

BEFORE THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

JON A. GEISS,)	
)	
Appellant,)	Docket No. 60520
)	
v.)	RE: Property Tax Appeal
)	
CINDY PORTMANN,)	PROPOSED DECISION
Snohomish County Assessor,)	
)	
Respondent.)	
)	

This matter came before Robert Barnes, Senior Tax Referee, presiding for the Board of Tax Appeals (Board), on March 31, 2004, for an informal hearing pursuant to the rules and procedures set forth in Chapter 456-10 Washington Administrative Code. Appellant, Jon A. Geiss (Owner) appeared on his own behalf. Chuck Sessler, Appraisal Manager, and Bruce Jones, Appraiser, appeared for Respondent, Cindy Portmann, Snohomish County Assessor (Assessor). Carol Trusz observed the hearing.

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:

VALUATION FOR THE 2003 ASSESSMENT YEAR

<u>PARCEL NO.</u>	<u>BOARD OF EQUALIZATION VALUATION</u>	<u>BOARD OF TAX APPEALS VALUATION</u>
00484500503400	Land: \$261,000	Land: \$261,000
	<u>Impr: \$223,100</u>	<u>Impr: \$223,100</u>
	Total: \$484,100	Total: \$484,100

ISSUE

The issue in this appeal is the January 1, 2003, market value of property located at 723 Hemlock St, Edmonds, Washington.

FACTS AND CONTENTIONS

The subject property is a split-entry single-family residence. Built in 1992, the good quality residence has 3,117 square feet of improved living area and a 594 square foot attached garage. The subject enjoys an average water view. The Owner purchased the property on November 7, 2000, for \$535,000.

The Assessor valued the land and buildings at a total of \$484,100. The Owner appealed this value to the Snohomish County Board of Equalization (County Board), which sustained the Assessor's value. The Owner now appeals to this Board, contending that the assessed value should be \$428,000.

In support of a reduced value, the Owner presents four sales: 1) A one-story house with basement, built in 1975, located at 709 7th Ave; it sold in October 2001 for \$530,000; 2) A two-story house with basement, built in 1995, located at 905 7th Ave; it sold in April 2000 for \$535,000; 3) A one-story house with basement, built in 2001, located at 738 Laurel St; it sold in February 2002 for \$625,000; 4) A one-story house with basement, built in 2000, located at 1012 7th Ave; it sold in November 2000 for \$509,950.

The Owner argues that his assessment is 90 percent of his purchase price of the subject property, while other assessments in his Edmonds neighborhood range from 74 to 83 percent of current sale prices.¹ The Owner presents eight sales, including his purchase of the subject property, that he compares to the assessed values of the sales to establish the range of assessment levels. The Owner notes the only sale with an assessed value at or near 90 percent is his property. To remedy this perceived inequity, when the Owner appeared before the County Board he requested the County Board equalize several properties in his neighborhood, bringing the assessed values of other properties up to the level of assessment for his property, or alternately, reducing the assessed value of his property to the same level of assessment as other properties in his neighborhood.

The Owner states that the Assessor should value all properties at 100 percent of market value. Because she does not value all properties at 100 percent of market value, based on

¹ The Owner includes information on over 430 properties (including his Sale No. 1, which is next door to the subject property) that indicates, for properties that have sold since 1999, assessed values are 20 to 30 percent below market values.

sales of similar properties, the Assessor should then value all properties at the same percentage of market value. The Owner reemphasizes that the subject property is valued at 90 percent of market value while other properties in his neighborhood have values that are between 74 and 83 percent of market value. The Owner declares that his evidence indicates the appropriate value for his property is \$428,000, not the \$484,100 assigned by the Assessor and sustained by the County Board.

The Owner points out that the Assessor values his property as having a view. While the Assessor values his land at \$261,000, the Owner notes that a neighboring property has a land value of \$231,000 and this property, in the Owner's opinion, has an equal or better view than the subject property. The Owner contends the neighbor's view could be considered better because the neighbor's view is not obstructed by power lines as is the subject's view.

In support of her original value, the Assessor explains she establishes values by estimating land benchmark values and adjusting land values to account for various land characteristics, such as views. The Assessor then calculates improvement values utilizing a computer assisted mass appraisal program. This program estimates improvement values using cost information from market studies. The program then adjusts these cost rates to reflect local market factors. When combined with land values, the total values approximate market values for properties being appraised by the Assessor.

The Assessor notes that her computer assisted mass appraisal model does not result in 100 percent of market value for all properties; however, it does estimate values that range from 90 to 95 percent of market value throughout the revaluation area.² The Assessor stresses that while her model works well in neighborhoods with very similar properties, in other neighbor-

² For the assessment year under appeal in this case, the Snohomish County Assessor relies on a four-year revaluation program reviewed and approved by the Washington State Department of Revenue. When an assessor utilizes a four-year revaluation cycle, values are established in one year of the cycle and the value remains unchanged for the remaining three years. Because assessed values remain unchanged for three years while market values fluctuate, a county using a four-year revaluation cycle is never at 100 percent of market value for the overall county. Thus, while the Assessor states Snohomish County is at 90 to 95 percent of market value, in the area being revalued under the approved revaluation cycle, the overall county has a level of assessment, for assessment year 2003, of 88.1 percent, as established by the Washington State Department of Revenue in its annual ratio study, which determines the overall level of assessment for all property within Washington State.

hoods, such as the subject's area where properties have various views, the model results in values that seem to lack a high degree of equalization. The Assessor attributes part of the Owner's equalization issue to the data used by the Assessor to build her model. The Assessor comments that the sales she relies on occurred in the year prior to the assessment date. Thus, she maintains her values reflect the historical value of property and not future value.

The Assessor notes that she did not value the subject property at the level of the purchase price paid for the property in November of 2000. However, she points out that the January 1, 2003, assessed value is below the November 2000 purchase price of \$535,000, which she believes lends support for her original value as approximating the subject's market value.

In rebuttal, the Owner states that while he inspected property in other areas, he was not familiar with the market in Edmonds. Thus, he believes he may have been able to purchase the subject property for less than his actual purchase price.

ANALYSIS AND CONCLUSIONS

RCW 84.40.030 states that property must be valued at 100 percent of its true and fair value. The appraisal shall consider the extent to which the sale of the subject property or sales of similar properties made within the past five years represent the general effective market demand for property of such type. Appraisals shall be consistent with land use plans, zoning, and any other governmental policies or practices in effect at the time of appraisal that affect the use of property, as well as physical and environmental influences. The Assessor is afforded considerable discretion to determine the methodology employed to arrive at market value. *Sahalee Country Club, Inc. v. Board of Tax Appeals*, 108 Wn.2d 26, 36, 735 P.2d 1320 (1987), citing *Folsom v. Spokane County*, 106 Wn.2d 760, 769, 725 P.2d 987 (1986); *Chief Seattle Prop., Inc. v. Kitsap County*, 86 Wn.2d 7, 25, 541 P.2d 699 (1975); and *King County v. Department of Revenue*, 32 Wn. App. 617, 621, 649 P.2d 126 (1982).

The value of property for purposes of ad valorem taxation is "market value", that is: "Market value means the amount of money which a purchaser willing, but not obliged, to buy would pay an owner willing, but not obligated, to sell, taking into consideration all uses to which the property is adapted and might in reason be applied." *Mason County Overtaxed, Inc. v.*

Mason County, 62 Wn.2d 677, 683-84, 384 P.2d 352 (1963); accord *Carkonen v. Williams*, 76 Wn.2d 617, 458 P.2d 280 (1969); *Cascade Court Ltd. P'ship v. Noble*, 105 Wn. App. 563, 20 P.3d 997 (2001).

The valuation placed on the property by the assessor is presumed to be correct, and can only be overcome by presentation of clear, cogent, and convincing evidence that the value is erroneous. RCW 84.40.0301; *Weyerhaeuser Co. v. Easter*, 126 Wn.2d 370, 894 P.2d 1290 (1995). "Clear, cogent and convincing" evidence means a quantum of proof that is less than beyond a reasonable doubt, but more than a mere preponderance of the evidence. It is the quantum of evidence necessary to convince the trier of fact that the ultimate fact in issue is "highly probable". *In re Sego*, 82 Wn.2d 736, 513 P.2d 831 (1973).

The Owner's main argument is that inequities exist with respect to the level of assessment for the subject property when compared to other similar properties in the same neighborhood. Exact equality is neither possible nor required. *Sator v. Department of Revenue*, 89 Wn.2d 338, 572 P.2d 1094 (1977).

While the evidence before us lends credence to the Owner's position that inequities exist in the level of assessment for various properties, the evidence presented at the hearing does not show that the Assessor has overvalued the subject property. This Board does not have statutory power of equalization. That power is granted to county boards of equalization in RCW 84.48.010, and we note that the County Board reviewed the evidence presented by the Owner and determined there was not "a clear, compelling reason to request reconvening from the Department of Revenue" in order to examine the issue of equalization within the subject property's neighborhood. See Order of the Snohomish County Board of Equalization. This Board's jurisdiction is restricted to reviewing the action of the County Board of Equalization for the specific property under appeal and determining its true and fair value in accordance with the guidelines of RCW 84.40.030. Thus, the Owner's comparison of sale prices and assessed values does not offer any insights into the specific market value of the subject property.

By law, the sale of the subject within the past five years must be considered. RCW 84.40.030. Thus, we find the Owner's purchase of the subject property, which occurred within the five year time period set forth in law, is the best indicator of value for the subject property for the 2003 assessment year. Therefore, we find the Assessor's original \$484,100 value is reasonable. While the Owner's purchase of the subject property for \$535,000 in

November 2000 indicates the Assessor's original value may be below market value, RCW 84.08.060 prohibits this Board from raising the valuation of the property to an amount greater than the larger of either the valuation of the property by the assessor or the valuation of the property assigned by the county board of equalization. Because the Owner's purchase price is greater than the Assessor's original value, this Board has no authority to increase the value to the full value indicated by the subject sale.

The Owner's charge is to show by clear and convincing evidence the Assessor erred in establishing the original value. The evidence before us does not support this contention. Thus, we conclude the Owner has not met his burden of showing it is "highly probable" or "positive and unequivocal" that the Assessor overvalued the subject properties for the 2003 assessment year. See *Colonial Imports, Inc. v. Carlton Northwest, Inc.*, 121 Wn.2d 726, 853 P.2d 913 (1993). From the evidence before us, including the Owner's purchase of the subject property, we find the Assessor's original value of \$484,100 is reasonable.

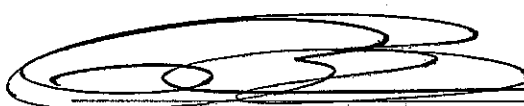
DECISION

In accordance with RCW 84.08.130, this Board sustains the determination of the Snohomish County Board of Equalization and orders the value as shown on page one of this decision.

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

DATED this 12 day of October, 2004.

BOARD OF TAX APPEALS


ROBERT BARNES, Senior Tax Referee

Right of Review

Pursuant to WAC 456-10-730, you may file an exception to this Proposed Decision. You must file the letter of exception with the Board of Tax Appeals within twenty calendar days of the date of mailing of the Proposed Decision. You must also serve a copy on all other parties. The letter of exception should be brief and must clearly specify the factual and legal grounds upon which the exception is based. The other parties may submit a reply to the exception within ten business days. The Board will then consider the matter and issue a Final Decision. There is no reconsideration from the Board's Final Decision.

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.