

**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): Fowler Creek Trails LLC

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

Tax Parcel No(s): 949851

Assessment Year: 2023 (Taxes Payable in 2024)

Petition Number: BE-23-0065

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: \$64,200  
Assessor's Improvement: \$0  
TOTAL: \$64,200

Board of Equalization (BOE) Determination


BOE Land: \$27,360  
BOE Improvement: \$0  
TOTAL: \$27,360

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

See attached Recommendation and Proposed Decision of the Hearing Examiner.

Hearing Held On : December 6, 2023  
Decision Entered On: February 6, 2024  
Hearing Examiner: Ann Shaw

Date Mailed: 2/12/24

  
\_\_\_\_\_  
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-23-0065

Parcel: 949851

Address: Fowler Creek Rd

Hearing: December 6, 2023 1:06 P.M.

Present at hearing: Pat Deneen, Appellant; Mike Hougardy, Appraiser; Jessica Miller, BOE Clerk; Ann Shaw, Hearing Examiner

Testimony given: Pat Deneen, Mike Hougardy

Assessor's determination:

Land: \$64,200

Improvements: \$0

Total: \$64,200

Taxpayer's estimate:

Land: \$10,000

Improvements: \$0

Total: \$10,000

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

This parcel is 3.04 acres and the fish bearing, Fowler Creek runs alongside the parcel. The petitioner is frustrated that this parcel is being valued as a buildable lot as most of the parcel is not buildable due to water pooling on the land and the total parcel is within the buffer zone for the wetland.

The assessor responded implying that their maps and information on the parcel may differ from what the petitioner presented.

The maps the petitioner shared are the maps that are found on the county website for wetlands and wetland investigation areas.

This parcel should be valued as additional acreage since it is not buildable due to the wetland buffer zone.

**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.

Although sales were not provided by the petitioner, evidence that this is a non-buildable parcel was well presented.


I believe valuing this parcel as additional acreage at \$9,000 per acre is fair.

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 land value to \$27,360.

DATED 12/6/23

  
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Ann Shaw, Hearing Examiner