, the trust shall continue for the benefit of the children of the trustor, namely PETER A. CRAWFORD, born May 8, 1954, and DEBORAH M. CRAWFORD, born October 20, 1955. In the event that trustor shall have additional children, these children shall share equally with those named. This trust is also for the benefit of persons named as ultimate beneficiaries hereinafter.

If at the time of the trustor's death or at any time prior to the distribution of the trust estate, any of the trustor's children shall die, the trustee shall distribute to the issue of such deceased child, that child's share of the trust estate free of trust. In the event such a deceased child is not survived by issue, then that child's share shall remain in trust for the benefit of the other child or children of the trustor, and shall



proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) _____ subscribed to the within instrument, and acknowledged that _____ executed it. WITNESS my hand and official seal.

Lynn Emrick
Notary's Signature

A10-5

be distributed according to the terms of this trust.

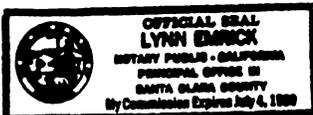
So long as any child of the trustor is under the age of twenty-five, the trustee shall pay as much of the net income and principal of the trust as the trustee in the trustee's discretion deems necessary for their proper support, care, maintenance and education, after taking into consideration to the extent the trustee deems advisable any other income or resources of these children known to the trustee.

When no child of the trustor is living who is under age twenty-five, the trustee shall divide the trust estate into as many shares as there are children of the trustor then living. The trustee shall then pay free of trust the entire proceeds of the trust estate to each child and shall terminate this trust.

ULTIMATE DISTRIBUTION. In the event that all of the trustor's children and/or issue die prior to the full distribution of the trust estate, then in that event the trustee shall distribute the trust estate to the sister and brothers of the trustor, share and share alike. These individuals are REBECCA C. AKERS, ROBERT W. CABANISS and ARTHUR R. CABANISS.

POWERS OF THE TRUSTEE. To carry out the purposes of this trust and subject to any limitations stated elsewhere, the trustee is vested with the following powers with respect to the trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

The trustee shall have the power with respect to the property of the trust estate or any part thereof, and upon such terms and in such manner as it may deem advisable, to sell, convey, exchange, convert, improve, repair, manage, operate and control; to lease for terms within or beyond the term of this trust and to encumber or hypothecate the trust



Proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) IS subscribed to the within instrument, and acknowledged that she executed it. WITNESS my hand and official seal.

Lynn Emrick
Notary Signature

A10-6

property and to compromise or otherwise adjust any claims against or in favor of the trust; to invest and reinvest the trust funds in such property as the trustee may deem advisable, whether or not of the character permitted by law for the investment of trust funds, specifically including but not by way of limitation, interests in any common trust fund or funds now or hereafter established and being administered by any corporate trustee; and the trustee shall have such additional powers as may now or hereafter be conferred upon it by law or as may be necessary to enable the trustee to administer this trust in accordance with the provisions of this trust, subject to any limitations thereof that may be provided for herein.

SPENDTHRIFT PROVISION. No interest in the principal or income of any trust created under this trust shall be anticipated, assigned, encumbered or subject to any creditor's claim or to any legal process prior to its actual receipt by the beneficiary.

DEFINITIONS. As used in this trust, the term "issue" shall refer to lineal descendants of all degrees, and the terms "children" and "issue" shall include adopted persons. In addition, as used in this trust, the masculine, feminine and neuter genders, and the singular or plural number shall each be deemed to include the other whenever the context so indicates.

DATED: April 11, 1972

Juliet C. Crawford
Juliet C. Crawford
JULIET C. CRAWFORD, Trustor
Juliet C. Crawford
Juliet C. Crawford
JULIET C. CRAWFORD, Trustee

GENERAL ACKNOWLEDGMENT

State of California }
County of Santa Clara } ss.

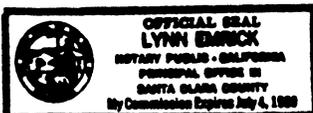
On this the 21st day of May 1982, before me,

Lynn Enrick

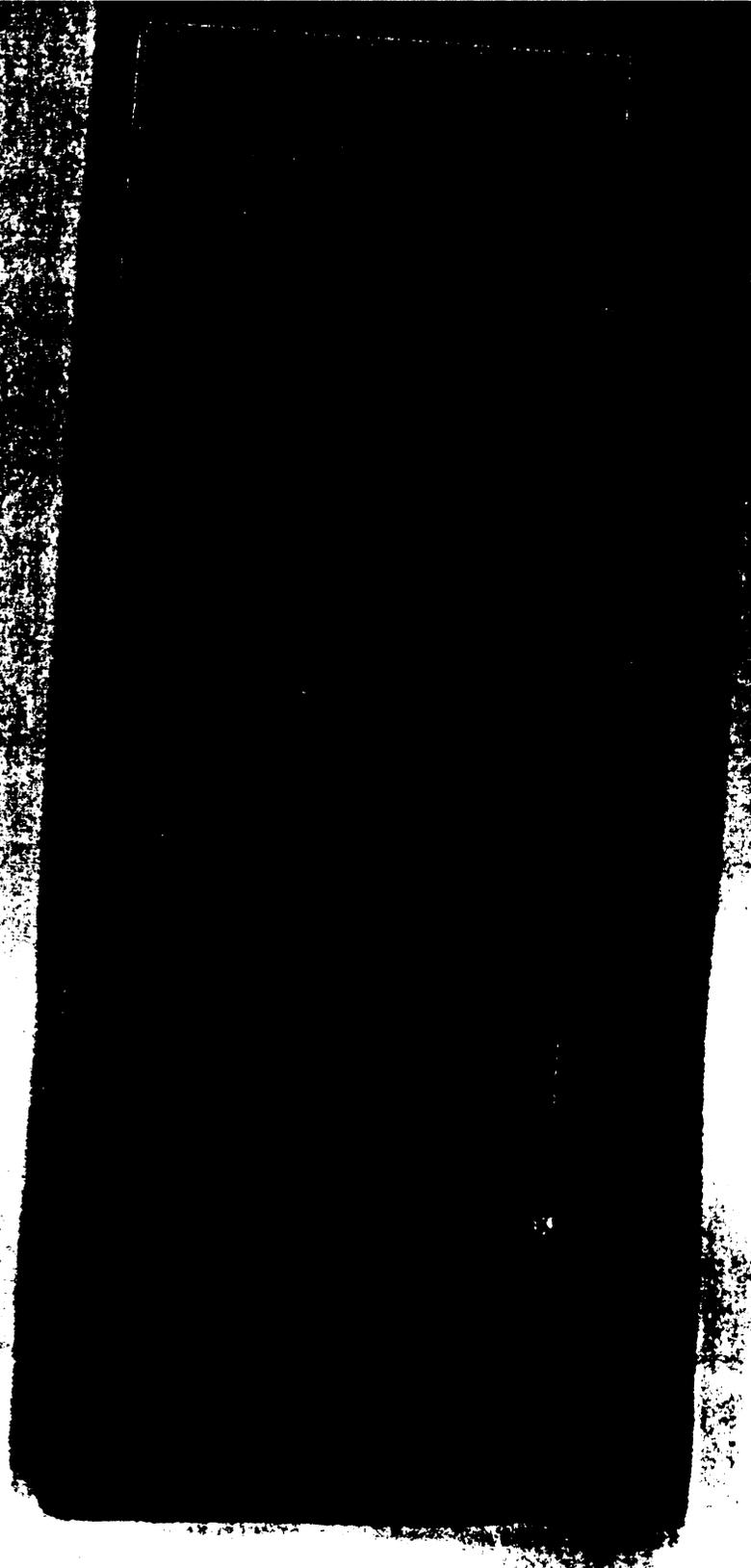
the undersigned Notary Public, personally appeared

Juliet C. Crawford

personally known to me
 proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged that she executed it.
WITNESS my hand and official seal.



Lynn Enrick
Notary Signature



All-1

REC FEE	5
RMF	3
MICRO	1
LIEN NOT	
SMFF	
PCOR	

M Mountain View, Ca. 94040
 9364894 **K149 PAGE 2102**

FILED FOR RECORD
 AT REQUEST OF

Crawford
 MAY 14 3 16 PM '87

AMENDMENT TO
JULIET C. CRAWFORD TRUST

OFFICIAL RECORDS
 CLERK CLIFFS COUNTY
 LAURIE KANE
 RECORDER

THIS AMENDMENT TO THE JULIET C. CRAWFORD TRUST AGREEMENT

is made on the date set forth hereinafter. It amends the
 JULIET C. CRAWFORD TRUST, signed by JULIET C. CRAWFORD, both
 as Trustor and Trustee, on April 11, 1972.

K 233 PAGE 780

The Trustor, desiring to amend her trust signed April
 11, 1972, makes the following changes:

The paragraph entitled "TRUSTOR'S ESTATE", subparagraph
 1. appearing on page 3 is amended as follows:

TRUSTOR'S ESTATE.

1. The trustee may with trust funds purchase, at market
 value as of the time of purchase, any securities or other
 property tendered to it by the executor or administrator of
 the trustor's estate at any time and from time to time. If
 there shall be any question as to the market value of such
 property, it shall be fixed by the trustee and the executor
 or administrator of the trustor's estate, and their
 determination as to such value shall be conclusive.

The paragraph entitled "SUCCESSOR TRUSTEE" on page 4 is
 amended as follows:

SUCCESSOR TRUSTEE. In the event that the trustee first
 named, namely JULIET C. CRAWFORD, wishes to relinquish as
 trustee, or is declared to be incompetent by a court of
 competent jurisdiction, or is deceased, then in that event,

Re-Recorded To have proper sequence of recording: The original Trust
 followed by the Amendment of said Trust

K 233 PAGE 7
K 149 PAGE 2103

the successor co-trustees of this trust shall be PETER A. CRAWFORD and DEBORAH C. MILES. If either PETER A. CRAWFORD or DEBORAH C. MILES is unable or unwilling to act as successor co-trustee then KENNETH E. MILES is appointed as successor co-trustee.

The paragraph entitled "ADMINISTRATION OF TRUST UPON TRUSTOR'S DEATH" on page 4 is amended as follows:

ADMINISTRATION OF TRUST UPON TRUSTOR'S DEATH. Upon the death of the trustor, the trust shall continue for the benefit of the children of the trustor, namely, PETER A. CRAWFORD, and DEBORAH C. MILES.

If at the time of the trustor's death or at any time prior to the distribution of the trust estate, any of the trustor's children shall die, the trustee shall distribute to the issue of such deceased child, that child's share of the trust estate free of trust, provided, however, that if any such grandchild is under the age of twenty-five (25), the trust shall continue undistributed, and shall be for the benefit of such grandchild or grandchildren. During the existence of the trust the trustee shall pay to or apply for the benefit of such grandchildren such sums as the trustee in the trustee's sole discretion deems necessary for their proper support, care, maintenance and education, after taking into consideration, to the extent the trustee deems advisable, any other income or resources of these children

known to the trustee. When each such grandchild has attained the age of twenty-five (25), the trustee shall pay to that grandchild that grandchild's share of the trust estate free of trust.

In the event that any deceased child of mine is not survived by issue, then that child's share shall remain in trust for the benefit of my other child, which shall be distributed according to the terms of the trust.

With the exception of the amendments made hereinabove, the remainder of my trust dated April 11, 1972 shall remain in full force and effect.

Executed on May 1, 1987, at Los Altos, California.

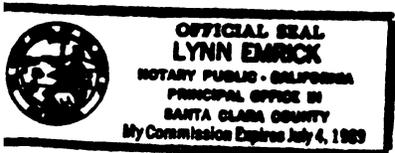
Juliet C. Crawford
JULIET C. CRAWFORD

STATE OF CALIFORNIA
COUNTY OF Santa Clara

Amendment to Juliet C. Crawford Trust
On this 1st day of May in the year 1987, before me Lynn Emrick, a Notary Public, State of California, duly commissioned and sworn, personally appeared Juliet C. Crawford, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the City of Los Altos County of Santa Clara on the date set forth above in this certificate.

Lynn Emrick
Notary Public, State of California
My commission expires 7/4/89



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11-4

EXHIBIT J

STATE OF WASHINGTON
DEPARTMENT OF HEALTH



CERTIFICATE OF DEATH

146

STATE FILE NUMBER

TYPE OR PRINT IN PERMANENT BLACK INK

2082

LOCAL FILE NUMBER

OFFICIAL USE ONLY
1. DISTRICT
2. COPIES
3. HOSPITAL
4. OCCURRENCE
5. RESIDENCE
6. TRACT
7. OCCUPATION
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1. NAME First: Juliet Middle: Harmon Last: CRAWFORD			2. SEX (M / F) Female		3. DEATH DATE (Mo., Day, Yr) November 22, 2002																														
4. AGE LAST BIRTH-DAY (Yrs) 83		5. UNDER 1 YEAR MOS DAYS HOURS MINS		7. BIRTHDATE (Mo., Day, Yr) 12/14/1918		8. BIRTHPLACE (City, State or Foreign Country) Washington, DC		9. WAS DECEDENT EVER IN U.S. ARMED FORCES? (Yes / No) No		10. COUNTY OF DEATH Clark																									
11. CITY, TOWN OR LOCATION OF DEATH Vancouver				12. PLACE OF DEATH — <input checked="" type="checkbox"/> BOX FOR PLACE THEN GIVE ADDRESS OR INSTITUTION NAME 1. <input type="checkbox"/> HOME 2. <input type="checkbox"/> IN TRANSPORT 3. <input type="checkbox"/> EMERG. RMOUT PTN 4. <input checked="" type="checkbox"/> HOSP. 5. <input type="checkbox"/> NUR HOME 6. <input type="checkbox"/> OTHER PLACE S.W. Washington Medical Center				13. SMOKING IN LAST 15 YEARS? (Yes / No) No																											
14. MARITAL STATUS — Married, Never married, Widowed, Divorced (Specify) Widowed			15. SURVIVING SPOUSE (If wife, give maiden name)			16. SOCIAL SECURITY NO. 551-20-5480			17. DECEDENT'S EDUCATION (Specify only highest grade completed) Elementary/Secondary (0-12) College (1-4 or 5+) 1																										
18. USUAL OCCUPATION (Give kind of work done during most of working life. DO NOT USE RETIRED) Receptionist			19. KIND OF BUSINESS OR INDUSTRY Pharmaceutical			20. Was Decedent of Hispanic origin or descent? (Ancestry) (Specify Yes or No. If Yes, specify Cuban, Mexican, Puerto Rican, etc.) (Yes / No) Specify: No			21. RACE (Specify) White																										
22. RESIDENCE — NUMBER AND STREET 16213 SE 18th Cr.			23. CITY/TOWN, OR LOCATION Vancouver		24. INSIDE CITY LIMITS? (Yes / No) Yes		25A. COUNTY Clark		25B. LENGTH OF RES. IN CO. 12 Yrs		26. STATE WA		27. ZIP CODE 98683																						
28. FATHER'S NAME — FIRST, MIDDLE, LAST Robert Wright Cabaniss						29. MOTHER'S NAME — FIRST, MIDDLE, MAIDEN SURNAME Martha Blackwell Ryan																													
30. INFORMANT — NAME Deborah Miles				31. MAILING ADDRESS 3404 NE Country Dr., Camas, WA 98607				32. BURIAL, CREMATION REMOVAL, OTHER (Specify) Burial				33. DATE (Mo., Day, Yr) 11/27/2002		34. CEMETERY/CREMATORY — NAME Willamette National Cemetery		35. LOCATION — CITY/TOWN, STATE Portland, Oregon																			
36. FUNERAL DIRECTOR SIGNATURE X <i>C.M. Devine</i>				37. NAME OF FACILITY STRAUB'S FUNERAL HOME				38. ADDRESS OF FACILITY 325 NE 3rd Ave., Camas, Washington 98607																											
39. TO THE BEST OF MY KNOWLEDGE, DEATH OCCURRED AT THE TIME, DATE AND PLACE AND WAS DUE TO THE CAUSE(S) STATED. SIGNATURE AND TITLE X <i>Juan R. Vasquez, M.D.</i>						40. DATE SIGNED (Mo., Day, Yr) 11/25/2002						41. HOUR OF DEATH (24 Hrs.) 0734																							
42. NAME AND TITLE OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print) Juan Vasquez, MD						43. ON THE BASIS OF EXAMINATION AND/OR INVESTIGATION, IN MY OPINION DEATH OCCURRED AT THE TIME, DATE AND PLACE AND WAS DUE TO THE CAUSE(S) STATED. SIGNATURE AND TITLE X						44. DATE SIGNED (Mo., Day, Yr)						45. HOUR OF DEATH (24 Hrs.)																	
46. NAME AND ADDRESS OF CERTIFIER — PHYSICIAN, MEDICAL EXAMINER OR CORONER (Type or Print) Juan Vasquez, MD 406-A SE 131st Ave. Suite 104, Vancouver, WA 98683						47. PRONOUNCED DEAD (Mo., Day, Yr)						48. HOUR PRONOUNCED DEAD (24 Hrs.)																							
49. ME/CORONER FILE NUMBER						50. ENTER THE DISEASES, INJURIES, OR COMPLICATIONS WHICH CAUSED THE DEATH: IMMEDIATE CAUSE (Final disease or condition resulting in death). DO NOT ENTER THE MODE OF DYING, SUCH AS CARDIAC OR RESPIRATORY ARREST, SHOCK, OR HEART FAILURE. LIST ONLY ONE CAUSE ON EACH LINE. Sequitely list conditions, if any, leading to immediate cause. Enter UNDERLYING CAUSE (Disease or injury which initiated events resulting in death) LAST. A. <i>Acute Myocardial Infarction</i> DUE TO, OR AS A CONSEQUENCE OF: B. <i>Incarcerated Hernia (S)</i> DUE TO, OR AS A CONSEQUENCE OF: C. <i>Small Bowel Infarction (S)</i> DUE TO, OR AS A CONSEQUENCE OF: D.						INTERVAL BETWEEN ONSET AND DEATH <i>One Day</i>						INTERVAL BETWEEN ONSET AND DEATH <i>One Week</i>						INTERVAL BETWEEN ONSET AND DEATH						INTERVAL BETWEEN ONSET AND DEATH					
51. OTHER SIGNIFICANT CONDITIONS — CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVE ABOVE. <i>COPD, Myelodysplastic Syndrome, Senile Osteoporosis</i>						52. AUTOPSY? (Yes / No) No						53. WAS CASE REFERRED TO MEDICAL EXAMINER OR CORONER? (Yes / No) No																							
54. ACC. SUICIDE, HOM. UNDET. OR PENDING INVEST. (Specify)				55. INJURY DATE (Mo., Day, Yr)				56. INJURY AT WORK? (Yes / No)				57. PLACE OF INJURY — AT HOME, FARM, BLDG. ETC. (Specify)				58. DESCRIBE HOW INJURY OCCURRED:																			
59. RECORD AMENDMENT (Registrar use only) ITEM DOCUMENTARY EVIDENCE REVIEWED BY DATE				60. SIGNATURE <i>Juan R. Vasquez, MD</i>				61. DATE RECEIVED (Mo., Day, Yr) NOV 25 2002																											



EXHIBIT K



9800 Fredericksburg Road
 San Antonio, Texas 78288
 Visit us at usaa.com

PAYMENT DUE DATE	USAA NUMBER	C D
12-04-02	00494 72 99	6

103,589 300

TO REPORT A CLAIM, CALL
 1-800-531-8222
 TO CHANGE A POLICY OR ORDER ONE
 1-800-531-8111
 FOR BILLING QUESTIONS, CALL
 1-800-531-6095

JULIET C CRAWFORD
 16213 SE 18TH CIR
 VANCOUVER WA 98683-4424

COMPANY CODES AND IMPORTANT INFORMATION ON REVERSE

MONTHLY ACTIVITY			
BALANCE ON LAST STATEMENT		\$.00
USAA AUTO POLICY 7101 8 90 HONDA			
SIX MONTH POLICY RENEWAL PREM	12-01-02		443.88
USAA HOMEOWNERS POLICY 90A 16213 SE 18TH CIR			
RENEWAL PREMIUM	11-30-02		572.84
ACCOUNT BALANCE AS OF 11-11-02		\$	1,016.72

EFFECTIVE DATE	POLICIES BEING BILLED	PAYMENT PLAN OPTIONS		
		BALANCE	REGULAR PLAN	EXTENDED PLAN
12-01-02	USAA AUTO POLICY 7101 8 90 HONDA	\$ 443.88	\$ 110.97	\$ 73.98
11-30-02	USAA HOMEOWNERS POLICY 90A 16213 SE 18TH CIR	\$ 572.84	\$ 63.64	\$ 47.73
	IF YOU SELECT THE EXTENDED PLAN, THIS SERVICE CHARGE WILL BE ADDED TO YOUR ACCOUNT THE FOLLOWING MONTH AND REFLECT IN THE MONTHLY ACTIVITY.			\$ 4.00
	TOTALS	\$ 1,016.72	\$ 174.61	\$ 125.71

Detach Here PLEASE DETACH AND RETURN WITH YOUR REMITTANCE Detach Here 04737-0800

JULIET C CRAWFORD
 004947299
 MS-1

PLEASE DETACH AND RETURN WITH YOUR REMITTANCE
 . INDICATE CHANGE OF ADDRESS ON REVERSE SIDE
 . WRITE ANY QUESTIONS OR COMMENTS ON A SEPARATE ENCLOSURE

013 0

20030130
 USAA
 9800 FREDERICKSBURG ROAD
 SAN ANTONIO TX 78288

TO AVOID A LATE FEE, PAYMENT IS DUE IN OUR OFFICE BY 12-04-02 .		
PAY ONE OF THESE AMOUNTS		
BALANCE	REGULAR PLAN	EXTENDED PLAN
\$ 1,016.72	\$ 174.61	\$ 125.71
AMOUNT ENCLOSED \$		
MAKE CHECK PAYABLE TO: USAA		



000049472996010200301300000000017461001257101016722

A13-1

EXHIBIT L

DEPARTMENT OF ASSESSMENT AND GIS

Linda Franklin, Assessor



proud past, promising future

CLARK COUNTY
WASHINGTON

Friday, November 21, 2003

HANINGTON YASUE
16213 SE 18TH CIR
VANCOUVER WA 98683

Dear Property Owner:

Re: Account # 092008-446

Application for a Senior Citizen or Disabled Persons Exemption

We regret to inform you that your application for 2002-2003 taxes has been denied for to the following reason(s):

- Not 61 years of age on or before December 31.
- Not the owner/buyer or Lease For Life of the home.
- Not the primary residence on January 1.
- The income exceeds \$30,000.

Applicant is deceased and property has been sold.

You may appeal the Assessor's decision to the Board of Equalization 360-397-2337 within sixty (60) days of this written notice.

For additional information, please contact our department at 360-397-2391.

Sincerely,

Linda Franklin
Assessor, Clark County

Joan Booth
Senior Citizen Coordinator

1300 Franklin Street • P.O. Box 5000 • Vancouver, WA 98668-5000 • tel: [360] 397-2391 • fax: [360] 397-6046 • www.clark.wa.gov

A14-1

DEPARTMENT OF ASSESSMENT AND GIS

Linda Franklin, Assessor



proud past, promising future

CLARK COUNTY
WASHINGTON

Monday, February 02, 2004

PETER A CRAWFORD
23 NEWCASTLE DRIVE #11
NASHUA NH 03060

Dear Property Owner:

Re: Account # 092008-446

Application for a Senior Citizen or Disabled Persons Exemption

We regret to inform you that your application for 2001-2002 taxes has been denied for to the following reason(s):

- Not 61 years of age on or before December 31.
- Not the owner/buyer or Lease For Life of the home.
- Not the primary residence on January 1.
- The income exceeds \$30,000.

Property was sold March 7, 2003 per Excise #514747. Applicant must be in ownership and residing in the house at the time of application.

You may appeal the Assessor's decision to the Board of Equalization 360-397-2337 within sixty (60) days of this written notice.

For additional information, please contact our department at 360-397-2391.

Sincerely,

Linda Franklin

Assessor, Clark County

Joan Booth

Senior Citizen Coordinator

EXHIBIT M

Office Use Only	
Petition	_____
Date	_____

Clark TAXPAYER PETITION TO THE
 COUNTY BOARD OF EQUALIZATION
 FOR REVIEW OF SENIOR CITIZEN/DISABLED PERSON
 EXEMPTION OR DEFERRAL DETERMINATION

This petition must be filed or postmarked by July 1 of the current assessment year or 30 days after the date of mailing of the determination notice (up to 60 days in those counties that the Legislative Authority has extended the deadline).

The undersigned petitions the Board of Equalization to review the assessor's determination of exemption/deferral of the property described below as shown on the Assessment Roll for 2001 for taxes payable in 2002.

ALL ITEMS MUST BE COMPLETED (Please Print)

1. Account/Parcel Number: 092008-446
 2. Owner: Juliet C. Crawford Trust
 Mailing address for all correspondence relating to appeal:
 Street Address: do Peter A. Crawford, 23 Newcastle Dr. #11
 City, State, Zip Code: Nashua, NH 03060
 May we contact you by email? Yes No E-mail address: _____
 Daytime Phone No: 603-888-4574 Fax No: _____
 Name of Petitioner or Authorized Agent: Peter A. Crawford

3. General description of property:
 a. Address/location: 16213 S.E. 18th Cir., Vancouver, WA
 b. Lot size (acres): .2
 c. Is any portion of this property leased or rented to others (i.e. duplex)? Yes No
 If yes, describe what portion:

4. The determination made by the Assessor was for the:
 Exemption Program - 84.36 RCW
 Deferral Program - 84.38 RCW
 Reason for denial:
 Income Exceeds Limitation
 Did not meet qualifications
 Please attach a copy of the Assessor's determination notice.

5. Specific reasons why you believe the assessor's determination was incorrect:
See attached. Fact that the applicant is deceased and the property has been sold is irrelevant. WAC 458-18-510(3) includes former owner in definition of taxpayer. RCW 84.69.090 permits refund to taxpayer or owner of record.

6. You may submit additional information, either with this Petition or prior to seven business days before the hearing, to support your claim. Check the following statement that applies.
 I intend to submit additional documentary evidence to the Board of Equalization and the assessor no later than seven business days prior to my scheduled hearing.
 My petition is complete. I have provided all the documentary evidence that I intend to submit and I request a hearing before the Board of Equalization as soon as possible.

7. Power of Attorney: If power of attorney has been given, the taxpayer must so indicate by signing the statement below or attaching a signed power of attorney.
 The person whose name appears as authorized agent has full authority to act on my behalf on all matter pertaining to this appeal.
 Signature of Petitioner (Taxpayer) _____

I hereby certify I have read this Petition and that it is true and correct to the best of my knowledge.
 Signed this 14th day of January, 2004 (year). Peter A. Crawford
 Signature of Taxpayer or Agent

**ATTACHMENT TO TAXPAYER PETITION TO THE CLARK COUNTY BOARD OF
EQUALIZATION FOR REVIEW OF SENIOR CITIZEN/DISABLED PERSON
EXEMPTION OR DEFERRAL DETERMINATION**

(Filed January 14, 2004)
Account 092008-446, 16213 S.E. 18th Cir., Vancouver, WA

Jurisdiction

1. Petitioner invokes the jurisdiction of the Clark County Board of Equalization pursuant to the fifth part of §84.48.010 of the Revised Code of Washington ("R.C.W.").

Procedural History

2. On November 17, 2003, Peter A. Crawford, successor trustee of the property owner, Juliet C. Crawford Trust, timely filed a Senior Citizen's and Disabled Person's Exemption from Real Property Taxes and Petition for Property Tax Refund. Both forms relate to taxes due and paid in 2002. Copies of these forms and the supporting documents submitted therewith are attached.

3. On December 29, 2003, Mr. Crawford, having received no reply to his applications met with Joan Booth, Senior Citizen Coordinator with the Clark County Assessor's Department. He was informed for the first time that the application had been denied. A copy of a letter from Linda Franklin, Assessor of Clark County, dated November 21, 2003 to Yasue Hanington, current owner of the subject property was provided to him at that time.

4. This appeal is timely as it is being submitted within the 60 days specified in the November 21, 2003 letter, and within 30 days of the first notice to Mr. Crawford of the denial on December 29, 2003.

Summary of Facts

5. The facts are detailed in the letter dated November 17, 2003. In summary, Juliet C. Crawford, aged 83, occupied the subject property until her death on November 22, 2002. She was entitled to a senior citizen exemption for taxes due and paid in 2002 based on her 2001 income, but apparently neglected to file for this exemption. The property was sold in 2003.

Argument

6. The application was denied purportedly because the applicant is deceased and the property has been sold. Neither ground for denial has any basis in the law.

a. RCW §84.36.387(2) specifically permits an agent to submit claims for an exemption. RCW §84.69.030(1) specifically requires the person who paid the tax or his executor to verify a refund claim. Furthermore, the property was owned, and taxes were paid, by the Juliet C. Crawford Trust, of which Mr. Crawford became co-trustee upon his mother's death. The Trust was entitled to the benefit of the exemption under WAC §16A-100(17)(b) as Mrs. Crawford occupied the subject property until her death.

b. WAC §458-16A-150(5)(a) specifically permits a former resident to obtain an exemption. Furthermore, WAC §458-18-510(3) defines taxpayer as anyone whose property has been assessed. RCW §84.69.090 permits refunds to the taxpayer, his executor, or the owner of record. Clearly the law contemplates, and provides for, refunds to prior owners.

EXHIBIT N

ORDER OF THE CLARK COUNTY BOARD OF EQUALIZATION

The Board of Equalization for the County of Clark, Washington having been duly convened on July 15, 2003, and having considered all evidence presented by the parties in this appeal hereby orders the following:

Petition No: 03-00907-1

Account No: 092008-446

Assessment Year: 2001

Owner/Buyer:
 JULIET C. CRAWFORD
 (DECEASED)

Agent:
 JULIET C. CRAWFORD TRUST
 PETER A. CRAWFORD TRUSTEE
 23 NEWCASTLE DR. #11
 NASHUA, NEW HAMPSHIRE 03060

Situs Address: 16213 SE 18th CIRCLE, VANCOUVER WA. 98683
Legal Description: HOMESTEAD ACRES AT FISHERS LANDING PHASE 1 LOT 31

Remarks: SENIOR EXEMPTION DENIAL

Value Sustained _____

Value Amended _____

	<u>Assessor Certified Value</u>	<u>Board of Equalization Determination</u>
	NOT APPLICABLE	

The Board's decision is based on the following findings of fact and/or conclusions of law:

The issue before the board is the denial of a Senior Exemption for Juliet C. Crawford. The exemption was applied for and denial appealed by the Juliet C. Crawford Trust.

The exemption is for tax year 2001-2002.

The senior on whose behalf the exemption was filed was deceased at the time of filing.

The intent of the law would appear to be that the benefits of the Senior Citizen/Disabled Person tax exemption accrue to the Senior Citizen/Disabled Person.

DECISION

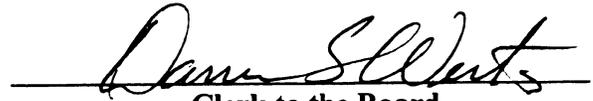
The board finds that the appellant has not proved in a clear, cogent and convincing manner that the subject would benefit from the exemption.

The application was filed beyond the corporal existence of the Senior Citizen/Disabled Person and hence any appeal is not timely filed.

The denial is sustained.

Date Mailed: Tuesday, July 27 2004

**Darren S. Wertz
500 W. 8th Street Suite. 19
Vancouver, WA 98666-5000
(360) 397-2337**


Clerk to the Board

NOTICE

This order may be appealed to the State Board of Tax Appeals by filing a Notice of Appeal with them at PO BOX 40915, Olympia, WA 98504-0915, within thirty days of the date of mailing of this order. The notice of appeal form (BTA100) is available from either your Board of Equalization, county assessor or the Washington State Board of Tax Appeals.

To request this form in an alternate format for the visually impaired or a language other than English, please call (360) 753-3217.

EXHIBIT O



DOUG LASHER
CLARK COUNTY TREASURER

P.O. Box 5000, Vancouver, Washington 98666-5000, Telephone 360-397-2252, Fax 360-397-6042
Web: WWW.CO.CLARK.WA.US/TREAS

November 29, 2002

Dear Property Owner:

As a reminder, our records indicate that as of this date, all or part of your real property tax is delinquent. First-half taxes were due April 30, 2002, and second-half taxes were due October 31, 2002.

According to the Assessor records, you are the owner of this property and are responsible for paying these taxes. *If you have a mortgage company that you have an agreement with to pay your taxes, it is important that you contact them to resolve this matter, as you are ultimately responsible for payment of your taxes.*

Please remit your payment, along with the enclosed tax statement(s), postmarked no later than **December 16, 2002**, to avoid any additional interest and penalty.

If you have filed bankruptcy, please contact our office with the name of your attorney, case number and filing date.

If you have any questions or concerns, please contact our Tax Service Department at 360-397-2252 between the hours of 9 a.m. and 5 p.m. Monday through Friday.

If you have already submitted your payment to our office, please disregard this notice.

Sincerely,

Doug Lasher
Clark County Treasurer

A18-2

EXHIBIT P

06990 11-24
Office AU # 1210(8)

OFFICIAL CHECK

SERIAL #: 0699010178
ACCOUNT#: 4861-505576

Purchaser: JULIET C CRAWFORD TRUST
Purchaser Account: 0428427314
Operator I.D.: wash1461

December 03, 2002

PAY TO THE ORDER OF ***CLARK COUNTY TREASURER***

Two thousand six hundred four dollars and 15 cents

***\$2,604.15**

WELLS FARGO & COMPANY ISSUER
420 MONTGOMERY STREET
SAN FRANCISCO, CA 94163
PAYABLE AT WELLS FARGO BANK NORTHWEST, N.A.
FOR INQUIRIES CALL (480) 394-3122

NOTICE TO PURCHASER-IF THIS INSTRUMENT IS LOST,
STOLEN OR DESTROYED, YOU MAY REQUEST CANCELLATION
AND REISSUANCE. AS A CONDITION TO CANCELLATION AND
REISSUANCE, WELLS FARGO & COMPANY MAY IMPOSE A
FEE AND REQUIRE AN INDEMNITY AGREEMENT AND BOND.

VOID IF OVER US \$ 2,604.15
NON-NEGOTIABLE

Purchaser Copy

06990 11-24
Office AU # 1210(8)

OFFICIAL CHECK

0699010178

Operator I.D.: wash1461

December 03, 2002

PAY TO THE ORDER OF ***CLARK COUNTY TREASURER***

Two thousand six hundred four dollars and 15 cents

***\$2,604.15**

WELLS FARGO & COMPANY ISSUER
420 MONTGOMERY STREET
SAN FRANCISCO, CA 94163
PAYABLE AT WELLS FARGO BANK NORTHWEST, N.A.
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US \$ 2,604.15
Leo L. Quirk
CONTROLLER

⑈0699010178⑈ ⑆121000248⑆4861 505576⑈

A/9-1

EXHIBIT Q



Property Tax Information

Account Information

Account: 092008-446.0
 Taxpayer: HANINGTON YASUE
 Address: 16213 SE 1STH CR
 City, State: VANCOUVER , WA
 Zip: 98683
 Legal: HOMESTEAD ACRES AT FISHERS
 LANDING PHASE-I LOT 31 SUB
 91
 Tax Status: REGULAR PARCEL
 Code District: 114029
 Land Value: \$ 52,000
 Building Value: \$ 117,600
 Total Value: \$ 169,600
 Millage Rate: 13.84629
 Interest Date: 11/30/2003

Property taxes are due in full April 30. If greater than \$50.00 one-half may be paid on April 30 and the other half on October 31. Clean Water fees are due July 31.

[MapsOnline](#)

[Tax Information Start Page...](#)

2003 Tax Information

Real Property

Tax Amount:	\$ 2348.33
Tax Paid:	\$ 2348.33
Interest:	\$.00
Penalty:	\$.00
Total Due:	\$.00

1st Half

Billed:	\$ 1174.17
Paid:	\$ 1174.17
Interest:	\$.00
Penalty:	\$.00
Amount Due:	\$.00

2nd Half

Billed:	\$ 1174.16
Paid:	\$ 1174.16
Interest:	\$.00
Penalty:	\$.00
Amount Due:	\$.00

2002 Tax Information

Real Property

Amount Billed:	\$ 2604.15
Tax Paid:	\$ 2604.15
Interest:	\$.00
Penalty:	\$.00
Total Due:	\$.00

2001 Tax Information

Real Property

Amount Billed:	\$ 666.56
Tax Paid:	\$ 666.56
Interest:	\$.00
Penalty:	\$.00
Total Due:	\$.00

A201

EXHIBIT R

JULIET C. CRAWFORD, TRUST
PETER CRAWFORD, TRUSTEE
DEBORAH MILES, TRUSTEE
23 NEW CASTLE DR. A-11
NASHUA, NH 03060

2655

19-854 3090
1250
0428427314

Date _____

Pay to the Order of _____ \$

VOID

Dollars  Security Features Included. Update on Back.

C 1098 WFB N.A. FRONTIER



Wells Fargo Bank Northwest, N.A.
13717A Southeast Mill Plain Boulevard
Vancouver, WA 98684
www.wellsfargo.com

Valued
Customer
Since 1990

Memo _____

MP

⑆ 25008547⑆0428427314⑆ 2655

EXHIBIT S

Transaction Detail Report

<u>Acct Num 1</u>		<u>Acct Num 2</u>		<u>Acct Num 3</u>	
Account Numbers:	125008547042842/3142		0428427314		
<u>Acct Num 4</u>		<u>Acct Num 5</u>		<u>Reject Job</u>	
<u>Applied Amt</u>	<u>Amt Op ID</u>	<u>Save Appl</u>	<u>Process Date</u>		<u>Reject Reason</u>
Applied Amount:	1139.58 JANE,cca	1	08/23/2002		
<u>Amt 1</u>	<u>Amt 2</u>	<u>Amt 3</u>	<u>Amt 4</u>	<u>Amt 5</u>	<u>Audit Trail</u>
Capture Amounts:	1139.58	0.00	0.00	0.00	\$1,cca,JANE,, \$1,car,CAR,F,
<u>Misc Amt 1</u>	<u>Misc Amt 2</u>	<u>Misc Amt 3</u>	<u>Misc Amt 4</u>	<u>Misc Amt 5</u>	
Special Amounts:	0.00	0.00	0.00	0.00	
Mark Fields: N N N N N N N N N N					
<u>Batch</u>	<u>Doc ID</u>	<u>Seq</u>	<u>Tran - Seq</u>	<u>Reel - Seq</u>	<u>Client</u>
Pass I Audit:	1538	1	163 78 1	0 0	3
<u>Pkt Cut ID</u>	<u>Seq</u>	<u>Pkt Seq</u>	<u>Reel - Seq</u>	<u>Mismatch</u>	<u>Bank ID</u>
Pass II Audit:	00153605001	69	36	0 0	N 1

JULIET C. CRAWFORD
 16213 SE. 18TH CIR. 360-256-5268
 VANCOUVER, WA 98683

19-854-6990
 1250
 0428427314

2375

Date 8/22/02

Pay to the Order of Clark County Treasurer | \$ 1139 ⁵⁸/₁₀₀
Eleven thousand thirty-nine ⁵⁸/₁₀₀ Dollars



Wells Fargo Bank
 13717A Southeast Mill Plain Boulevard
 Vancouver, WA 98684
 www.wellsfargo.com

Valued
 Customer
 Since 1990

Memo Property Tax
acct. no 0920087-446.0
 JULIET C. CRAWFORD

⑆ 25008547⑆0428427314⑆2375

EXHIBIT T

STATE OF WASHINGTON
BOARD OF TAX APPEALS

JULIET C. CRAWFORD TRUST)
)
 Appellant,)
)
 vs.)
)
 CLARK COUNTY)
)
 Respondent.)

COPY

Formal Docket
No. 04-286

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE BOARD

August 30, 2005
Olympia, Washington

THE BOARD: MS. GEORGIA GARDNER, Chair
MS. SHIRLEY WINSLEY
MR. TERRY SEBRING

FOR THE APPELLANT: MR. PETER CRAWFORD, TRUSTEE
MS. DEBORAH MILES, TRUSTEE
23 Newcastle Drive, #11
Nashua, NH 03060

FOR THE RESPONDENT: MR. QUINN POSNER
Deputy Prosecuting Attorney
Clark County
P.O. Box 5000
Vancouver, WA 98666-5000

REPORTED BY:  CONNIE CHURCH, Court Reporter
CCR #2555

PROCEEDINGS

1
2 MS. GARDNER: The hearing is now called to
3 order. Today is August 30th, 2005. And it's just about
4 9 o'clock in the morning. This is the property tax
5 exemption appeal of Juliet C. Crawford, deceased, who is
6 appealing the action of the Clark County Board of
7 Equalization. The appellant has requested a formal
8 appeal under the Washington Administrative Code. This
9 matter appears before the State Board of Tax Appeals as
10 Docket Number 04-286.

11 Appearing for the Appellant, Deborah Miles and Peter
12 Crawford, co-trustees. And appearing for Clark County,
13 Quinn Posner, Clark County Deputy Prosecuting Attorney,
14 and Maureen Humbert, Clark County Office Supervisor.

15 My name is Georgia Gardener, and I'll be presiding
16 over today's hearing. With me today are Board Members
17 Terry Sebring and Shirley Winsley.

18 Based on today's hearing and the written materials
19 we have received, we will write a final decision
20 outlining the contentions of the parties, analyzing the
21 issues and concluding with Findings of Fact and
22 contentions - Conclusions of Law. Our decision will be
23 based on statute and rule. It's our responsibility to
24 determine if the County in their determination applied
25 the law and rule fairly and justly. It is not the

1 charter of this board to judge whether the law is fair
2 and just, just to ensure that it is applied fairly and
3 justly.

4 Our decision will be mailed to both parties and will
5 outline your further appeal rights if either party
6 disagrees with the decision.

7 Although you have been before the County, this is a
8 de novo hearing. Our decision will be based on the
9 materials and the - previously submitted and today's
10 testimony.

11 The issue in the appeal is the applicability of the
12 senior citizen and disabled persons exemption for the
13 assessment year 2001 for taxes payable in 2002. Am I
14 right on that?

15 MR. CRAWFORD: That's correct

16 MS. GARDNER: We're on the same page so far.
17 This is a formal hearing, so there is a structure.
18 Mr. Crawford and Ms. Miles, you will be putting on your
19 case first. The County may then ask you questions to
20 clarify the points that you have made. The County will
21 present its case and, in addition, rebut your case.
22 Mr. Crawford, then you and Ms. Miles may ask questions to
23 clarify the points that the County has made and present
24 any rebuttal to their testimony. There's an opportunity
25 for opening remarks. There's an opportunity for closing

1 (Witnesses sworn under oath.)

2 MS. GARDNER: The record should show then that
3 Mr. Crawford, Ms. Miles and Ms. Humbert have been sworn
4 in.

5 Would you like to proceed with your opening
6 statement, Mr. Crawford?

7 MR. CRAWFORD: Yes, I would. Thank you. I
8 think that most of the issues, as you've suggested here,
9 are really not in dispute. What is at issue is what is
10 the law with respect to the situation that we have before
11 us. In the year 2000, Mrs. Crawford had income which was
12 above \$30,000 due to --

13 MS. GARDNER: Mr. Crawford, we do have the
14 stipulation of facts. And we would appreciate it if you
15 would not reiterate those, but go to the issues that are
16 in dispute.

17 MR. CRAWFORD: Okay. All right.

18 MS. GARDNER: Thank you.

19 MR. CRAWFORD: So there's no dispute that the
20 key facts, you know . . . Let me be as brief as I can,
21 but, you know, I think I do need to summarize the key
22 facts here. The issue relates to the year 2002, taxes
23 payable in 2002, which I don't believe there's any
24 dispute is based on income in 2001 and age of the person
25 in 2001.

1 should have in front of you. Would you like me to
2 introduce these into evidence in the customary manner?
3 Or can we just refer to them? Or how should we do this?

4 MS. GARDNER: Since we have had prefiled
5 exhibits from both parties and the stipulations, we're
6 going to consider all of those admitted unless there is a
7 disagreement to their admittance.

8 MR. POSNER: Not by Clark County.

9 MS. GARDNER: Then we are going to consider them
10 all admitted.

11 MR. CRAWFORD: Okay. Good. So I won't have to
12 lay the foundation to introduce those.

13 MS. GARDNER: No.

14 MR. CRAWFORD: Now, with respect . . .
15 Mr. Posner didn't file a reply brief, as your - I've
16 forgotten what you call it, but where you set out the
17 schedule for the case. What he filed was a Respondent's
18 supplement to trial brief. And I filed the normal trial
19 brief and reply brief. And normally I believe a reply
20 brief is to respond to the issues in the trial brief. So
21 I felt that these were new issues. And I sent by express
22 mail to the Board and priority mail to Mr. Posner, and he
23 got it, an Appellant's - what did I entitle it -
24 Appellant's response to respondent's supplement, I
25 believe, which you should have gotten and have before

1 Q And did Mrs. Crawford move around that time to Washington
2 state as well?

3 A Yes.

4 Q And did she purchase a property at that time?

5 A Yes.

6 Q And what was the address of that property?

7 A I don't know the exact street address, but it was on 18th
8 Circle.

9 Q Would it be 16213 Southeast 18th Circle?

10 A Yes.

11 Q And you lived not too far away; is that correct?

12 A About five miles.

13 Q Okay. And that's in Camas, Washington; is that correct?

14 A Yes.

15 Q And throughout that period of time, from 1990 through
16 November 22nd of 2002, did she occupy that house?

17 A Yes.

18 Q And did you occupy that house about five miles away?

19 A Yes, my own property, of course.

20 Q Right. And as her daughter, did you have opportunities
21 to visit her frequently?

22 A Yes.

23 Q And so there was nobody else living in that house at
24 16213 Southeast 18th Circle?

25 A No. Never.

1 application. So how does the health or competency of
2 your mother pertain to that argument?

3 MR. CRAWFORD: Well, I think it pertains to the
4 fairness and to the extent that, you know, fairness is an
5 issue here. I think what the County provided to
6 Mrs. Crawford is really unconscionable. I mean it's
7 confusing documentation.

8 MS. GARDNER: Well, and that may be something
9 you would like to address in another forum. But as I
10 mentioned in my opening statement, our decision is based
11 on statute and rule and whether or not the statute and
12 rule is applied justly and fairly. So it would be
13 helpful for this Board if you could sort of focus your
14 examination --

15 MR. CRAWFORD: Oh, I intend to.

16 MS. GARDNER: -- of Ms. Miles into something
17 that would be more pertinent in the case.

18 MR. CRAWFORD: We're going to cover it fairly
19 briefly, but I do ask that you would indulge me.

20 MS. GARDNER: Okay. I will indulge you to a
21 certain extent, but not if it goes on for a very long
22 time.

23 Q (BY MR. CRAWFORD) Okay. Could you briefly describe your
24 mother's ability to handled her affairs up through 2002.

25 A Well, one of the problems was she was not driving very

1 much. And she often - if she had a Social Security
2 difficulty, they overpaid or something, she would feel
3 she had to go down to the office to actually fill out the
4 forms and talk to the individual rather than on the
5 telephone. And her health was just deteriorating and,
6 with that, a certain amount of mental confusion that was
7 very unusual for her and so . . .

8 Q So you would say that in that particular year, compared
9 to earlier years, she would be more likely to be confused
10 by a document that she received?

11 A Yes. And for instance, with Medicare, she was under some
12 medical treatment, and we had --

13 MS. GARDNER: I just don't see how this pertains
14 to the issue before us, and I do want you to move along.

15 Q (BY MR. CRAWFORD) Okay. All right. So I refer you to
16 Exhibit A12-1. And you're listed as the informant there;
17 is that correct?

18 A Mm-hmm. Yes.

19 Q And is all this information correct?

20 A Yes.

21 MR. CRAWFORD: Okay. I think that's all I have
22 of Mrs. Miles right now.

23 MS. GARDNER: Okay. Mrs. Miles, you're excused,
24 but you can sit there.

25 MRS. MILES: I'll sit here.

1 MS. GARDNER: We are going to ask for
2 cross-examination.

3 MR. POSNER: I don't have any cross.

4 MS. GARDNER: Thank you. I'm not tracking too
5 well today.

6 MR. CRAWFORD: All right. I'm Peter Crawford.
7 I'm the son of Juliet Crawford. I live in New Hampshire,
8 so I didn't get as many opportunities to visit with my
9 mother, but I also observed some deterioration in her
10 mental capabilities. For example, there was an issue
11 with one of her medical providers, Northwest Cancer.

12 MS. GARDNER: Is this pertinent to this case
13 before us?

14 MR. CRAWFORD: I'm just going to briefly address
15 it. Where she was confused at some bills that she had
16 received and basically wouldn't pay them, but was unable
17 to straighten the matter out with Northwest Cancer
18 Institute. And so this was typical of her, that she
19 would just not pay something because she found what had
20 been submitted was confusing or she didn't believe that
21 she owed the money that was being billed.

22 Referring now to the exhibits, I believe that these
23 have already been accepted, so I'm going to skip very
24 quickly over A3 and A4, A5, A6. We have no dispute as to
25 income. I would comment with respect to A7 that I was

1 the primary person reviewing the documents that
2 Mrs. Crawford had accumulated. I found that she very
3 rarely would throw things away. So I believe that, you
4 know, I have a full set of documents that were in her
5 possession at the time of her death.

6 I reviewed her taxes and determined that on April -
7 on or about April 15th of 2002, that she had filed a tax
8 return, but she had forgotten - she had declared but
9 forgotten to include an income, an IRA distribution, and
10 she had also neglected to take an additional exemption as
11 a senior citizen. So on or about . . . And you have it
12 before you, Exhibit A8-1. On or about April 28th of
13 2003, I filed an amended tax return on behalf of my
14 mother for the year 2002, setting forth the revised
15 income.

16 MS. GARDNER: Now, what income distribution from
17 the trust did you include in this?

18 MR. CRAWFORD: Well, if I might address that,
19 the trust was an inter vivos trust which held title to
20 the property in question here as well as her brokerage
21 accounts and so forth. So the trust did not file a
22 separate tax return. That was all . . . And this is all
23 in accordance with IRS regulations. An inter vivos
24 trust --

25 MS. GARDNER: Just answer the question. Did all

1 MR. CRAWFORD: Not really.

2 MS. GARDNER: Then if both sides agree that her
3 income was under \$30,000, do we need to go over this?

4 MR. CRAWFORD: No. But I noticed that you had a
5 question about the trust. So I was trying to provide a
6 little --

7 MS. GARDNER: I can ask my questions without you
8 going over things that have already been accepted.

9 MR. CRAWFORD: All right. So after I was aware
10 of her income, then in I believe it was November of 2003,
11 I filed the application for the exemption and the
12 application for a refund, which you have as A6-1.

13 MR. POSNER: And I stipulated to under number 14
14 as well.

15 MS. GARDNER: Thank you.

16 MR. CRAWFORD: Which was denied. And then that
17 was appealed to the Board of Equalization, and they also
18 denied it. And you have all of those documents before
19 you. So I don't think I need to go into those.

20 MS. GARDNER: That's correct.

21 MR. CRAWFORD: Unless you have any questions. I
22 also, approximately 11 days after her death, received a
23 notice from the County that you also have as one of your
24 documents here indicating that she owed some \$2300 and
25 another \$200 in penalty. And at that point, I was

1 unaware that - (a), of her income for 2001, and (b),
2 that, you know, there was an issue with the senior
3 citizen exemption. So I was headed back to New Hampshire
4 the next day and we --

5 MS. GARDNER: So this is the tax that was paid?

6 MR. CRAWFORD: Right. We paid the tax.

7 MS. GARDNER: So that's in the stipulation.

8 MR. CRAWFORD: Right. We paid the tax out of
9 the trust account, which was the same account that my
10 mother had been using before. So we paid - the two of
11 us, my sister and I, paid the tax --

12 MS. GARDNER: That is stipulated.

13 MR. CRAWFORD: -- just a few days after her
14 death.

15 MS. GARDNER: That's stipulated.

16 MR. CRAWFORD: But I'm explaining why I paid it,
17 because I do need to demonstrate mistake and inadvertence
18 or lack of knowledge. And certainly given my knowledge
19 of the facts now, I never would have paid that - that tax
20 because I did not have the knowledge that her income for
21 2001 was below \$30,000. I didn't have the knowledge that
22 the amount that had been billed did not include a senior
23 citizen exemption.

24 MS. GARDNER: Okay. Let's move on. You did pay
25 the tax. We've accepted that.

1 MR. CRAWFORD: Right. Okay. So . . . I would
2 also direct the Board - and this is more of a legal
3 argument - to A2-1, which is the bill for those taxes of
4 \$2367.41, and point out to the Board that there's no
5 mention in here of any taxes for the prior year still
6 being due. And in reviewing my mother's documents and
7 files, I did find that on or about I believe it was
8 August 22nd of 2002, she paid what turned out to be her
9 2001 taxes. So it's easy to see why she would be
10 confused as to which taxes she was paying when the 2002
11 tax statement does not even reflect taxes that were still
12 due and owing at the time that the statement was printed,
13 which was in early 2002. It does not even reflect her
14 remaining approximately \$1100 that was still due for 2001
15 taxes. So as an additional point, that even I would be
16 confused by what the County presented.

17 MS. GARDNER: What is the . . . So the total
18 taxes are \$2367. What is the total value of the senior
19 exemption?

20 MR. CRAWFORD: That's not possible of exact
21 determination. But I think it's around a hundred
22 thousand - or a thousand dollars. I wish it was a
23 hundred thousand. The - the law provides . . . And
24 really now I'm getting into the legal arguments. The law
25 provides for a freezing of the property value for senior

1 she set it up. That's the only difference.

2 MS. GARDNER: Was the house a part of the
3 probate?

4 MR. CRAWFORD: No, because it's held by the
5 trust. What happens with an inter vivos trust is the
6 title rests - continues to rest with the trust, or more
7 technically, with the co-trustees - successor
8 co-trustees. Whereas with real estate that's held in the
9 name of the person, it would pass to the heirs directly.

10 MS. GARDNER: In an irrevocable trust, the house
11 and other assets do not revert to the individual? The
12 trust maintains the title to the house and it does not
13 show up in an asset inventory for the deceased? Is that
14 how it was handled with your mother's estate?

15 MR. CRAWFORD: Well, I can't answer that because
16 we didn't - the estate did not go through probate, but I
17 think legally it wouldn't have to. I mean it would not
18 be considered a probate asset.

19 MS. GARDNER: So the house is not considered to
20 be an asset of your mother's at all?

21 MR. CRAWFORD: Well --

22 MS. GARDNER: Not in life? Not in death?

23 MR. CRAWFORD: It's . . . A trust is not a
24 legal - legal entity. So she held title to the asset as
25 trustee during her life. And that passed to us, my

1 sister and me, as successor co-trustees at the moment of
2 her death. But it's still . . . I mean if you want to
3 call it being the property of the Juliet C. Crawford
4 Trust, yeah, in effect, that's what it was. But that's
5 an equitable relationship. Legally I believe that my
6 sister and I held title to it as co-trustees for the
7 Juliet C. Crawford Trust.

8 So, you know, she was the sole beneficiary of the
9 trust prior to her death. You have the document here.

10 MS. GARDNER: But she didn't own the house.

11 MR. CRAWFORD: Are you . . . Well, she owned it
12 as trustee. Because a trust cannot own property. A
13 trust - it's different from a corporation, which is a
14 legal person. So she owned the house as trustee. And
15 she also . . . There's actually a state regulation on
16 this very issue that says an inter vivos trust, an
17 irrevocable trust, is considered a life estate to the
18 extent that the person has the benefit of living in the
19 property during their life. So the only real difference
20 between --

21 MS. GARDNER: And what is that regulation?

22 MR. CRAWFORD: Let me get it for you. This is
23 addressed at pages 14 and 15 of my trial brief.

24 Washington Administrative Code 458-16A-100 --

25 MS. GARDNER: 458-16A.

1 MS. GARDNER: So somebody called up and said her
2 income was lower and --

3 MR. CRAWFORD: Yeah, I did that sometime . . .
4 I don't remember exactly when. But once I started to go
5 through her documents and discovered that her income was
6 below the 30,000, I called up the assessor's office. And
7 that's when I got a response that an application would
8 need to be filed. And they sent me the form that you
9 have there.

10 MS. GARDNER: Fine. Thank you.

11 MR. CRAWFORD: And so I filled that form out.
12 What I'm arguing is that I'm not sure that a simple
13 change in status form, which is another form that is
14 provided by the County, might have been sufficient. But
15 that was the form that they sent me, so that's what I
16 filed. And at that point, of course, they said, "Well,
17 she can't get it anyway, but we'll send you the form."
18 So that's what was filed.

19 MS. GARDNER: But your mother apparently knew
20 that her income was within the limits prior to her death
21 because she filed a tax return that said her total income
22 was \$10,000.

23 MR. CRAWFORD: Yeah. But remember, in order to
24 figure it out for purposes of the County, you have to add
25 back Social Security and IRA distributions. So, you

1 presentation?

2 MR. CRAWFORD: In chief. I get rebuttal.

3 MS. GARDNER: We're going to take a break for 15
4 minutes. At 10 minutes of 11:00, we will hear the
5 Respondent's side.

6 MR. SEBRING: I'm turning off the tape.

7 (Recess was taken.)

8 MS. GARDNER: Mr. Posner . . . Is it Posner or
9 Posner?

10 MR. POSNER: Posner (pronouncing). You're one
11 of the few people that get it correctly the first try, so
12 I appreciate that. Thank you.

13 MS. GARDNER: Please proceed.

14 MR. POSNER: Thank you. The Respondent would
15 call Maureen Humbert. I don't believe there's much need
16 for testimony. I have one issue - I have one exhibit
17 that I'd like to enter, that I don't believe has been
18 entered prior, in response to testimony provided.

19

20 EXAMINATION

21

22 BY MR. POSNER:

23 Q Ms. Humbert, could you please describe what I have marked
24 as Respondent's Exhibit 1-1.

25 A It is a photocopy of a transaction detail report with a

1 MR. CRAWFORD: Through my testimony, and I have
2 the checks for the account right here.

3 MS. GARDNER: So the checks that she used that
4 were considered trust checks were not identified as trust
5 checks?

6 MR. CRAWFORD: Right. They did not say
7 Juliet C. Crawford --

8 MS. GARDNER: So a vendor would not know that
9 that was a trust check?

10 MR. CRAWFORD: No. But it was in the name - the
11 account was held in the name of the trust.

12 MS. GARDNER: It's just that the checks weren't
13 printed with the name of the trust?

14 MR. CRAWFORD: Right.

15 MR. POSNER: I don't know if it's of assistance
16 to the Board. If not, we can go forward with that
17 understanding.

18 MS. GARDNER: Let's see if we have photocopier
19 capabilities now since it's only one page. During the
20 break, I noted that the fella was still working on the
21 big one. Yeah. I am going to admit this as Exhibit
22 R1-1.

23 Rose, could we have four copies of that, please.

24 ROSE: Okay.

25 MS. GARDNER: Thank you.

1 THE WITNESS: That's correct.

2 MS. WINSLEY: And so if they forget to do that,
3 unless you audit, all is forgiven?

4 THE WITNESS: Yes.

5 MS. WINSLEY: The Legislature changed the law a
6 few years ago that allows a person to file at age 61,
7 although they're not qualified for the exemption until
8 age 62. And the reason for that is that they can file
9 one year in advance so that when they reach 62, the tax
10 exemption would be granted; isn't that correct?

11 THE WITNESS: Yes.

12 MS. WINSLEY: Okay. For those taxpayers, senior
13 citizens, who aren't cognizant of the act and don't find
14 out about this until they reach the age of 65 and their
15 next-door neighbor happens to tell them that there is
16 this exemption and this is what the income is and if they
17 qualify, they can go down to the assessor's office and
18 fill out a filing - or affidavit and file, when
19 Mrs. Jones comes in at age 65 and was not cognizant of a
20 law, is it a general practice that then if they show
21 income that would have qualified them at age 64, 63 and
22 62, that you do grant that?

23 THE WITNESS: Yes.

24 MS. WINSLEY: Thank you.

25 MR. POSNER: If I could follow up, it would seem

1 in that situation, we have the proper claimant. And had
2 Ms. Crawford herself come in in late 2003, if she had not
3 passed away, she most likely would have been granted the
4 exemption in 2002. However, the problem we have here is
5 she never applied herself. She was not - she would have
6 been the proper claimant. But she never took that
7 action. Mr. Crawford did. And he's not - therefore, he
8 is not the proper claimant.

9 MS. WINSLEY: One further question in follow-up.
10 I want to make sure. I think the Appellant used the
11 example that if someone came in at the age of 62 and
12 filed, that they can go back three years. But I think
13 you don't go back any further than the age of 62. So
14 though you can file at any time after that, but there is
15 no exemption at the age 61?

16 THE WITNESS: That's correct.

17 MS. WINSLEY: Or 59 or 58. The exemption starts
18 at age 62? The filing is at age 61?

19 THE WITNESS: Yes.

20 MS. WINSLEY: Correct? Thank you.

21 MS. GARDNER: Just with regard to your remark,
22 you said if Mrs. Crawford had come in herself, she would
23 have been the proper applicant. And yet you said during
24 your presentation that there was a question about whether
25 or not she was the applicant because was she the owner of

1 think that this is any attempt to say anything about
2 Mrs. Crawford's character.

3 But you remember, early in your presentation, both
4 you and Ms. Miles said that your mother was forgetful and
5 not as attentive to business as she might have been in
6 her younger years.

7 So please - the Court assures you - the Board
8 assures you - and I'm sure that you'll hear the same from
9 the County - that there's been no attempt here to cast
10 any negative aspects to this action.

11 A I do not believe I have a copy of the audit document that
12 was sent to her.

13 MS. GARDNER: Thank you. Can we proceed?

14 Q (BY MR. CRAWFORD) Okay. Now, you testified that it was
15 the general practice, Ms. Humbert, that if a senior
16 citizen - and this was in response to Ms. Winsley's
17 question - if a senior citizen came in at age 64, that
18 they could get a refund of up to the prior three years as
19 long as they were age 62 or over in the years in which
20 they sought the exemption; is that correct?

21 A If they met the requirements for the years that they were
22 applying for --

23 Q Right.

24 A -- then that exemption would be granted.

25 Q So if a person came in at age 63 and said, "I want a

1 refund on the past three years," what would you do?

2 A Well, first of all, they would not meet the age
3 requirements.

4 Q At age 63, they came in.

5 A But they would not meet the requirements for the three
6 years back, as you suggested.

7 Q But they would meet the requirement for some of those
8 three years.

9 A Perhaps. Again, there are other requirements other than
10 their age that speak to the issue: If they had owned the
11 property, you know. There are other requirements besides
12 age. So if all the requirements had been met, then they
13 would be granted an exemption for those years.

14 Q So in the particular year that they were trying to go
15 back to, they would have to be at least 62 in that year
16 in order to get the exemption; correct?

17 A Yes.

18 Q Okay. But they actually filed it when they were 63. So
19 is it the time of filing rule - doesn't that mean that
20 you have to give them three years back?

21 A No, it does not. They would not meet the age
22 requirement. Each of the . . . And the law states that
23 you must meet each of those four requirements for the
24 years that you are filing. They would not meet the age
25 limit. They would have been younger than the age

1 threshold. So for those years, they would not qualify.

2 Q But that's not what the law says, Ms. Humbert. The law
3 says --

4 MS. GARDNER: Are you arguing or asking
5 questions?

6 MR. POSNER: Objection. Calls for a legal
7 conclusion.

8 MS. GARDNER: Can we just stop here for a
9 minute. Ask a question and receive an answer and move
10 on.

11 Q (BY MR. CRAWFORD) Okay. Now, Ms. Humbert, what is the
12 name of the property owner on the documents that you
13 have?

14 MR. POSNER: Objection. It's outside the scope.

15 MS. GARDNER: Sustained. I'm not sure . . . It
16 is outside the scope. It's also not necessary since we
17 have exhibits that show the name of the property owner.
18 So I don't think this is a question we need.

19 MR. CRAWFORD: Let me rephrase because I'm
20 running out of time here.

21 Q (BY MR. CRAWFORD) Is it not correct that the assessor's
22 office, throughout the period in question, knew that the
23 property was in the title of the Juliet C. Crawford
24 Trust?

25 MR. POSNER: Objection. Relevance. This

1 isn't . . . That's not issue. That's not what's at
2 issue. I apologize to the Court but --

3 MS. GARDNER: Rather than have to discuss once
4 again why Mr. Crawford is asking a question, I'm going to
5 allow a response from Ms. Humbert so that we can move on.

6 A Could you restate your question.

7 Q (BY MR. CRAWFORD) Was it true that throughout the period
8 of question - in question, that - in other words, from
9 the time that she applied for the exemption in 1990 or
10 thereafter, that you were aware that the property was in
11 the name of the Juliet C. Crawford Trust?

12 A I could not speak to that since I was not with the
13 Department at that time and I was not working with this
14 file. So I would have no information about that.

15 Q Okay. But do you have any evidence that the assessor's
16 office was not aware or anybody in the assessor's office
17 was not aware that the property was in that name?

18 A I do not have that information. I'm sorry.

19 Q Thank you.

20 MR. CRAWFORD: All right. I would like to enter
21 into evidence this check - and we do have copies - which
22 is a check on the trust bank account taken from the
23 checkbook that we're still using to pay any expenses
24 relating to the trust.

25 MS. GARDNER: Is there any objection to entering

1 this exhibit?

2 MR. POSNER: No objection. My only question
3 would be we don't know if additional names were added to
4 the account at any point following the issuance of that.
5 But I'm sure . . . The Court can - no objection if the
6 Court would like to consider it.

7 MS. GARDNER: I don't see any harm in entering
8 it. It's going to be entered as Appellant's Exhibit 21.
9 And it is --

10 MR. SEBRING: I just have a question. What is
11 this supposed to prove? Is this a check as it currently
12 exists?

13 MR. CRAWFORD: Yes. Let me present a little bit
14 of testimony, and maybe you'll understand. Right after
15 my mother died, my sister and I went down with the trust
16 document and with the death certificate and we got the
17 name changed on the account that my mother had been using
18 and we got new checks printed with our names as trustees.

19 MS. GARDNER: And why did you put Juliet C.
20 Crawford Trust and your name and your sister's name as
21 trustee on there?

22 MR. CRAWFORD: Because that's what we were. I
23 mean we were going to be using this --

24 MS. GARDNER: Were you trying to identify this
25 check as a trust check?

1 So therefore, that administrative code, to the
2 extent it conflicts with the statute, has to be ignored.
3 And his argument carries no weight.

4 The next argument that he makes is, "Oh, gee, you
5 know, she didn't have a life estate or a life - the
6 administrative code didn't get amended until later to
7 include squarely within its definition of a life estate
8 the particular situation here."

9 But if you look at the law, a life estate is any
10 case where you have a right to occupy property for the
11 duration of your life. And in fact, she had that right
12 for the rest of her life and was using it.

13 And then he says, "Oh, she didn't actually own the
14 property."

15 You know. But right here on page A10-2, it says
16 that she did own the property. She owned it as trustor
17 during her lifetime. So in fact, he's wrong. She both
18 owned the property in fee as trustor for the trust and
19 she had a life estate. So that argument goes nowhere.

20 You know, he refers to Title 4 and this thing about
21 wrongful death. He's dead wrong on that. RCW 4.20.046,
22 section 2, talks about wrongful death. But in my brief,
23 I'm citing section 1, which relates to all causes of
24 action that a decedent might have and is not talking
25 about wrongful death at all. And this is just

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF GRAYS HARBOR)

I, CONNIE CHURCH, a duly authorized Court Reporter and Notary Public in and for the State of Washington, residing at Montesano, do hereby certify:

That the foregoing proceedings were reported by me on said date and were transcribed by means of computer-aided transcription.

I further certify that the said transcript of proceedings, as above transcribed, is a full, true and correct transcript of the aforementioned matter.

Dated and signed this 6th day of November, 2005.



CONNIE CHURCH
Certified Court Reporter
CCR #2555

EXHIBIT U

1 Petitioners seek to obtain a refund of property taxes pursuant to the senior citizen
2 exemption, RCW 84.36.381. Although the record and pleadings are extensive, the issue on
3 this appeal is relatively simple. RCW 84.36.381 provides:

- 4 (1) The property taxes must have been imposed upon a residence which was **occupied by the**
5 **person claiming the exemption as a principal place of residence as of the time of filing...**
6 (2) **The person claiming the exemption must have owned, at the time of filing, in fee, as a**
7 **life estate, or by contract purchase the residence...**

8 The application for exemption which was denied was filed by Mr. Crawford on
9 November 17, 2003. At the time of filing, Mr. Crawford did not own or occupy the property,
10 as it had been sold. The application was made almost one year after the death of his mother,
11 Mrs. Crawford, and therefore she did not own or occupy the property at the time of filing of the
12 application. The Board of Tax Appeals concluded:

- 13 (2) Mrs. Crawford did not occupy or own the subject property at the time
14 application was made for the Senior Exemption. Since statute requires both occupation
15 and ownership, Mrs. Crawford does not qualify for the exemption.

16 Final Decision, Conclusions of Law p. 6.

17 Petitioners argue “the time of filing” should be construed to mean the original
18 application of Mrs. Crawford for the Senior Citizen Exemption, which was made for the 1995
19 tax year, as she qualified for the exemption for calendar years 1995 – 1999. However, such an
20 interpretation would allow a property to qualify for the Senior Citizen Exemption if the
21 applicant had qualified at the time of an initial application, but had later moved from the
22 residence or was disqualified for other reasons. The only reasonable interpretation of the
23 statute, as applied to the facts herein, is that the “time of filing” was November 17, 2003. At
24 that time, the property had been sold, Mrs. Crawford was deceased; clearly neither Mr.
25 Crawford nor his deceased mother met the statutory requirements.

EXHIBIT V

CASE#: 05-2-05413-5 JUDGMENT# NO JUDGE ID: 6
 TITLE: CRAWFORD & MILES VS FRANKLIN
 FILED: 10/17/2005
 CAUSE: ALR ADMINISTRATIVE LAW REVIEW DV: N

RESOLUTION: CDAT DATE: 03/12/2007 COURT DECISION AFTER TRIAL
 COMPLETION: DATE:
 CASE STATUS: APP DATE: 06/23/2008 ON APPEAL
 ARCHIVED:
 CONSOLIDT:
 NOTE1:
 NOTE2:** #4 STORED SEPARATE FROM FILE ** ** 2 VOLS **

----- PARTIES -----

CONN.	LAST NAME, FIRST MI	TITLE	LITIGANTS	DATE
PET01	CRAWFORD,	PETER A		
PET02	MILES,	DEBORAH C		
RSP01	FRANKLIN,	LINDA		
PSP01				
ATRO1	POSNER,	QUINN HARRISON		
BAR#	31463			

----- APPEARANCE DOCKET -----

SUB#	DATE	CODE/ CONN	DESCRIPTION/NAME	SECONDARY
	10/17/2005	\$FFR	FILING FEE RECEIVED	200.
1	10/17/2005	CICS	CASE INFORMATION COVER SHEET	
2	10/17/2005	PTJDR	PETITION FOR JUDICIAL REVIEW	
3	10/25/2005	NTAPR	NOTICE OF APPEARANCE	
		ATRO1	POSNER, QUINN HARRISON	
4	11/14/2005	CRABR	CERTIFIED APPEAL BOARD RECORD ** RECORD STORED SEPARATELY FROM COURT FILE IN CLERKS OFFICE**	
5	11/18/2005	AFSR	AFFIDAVIT/DECLARATION OF SERVICE	
6	12/28/2005	CRML	CERTIFICATE OF MAILING	
7	12/28/2005	AN	ANSWER	
8	05/12/2006	NTSBC	NOTICE OF SUBSTITUTION OF COUNSEL	
		ATRO1	POSNER, QUINN HARRISON	
9	11/15/2006	MTSMJG	MOTION FOR SUMMARY JUDGMENT	
10	11/15/2006	MM	MEMORANDUM	
11	11/15/2006	AFS	AFFIDAVIT IN SUPPORT - P	
12	11/15/2006	CIT	CITATION	12-22-2006
		ACTION	6 P-MTN FOR SMMRY JGMT	
13	11/15/2006	CRML	CERTIFICATE OF MAILING	
14	12/13/2006	RSP	RESPONSE	
	12/15/2006	HSTKCC	HEARING CANCELLED: COURT'S REQUEST DEPT 6 CANCELLED DOCKET FOR 12-22	
15	12/20/2006	CIT	CITATION	01-05-2007M6
		ACTION	P-MTN F/SMMRY JGMT	
16	12/26/2006	CRML	CERTIFICATE OF MAILING	
17	12/26/2006	OTHER	PETRS REBUTTAL TO RESPONSE TO MTN	

-----APPEARANCE DOCKET-----

SUB#	DATE	CODE/ CONN	DESCRIPTION/NAME	SECONDARY
18	01/04/2007	MTHRG	FOR SUMMARY JUDGMENT MOTION HEARING	
19	01/05/2007	HSTKPA	#6 CLERK'S IN COURT RECORD	
20	03/13/2007	CTD	CANCELLED: PLAINTIFF/PROS REQUESTED COURT'S DECISION	
21	03/20/2007	JDG06	JUDGE BARBARA D. JOHNSON	
22	03/20/2007	MT	MOTION FOR RECONSIDERATION	
23	03/21/2008	CRML	CERTIFICATE OF MAILING	
24	03/21/2008	CMDWP	CLKS MOT FOR DISMISS FR WNT OF PROS	05-09-2008
25	04/14/2008	ACTION	6 CLERKS MTN FOR DISMISSAL	
26	04/14/2008	RPT	REPORT-PLANTIFF'S STATUS	
27	04/14/2008	CRML	CERTIFICATE OF MAILING	
28	06/03/2008	ORDYMT	ORDER DENYING MOTION/PETITION FOR RECONSIDERATION	
29	06/03/2008	JDG06	JUDGE BARBARA D. JOHNSON	
30	06/23/2008	NACA	NOTICE OF APPEAL TO COURT OF APPEAL	
31	06/23/2008	\$AFF	APPELLATE FILING FEE	250.00
32	06/23/2008	CRML	CERTIFICATE OF MAILING	
33	06/25/2008	NOTE	NOTICE OF APPEAL EFILED TO COA	

=====END=====

EXHIBIT W

Residences — Property tax exemptions — Qualifications.

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A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing. PROVIDED, That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year. PROVIDED FURTHER, That confinement of the person to a hospital, nursing home, boarding home, or adult family home shall not disqualify the claim of exemption if:

- (a) The residence is temporarily unoccupied;
- (b) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support; or
- (c) The residence is rented for the purpose of paying nursing home, hospital, boarding home, or adult family home costs;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or state registered domestic partnership or owned by cotenants shall be deemed to be owned by each spouse or each domestic partner or each cotenant, and any lease for life shall be deemed a life estate.

(3) The person claiming the exemption must be (a) sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability, or (b) a veteran of the armed forces of the United States with one hundred percent service-connected disability as provided in 42 U.S.C. Sec. 423 (d)(1)(A) as amended prior to January 1, 2005. However, any surviving spouse or surviving domestic partner of a person who was receiving an exemption at the time of the person's death shall qualify if the surviving spouse or surviving domestic partner is fifty-seven years of age or older and otherwise meets the requirements of this section.

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.040. If the person claiming the exemption was retired for two months or more of the assessment year, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the assessment year by reason of the death of the person's spouse or the person's domestic partner, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person after such occurrences by twelve. If it is necessary to estimate income to comply with this subsection, the assessor may require confirming documentation of such income prior to May 31 of the year following application.

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income of thirty-five thousand dollars or less shall be exempt from all excess property taxes; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income of thirty thousand dollars or less but greater than twenty-five thousand dollars shall be exempt from all regular property taxes on the greater of fifty thousand dollars or thirty-five percent of the valuation of his or her residence, but not to exceed seventy thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income of twenty-five thousand dollars or less shall be exempt from all regular property taxes on the greater of sixty thousand dollars or sixty percent of the valuation of his or her residence.

(6) For a person who otherwise qualifies under this section and has a combined disposable income of thirty-five thousand dollars or less, the valuation of the residence shall be the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation shall be used upon requalification. If the person fails to qualify for more than one year in succession because of high income or fails to qualify for any other reason, the valuation upon requalification shall be the assessed value on January 1st of the assessment year in which the person requalifies. If the person transfers the exemption under this section to a different residence, the valuation of the different residence shall be the assessed value of the different residence on January 1st of the assessment year in which the person transfers the exemption.

In no event may the valuation under this subsection be greater than the true and fair value of the residence on January 1st of the assessment year.

This subsection does not apply to subsequent improvements to the property in the year in which the improvements are made. Subsequent improvements to the property shall be added to the value otherwise determined under this subsection at their true and fair value in the year in which they are made.

[2008 c 6 § 706; 2005 c 248 § 2; 2004 c 270 § 1; 1998 c 333 § 1; 1996 c 146 § 1; 1995 1st sp s c 8 § 1; 1994 sp s c 8 § 1; 1993 c 178 § 1; 1992 c 187 § 1; Prior 1991 c 213 § 3; 1991 c 203 § 1; 1987 c 301 § 1; 1983 1st ex s c 11 § 5; 1983 1st ex s c 11 § 2; 1980 c 185 § 4; 1979 ex s c 214 § 1; 1977 ex s c 268 § 1

1975 1st ex s c 291 § 14 1974 ex s c 182 § 1]

Notes

Part headings not law -- Severability -- 2008 c 6: See RCW [§ 17.01.010](#) and [§ 17.01.020](#).

Application -- 2005 c 248: "This act applies to taxes levied for collection in 2006 and thereafter " [2005 c 248 § 3]

Application -- 1998 c 333: "This act applies to taxes levied for collection in 1999 and thereafter " [1998 c 333 § 4]

Effective date -- 1996 c 146: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 25, 1996]" [1996 c 146 § 2]

Effective date of 1994 sp.s. c 8 -- Applicability -- 1995 1st sp.s. c 8: "Chapter 8, Laws of 1994 sess. shall take effect July 1, 1995, and shall be effective for taxes levied in 1995 for collection in 1996 and thereafter " [1995 1st sp s c 8 § 6]

Application -- 1995 1st sp.s. c 8: "This act shall apply to taxes levied in 1995 for collection in 1996 and thereafter " [1995 1st sp s c 8 § 7]

Severability -- 1995 1st sp.s. c 8: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected " [1995 1st sp s c 8 § 8]

Effective date -- 1995 1st sp.s. c 8: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995 " [1995 1st sp s c 8 § 9]

Applicability -- 1993 c 178: "This act shall be effective for taxes levied for collection in 1993 and thereafter " [1993 c 178 § 2]

Effective date -- 1993 c 178: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 30, 1993]" [1993 c 178 § 3]

Applicability -- 1992 c 187: "Section 1 of this act shall be effective for taxes levied for collection in 1992 and thereafter " [1992 c 187 § 2]

Applicability -- 1991 c 213: See note following RCW [§ 13.01.010](#).

Applicability -- 1991 c 203: "Section 1 of this act shall be effective for taxes levied for collection in 1992 and thereafter " [1991 c 203 § 5]

Applicability -- 1987 c 301: "This act shall be effective for taxes levied for collection in 1989 and thereafter." [1987 c 301 § 2]

Intent -- 1983 1st ex.s. c 11: "The legislature finds that inflation has significant detrimental effects on the senior citizen property tax relief program. Inflation increases incomes without increasing real buying power. Inflation also raises the values of homes, and thus the taxes on those homes. This act addresses the problem of inflation in two ways. First, the assessed value exemption is tied to home value so it will increase as values rise. Secondly, though the income of most senior citizens does not keep pace with inflation, it is the legislature's intent that inflationary increases in incomes will not result in program disqualification. Therefore, the income levels are adjusted to reflect the forecasted increase in inflation. The legislature also recommends that similar adjustments be examined by future legislatures." [1983 1st ex.s. c 11 § 1.]

Applicability -- 1983 1st ex.s. c 11: "This act applies to taxes first due in 1984 and thereafter " [1983 1st ex.s. c 11 § 7.]

Effective dates -- 1983 1st ex.s. c 11: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [May 11, 1983], except sections 5 and 6 of this act shall take effect January 1, 1984 " [1983 1st ex.s. c 11 § 8.]

Applicability -- 1980 c 185: See note following RCW [§ 13.01.010](#).

Applicability -- 1979 ex.s. c 214: "The exemption created by sections 1 through 4 of this act shall be effective starting with property taxes levied in calendar year 1979 for collection in calendar year 1980. The former exemption created by the law amended shall continue to be effective with respect to property taxes levied in calendar year 1978 for collection in calendar year 1979 " [1979 ex.s. c 214 § 10.]

Effective dates -- Severability -- 1975 1st ex.s. c 291: See notes following RCW [§ 13.01.010](#).

Severability -- 1974 ex.s. c 182: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected " [1974 ex.s. c 182 § 8.]

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RCW 84.36.385

Residences — Claim for exemption — Forms — Change of status — Publication and notice of qualifications and manner of making claims.

(1) A claim for exemption under RCW [84.36.381](#) as now or hereafter amended, shall be made and filed at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as prescribed and furnished by the department of revenue. However, an exemption from tax under RCW [84.36.381](#) shall continue for no more than four years unless a renewal application is filed as provided in subsection (3) of this section. The county assessor may also require, by written notice, a renewal application following an amendment of the income requirements set forth in RCW [84.36.381](#). Renewal applications shall be on forms prescribed and furnished by the department of revenue.

(2) A person granted an exemption under RCW [84.36.381](#) shall inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW [84.36.381](#) in 1993 and thereafter, shall file with the county assessor a renewal application not later than December 31 of the year the assessor notifies such person of the requirement to file the renewal application.

(4) Beginning in 1992 and in each of the three succeeding years, the county assessor shall notify approximately one-fourth of those persons exempt from taxes under RCW [84.36.381](#) in the current year who have not filed a renewal application within the previous four years, of the requirement to file a renewal application.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW [84.36.381](#), as now or hereafter amended, the claim or exemption shall be denied but such denial shall be subject to appeal under the provisions of RCW [84.48.010\(5\)](#) and in accordance with the provisions of RCW [84.40.033](#). If the applicant had received exemption in prior years based on erroneous information, the taxes shall be collected subject to penalties as provided in RCW [84.40.130](#) for a period of not to exceed three years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW [84.36.381](#) through [84.36.389](#), through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information shall be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

[2001 c 185 § 8; 1992 c 206 § 13; 1988 c 222 § 10; 1983 1st ex.s. c 11 § 6; 1983 1st ex.s. c 11 § 3; 1979 ex.s. c 214 § 3; 1977 ex.s. c 268 § 2; 1974 ex.s. c 182 § 3.]

Notes:

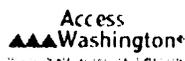
Application -- 2001 c 185 §§ 1-12: See note following RCW [84.14.110](#).

Effective date -- 1992 c 206: See note following RCW [82.04.170](#).

Intent -- Applicability -- Effective dates -- 1983 1st ex.s. c 11: See notes following RCW [84.36.381](#).

Applicability -- 1979 ex.s. c 214: See note following RCW [84.36.381](#).

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RCW 84.69.020

Grounds for refunds — Determination — Payment — Report.

On the order of the county treasurer, ad valorem taxes paid before or after delinquency shall be refunded if they were:

- (1) Paid more than once;
- (2) Paid as a result of manifest error in description;
- (3) Paid as a result of a clerical error in extending the tax rolls;
- (4) Paid as a result of other clerical errors in listing property;
- (5) Paid with respect to improvements which did not exist on assessment date;
- (6) Paid under levies or statutes adjudicated to be illegal or unconstitutional;

(7) Paid as a result of mistake, inadvertence, or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW [84.36.381](#) through [84.36.389](#), as now or hereafter amended;

(8) Paid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person with respect to real property in which the person paying the same has no legal interest;

(9) Paid on the basis of an assessed valuation which was appealed to the county board of equalization and ordered reduced by the board;

(10) Paid on the basis of an assessed valuation which was appealed to the state board of tax appeals and ordered reduced by the board: PROVIDED, That the amount refunded under subsections (9) and (10) of this section shall only be for the difference between the tax paid on the basis of the appealed valuation and the tax payable on the valuation adjusted in accordance with the board's order;

(11) Paid as a state property tax levied upon property, the assessed value of which has been established by the state board of tax appeals for the year of such levy: PROVIDED, HOWEVER, That the amount refunded shall only be for the difference between the state property tax paid and the amount of state property tax which would, when added to all other property taxes within the one percent limitation of Article VII, section 2 of the state Constitution equal one percent of the assessed value established by the board;

(12) Paid on the basis of an assessed valuation which was adjudicated to be unlawful or excessive: PROVIDED, That the amount refunded shall be for the difference between the amount of tax which was paid on the basis of the valuation adjudged unlawful or excessive and the amount of tax payable on the basis of the assessed valuation determined as a result of the proceeding;

(13) Paid on property acquired under RCW [84.60.050](#), and canceled under RCW [84.60.050\(2\)](#);

(14) Paid on the basis of an assessed valuation that was reduced under RCW [84.48.065](#);



(15) Paid on the basis of an assessed valuation that was reduced under RCW [84.40.039](#); or

(16) Abated under RCW [84.70.010](#).

No refunds under the provisions of this section shall be made because of any error in determining the valuation of property, except as authorized in subsections (9), (10), (11), and (12) of this section nor may any refunds be made if a bona fide purchaser has acquired rights that would preclude the assessment and collection of the refunded tax from the property that should properly have been charged with the tax. Any refunds made on delinquent taxes shall include the proportionate amount of interest and penalties paid. However, no refunds as a result of an incorrect payment authorized under subsection (8) of this section made by a third party payee shall be granted. The county treasurer may deduct from moneys collected for the benefit of the state's levy, refunds of the state levy including interest on the levy as provided by this section and chapter [84.130](#) RCW.

The county treasurer of each county shall make all refunds determined to be authorized by this section, and by the first Monday in February of each year, report to the county legislative authority a list of all refunds made under this section during the previous year. The list is to include the name of the person receiving the refund, the amount of the refund, and the reason for the refund.

[2005 c 502 § 9; 2002 c 168 § 11; 1999 sp.s. c 8 § 2. Prior: 1998 c 306 § 2; 1997 c 393 § 18; 1996 c 296 § 2; 1994 c 301 § 55; 1991 c 245 § 31; 1989 c 378 § 17; 1981 c 228 § 1; 1975 1st ex.s. c 291 § 21; 1974 ex.s. c 122 § 2; 1972 ex.s. c 126 § 2; 1971 ex.s. c 288 § 14; 1969 ex.s. c 224 § 1; 1961 c 15 §[84.69.020](#) ; prior: 1957 c 120 § 2.]

Notes:

Effective date -- 2005 c 502: See note following RCW [1.12.070](#).

Severability -- Effective date -- 1999 sp.s. c 8: See notes following RCW [84.70.010](#).

Applicability -- 1981 c 228: "Section 1(12) of the [this] amendatory act applies to only those taxes which first become due and payable subsequent to January 1, 1981: PROVIDED, HOWEVER, That this section shall not apply to any taxes which were paid under protest and which were timely paid." [1981 c 228 § 4.]

Effective dates -- Severability -- 1975 1st ex.s. c 291: See notes following RCW [82.04.050](#).

Purpose -- 1974 ex.s. c 122: "The legislature recognizes that the operation of the provisions of RCW [84.52.065](#) and [84.48.080](#), providing for adjustments in the county-determined assessed value of property for purposes of the state property tax for schools, may, with respect to certain properties, result in a total regular property tax payment in excess of the one percent limitation provided for in Article 7, section 2 (Amendment 59) of the state Constitution. The primary purpose of this 1974 amendatory act is to provide a procedure for administrative relief in such cases, such relief to be in addition to the presently existing procedure for judicial relief through a refund action provided for in RCW [84.68.020](#)." [1974 ex.s. c 122 § 1.]

Severability -- Savings -- 1971 ex.s. c 288: See notes following RCW [84.40.030](#).

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WASHINGTON STATE COURT OF APPEALS
Division Two

PETER A. CRAWFORD,)
DEBORAH C. MILES,)
co-trustees and co-executors)
)
) Petitioners,)
) Appellants)
)
)
) v.)
)
) LINDA FRANKLIN)
) Clark County Assessor,)
)
) Respondent,)
) Appellee)
)

No. 37902-3-II

FILED
COURT OF APPEALS
DIVISION II
08 SEP -4 PM 12:53
STATE OF WASHINGTON
BY DEBORAH C. MILES

APPELLANTS' CERTIFICATE OF SERVICE

I, Deborah C. Miles, hereby certify that on this the 2nd day of Sept, 2008, I deposited true and correct copies of the Brief of Appellants, the Appendix to the Brief of Appellants and Appellants' Narrative Report of the Proceedings into the mails of the U.S. Postal Service, postage prepaid, directed to attorney for Appellee at the following address:

Curt Wyrick
Chief Deputy Prosecuting Attorney
Clark County Prosecuting Attorney
Civil Division
1013 Franklin St.
P.O. Box 5000

Vancouver, WA 98666-5000

Date: Sept. 2, 2008
Place: Camas, WA.

Deborah C. Miles
Deborah C. Miles
3404 N.E. Country Dr.
Camas, WA 98607