

**KITTITAS COUNTY  
BOARD OF EQUALIZATION**

411 N Ruby St, Ste 2, Ellensburg, WA 98926  
(509) 962-7506

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

Property Owner(s):     Scott Nicolai

Mailing Address:        510 N Mt Stuart Ave  
                              Ellensburg, WA 98926

Tax Parcel No(s):       672033

Assessment Year:       2023 (Taxes Payable in 2024)

Petition Number:        BE-23-0051

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:        \$170,800  
Assessor's Improvement: \$485,600  
TOTAL:                    \$656,400

Board of Equalization (BOE) Determination

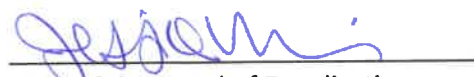
BOE Land:                \$170,800  
BOE Improvement: \$437,040  
TOTAL:                    \$607,840

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

See attached Recommendation and Proposed Decision of the Hearing Examiner.

Hearing Held On :        December 11, 2023  
Decision Entered On:     January 11, 2024  
Hearing Examiner:       Jessica Hutchinson     Date Mailed: 1/11/24

  
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: Scott Nicolai  
Petition: BE-23-0051  
Parcel: 672033  
Address: 510 N Mt Stuart Dr

Hearing: December 11, 2023 11:43 A.M.

Present at hearing: Scott Nicolai, Petitioner via telephone; Mike Hougardy, Appraiser; Jessica Miller, BOE Clerk; Jessica Hutchinson, Hearing Examiner

Testimony given: Scott Nicolai, Mike Hougardy

Assessor's determination:  
Land: \$170,800  
Improvements: \$485,600  
Total: \$656,400

Taxpayer's estimate:  
Land: \$170,800  
Improvements: \$400,000  
Total: \$570,800

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

Mr. Nicolai stated that his home is of straw bale construction in which the walls are two feet thick and affects the livable square footage of the home. He calculates that the actual square footage is about 82.5% of the recorded square footage by the Assessor's Office, since they measure from the exterior of the building, for a true square foot of 2326 square feet. He calculated that the shop, which is also hay bale construction, should be valued at about 69% for a true square footage of 704 square feet. He noted that the quality and condition of construction noted by the Assessor are correct.

Mr. Hougardy stated that the Assessor's Office uses The Appraisal National Standard Institute for measuring square footage on the exterior of the building, primarily because they do not have access to the interior of homes. There are some other types of construction, such as log and cinder block, that have the same issue as the appellant. However, looking at the comparable sales for either square footage, the subject property does not seem to be overassessed. He noted that square footage is not the driving value of a home, sales are really the determining factor. Mr. Hougardy stated that he is reluctant to lower the value based on the actual square footage because it would set a precedent for measuring on the inside of homes.

Mr. Nicolai stated he understand the Assessor's dilemma, but that many counties in California have starting looking at this type of construction differently in their values.

**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.

Because the discrepancy in square footage is significant, the Hearing Examiner recommends lowering the value of the improvements to reflect the true square footage. This unique construction type substantially affects the home’s livable space, which in turn affects the value of the home. In the event a homeowner is aware of a miscalculation in their home’s square footage, they have the option of meeting


with an appraiser from the Assessor's Office for a site visit to determine the correct numbers. That is clearly the case here. It is recommended that the Assessor's Office take note of the true and correct square footage of the home and value it as such. The Hearing Examiner recommends a 10% reduction in value of the improvements.

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 lower the Assessed Value of the improvements to \$437,040 for a total value of \$607,840.

DATED 1/11/24

  
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Jessica Hutchinson, Hearing Examiner