

**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): Blue Jay Land Company LLC

Mailing Address: 1890 Nelson Siding Rd
Cle Elum, WA 98922

Tax Parcel No(s): 950589

Assessment Year: 2023 (Taxes Payable in 2024)

Petition Number: BE-23-0113

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: \$95,000
Assessor's Improvement: \$0
TOTAL: \$95,000


Board of Equalization (BOE) Determination

BOE Land: \$20,000
BOE Improvement: \$0
TOTAL: \$20,000

Those in attendance at the hearing and findings:

Patrick Deneen, Petitioner and Anthony Clayton, Appraiser of the Assessor's Office, were present at the hearing. The decision of the Board is based on the attached Proposed Recommendation by Jessica Hutchinson-Leavitt, Hearing Examiner.

Hearing Held On : October 23, 2023
Decision Entered On: November 9, 2023
Hearing Examiner: Jessica Hutchinson-Leavitt Date Mailed: 12/8/23


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: Blue Jay Land Co.
Petition: BE 23-0113
Parcel: 950589
Address: No address, Ronald

Hearing: Monday, October 23, 2023, 9:00 am

Present at hearing: Pat Deneen, representative for Blue Jay Land Co.; Patrick Deneen; Josh Fredrickson, Kittitas County Public Works; Anthony Clayton, Appraiser

Testimony given:
Pat Deneen
Josh Fredrickson
Anthony Clayton

Assessor's determination:
Land: \$95,000
Improvements: 0
Total: \$95,000

Taxpayer's estimate:
Land: \$5,000
Improvements: 0
Total: \$5,000

Summation of evidence presented and finding of fact:

The subject parcel is one of 21 parcels in a subdivision off of Ridgecrest Road near the town of Ronald.

Mr. Deneen began by stating that the subject parcels and the rest of the subdivision are being unfairly valued as buildable home sites, but the parcels are prohibited from being built on due to the condition of the access road. The road is not up to current Kittitas County road standards and it would not be feasible to bring the road up to standard.

Mr. Deneen provided photo evidence to show the extreme slope of the access road to the parcels. The road is far narrower than the required 26 feet required by Kittitas County code, and the steep banks on either side of the road prevent a workable solution.

Mr. Fredrickson from Public Works provided oral testimony to affirm that the parcels would not be granted building or access permits with the road in its current condition, and that solving the issues with the road are unlikely due to the extreme increase in grade of the road in some places. A correction to the grade would not fit within the current easement configuration across the parcels.

Mr. Deneen also noted that there are feasibility concerns with respect to access to utilities and availability of water rights, even in the unlikely event that the access issues could be fixed.

Mr. Clayton noted that the appellant did not provide any comparable sales. He stated that the Assessor's Office was only able to find one sale, very near the subject property and on the same access road, that sold as a package of four parcels for \$579,000 on 5/14/2021. The lots are similar in size to the subject and have similar topography challenges. There are no other comparable sales provided because there are none.

Mr. Fredrickson noted that the purchasers of the comparable sale properties were likely unaware that the parcels could not be built on, and that they likely did not do their homework prior to purchasing. He also noted that absolutely no access permits of any kind would be granted to properties served by Ridgecrest Road, even for a driveway or recreation access, and if those parcels were discovered to have put in any kind of access they would likely be cited by CDS and required to remove the access point.

Mr. Clayton suggested that the properties could possibly have access to water through Mr. Deneen's Group A water system at the bottom of Ridgecrest Road. Mr. Deneen stated that there are a limited number of hookups allowed from that water system and they are mostly accounted for, even if it was feasible to run water lines up the steep grade to the subject properties, which it is not.

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 1st 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 provided ample evidence to prove that the subject parcels are unbuildable due to a multitude of factors, including but not limited to the non-certification of the access road and the unrealistic nature of the feasibility to bring the access road up to county certification. The width and slope of the road would be cost prohibitive to remedy and likely impossible due to the road needing to take an entirely different course of navigation, as evidenced by the many photos and measurements taken at the road, the hazardous slope map from the Kittitas County Taxpayer site, and testimony from Josh Fredrickson from the Kittitas County Public Works Department.

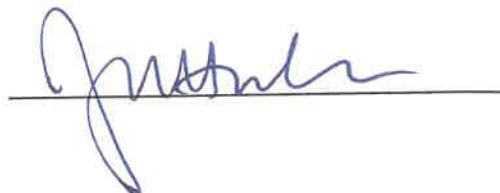
Although there were no comparable sales provided by the appellant, under RCW 84.40.0301, “The taxpayer meets the burden of proof when he or she has proved by clear, cogent, and convincing evidence that the assessor has made an error (that a “correction” to the valuation is indicated). Such proof overcomes the presumption of correctness in favor of the taxpayer... The taxpayer only has to prove that the assessed value is not correct.” The evidence provided clearly demonstrates a detriment to market value by the taxpayer because of the access road. The sole comparable sale provided by the Assessor’s office does not make a strong enough case on its own to prove the value of the subject parcels.

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 value of the subject property to \$20,000.

DATED 11/9/23



Jessica Hutchinson-Leavitt, Hearing Examiner