

**KITTITAS COUNTY  
BOARD OF EQUALIZATION**  
411 N Ruby St, Ste 2, Ellensburg, WA 98926  
(509) 962-7506

**ORDER OF THE KITTITAS COUNTY BOARD OF EQUALIZATION**

Property Owner(s): Fowler Creek Trails LLC  
Mailing Address: 1890 Nelson Siding Rd  
Cle Elum, WA 98922  
Tax Parcel No(s): 21009  
Assessment Year: 2023 (Taxes Payable in 2024)  
Petition Number: BE-23-0195

Having considered the evidence presented by the parties in this appeal, the Board hereby:  
**Overruled - Reduced**  
the determination of the Assessor.

**Assessor's Determination**

Assessor's Land: \$166,580  
Assessor's Improvement: \$7,500  
TOTAL: \$174,350

**Board of Equalization (BOE) Determination**


BOE Land: \$122,750  
BOE Improvement: \$7,500  
TOTAL: \$130,250

**Those in attendance at the hearing and findings:**

See attached Recommendation and Proposed Decision of the Hearing Examiner.

Hearing Held On : October 25, 2023  
Decision Entered On: February 15, 2024  
Hearing Examiner: Jessica Hutchinson

Date Mailed: 3/11/24

  
Chairperson (of Authorized Designee)

  
Clerk of the Board of Equalization

**NOTICE OF APPEAL**

This order can 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 on this Order (RCW 84.08.130). The Notice of Appeal form is available from the Washington State Board of Tax Appeals or the Kittitas County Board of Equalization Clerk.

**KITTITAS COUNTY BOARD OF EQUALIZATION- PROPOSED RECOMMENDATION**

Appellants: Fowler Creek Trails LLC

Petition: BE-23-0195

Parcel: 21009

Address: 1381 Airport Rd

Hearing: October 25, 2023 1:06 P.M.

Present at hearing: Pat Deneen, Petitioner; Mark Cook, CDS Director; Anthony Clayton, Appraiser; Jessica Miller, BOE Clerk; Jessica Hutchinson, Hearing Examiner

Testimony given: Pat Deneen, Mark Cook, Anthony Clayton

Assessor's determination:

Land: \$166,580

Improvements: \$7,500

Total: \$174,350

Taxpayer's estimate:

Land: \$5,000

Improvements: \$0

Total: \$5,000

**SUMMATION OF EVIDENCE PRESENTED AND FINDING OF FACT:**

The hearing was held together with cases BE-23-0190, 0194, and 1095. The evidence and testimony applies to all four parcels.

Mr. Deneen stated that the 4 parcels are located on the West end of the Cle Elum airport, partially zoned Forest and Range, affected by the Airport Overlay Zone (AOZ), some Critical Areas and Hazardous Slope issues.

Mr. Cook explained that the current AOZ was adopted in 2020 and made changes to existing airport code. The code places building restrictions on the airspace above the land for building height. In some cases, the airspace restrictions run into topography. He stated that Kittitas County would place a 'no build' restriction on the impacted properties.

Mr. Deneen went on to state that the FFA and Department of Transportation have a guidebook on the restrictions and what is allowed in each zone. Zone 1 begins 200 feet from the end of the runway and extends wide to the left and right. Zone 3 is a fan shape area 200 feet from the runway and extends 4500 feet. Zone 4 runs 500 feet North and South of the runway, and does allow for livestock grazing. He provided percentages of each parcel affected by each zone:

Zone 1 affects 31% of 0190 (parcel 951572) and 25% of 0058 (parcel 180836)

Zone 3 affects 68% of 0058, 43% of 0190, 15% of 0194 (parcel 21010) and 31% of 0195 (parcel 21009)

In addition to the challenges with the AOZ, there is an issue of getting water to the parcels. Two group B water systems nearby are not allowed to be extended to the properties. Mr. Deneen stated that the land should be valued as grazing land only.

Mr. Clayton stated that the appellant lacks sales evidence to show value. He stated that the main question is whether the parcels are buildable or not buildable, and the Assessor's Office considers the parcels to have a possibility of building. He stated that the area surrounding the Ellensburg Airport in Zone 3 does have some residences. Mr. Deneen pointed out that those homes were built before the new Code was adopted.

#### **CONCLUSIONS OF LAW:**

"Upon review by any court, or appellate body, of a determination of the valuation of property for purposes of taxation, it shall be presumed that the determination of the public official charged with the duty of establishing such value is correct, but this presumption shall not be a defense against any correction indicated by clear, cogent and convincing evidence." RCW 81.40.0301

In other words, the assessor's determination of property value shall be presumed correct. The petitioner can overcome this presumption that the assessor's value is correct only by presenting clear, cogent and convincing evidence otherwise.

"All real property in this state subject to taxation shall be listed and assessed every year, with reference to its value on the first day of January of the year in which it is assessed..."

RCW 84.40.020

"The true and fair value of real property for taxation purposes...must be based upon the following criteria:

- (a) Any sales of the property being appraised or similar properties with respect to sales made within the past five years...
- (b) In addition to sales as defined in subsection (3)(a) of this section, consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property, as limited by law or ordinance..."

RCW 84.40.030(3)

"(1) In making its decision with respect to the value of property, the board shall use the criteria set forth in RCW 84.40.030.

(2) Parties may submit and boards may consider any sales of the subject property or similar properties which occurred prior to the hearing date so long as the requirements of RCW 84.40.030, 84.48.150, and WAC 458-14-066 are complied with. Only sales made within five years of the date of the petition shall be considered.

(3) Any sale of property prior to or after January 1<sup>st</sup> of the year of revaluation shall be adjusted to its value as of January 1 of the year of evaluation, reflecting market activity and using generally accepted appraisal methods...

(4) More weight shall be given to similar sales occurring closest to the assessment date which require the fewest adjustments for characteristics.”

WAC 458-14-087

**RECOMMENDATION:**

The Hearing Examiner has determined that the appellant has succeeded in meeting the burden of proof to overturn the Assessed Value of the property with clear, cogent and convincing evidence.

The appellant has made it clear that the new Airport Overlay Zone code places building restrictions on the parcels. This parcel is 31% affected by the AOZ, and therefore 31% of the acreage should be valued as additional acreage.

Every finding of fact this is a conclusion of law shall be deemed as such. Every conclusion of law that contains a finding of fact shall be deemed as a finding of fact.

**PROPOSED DECISION:**

The Examiner proposes that the Kittitas County Board of Equalization reduce the Assessed Value to \$130,250.

DATED 10/25/23

  
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Jessica Hutchinson, Hearing Examiner