

**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): Flying A Land LLC

Mailing Address: 300 Mission View Drive  
Ellensburg, WA 98926

Tax Parcel No(s): 956825

Assessment Year: 2023 (Taxes Payable in 2024)

Petition Number: BE-23-0240

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

Assessor's Determination

Assessor's Land: \$108,100  
Assessor's Improvement: \$4,070  
TOTAL: \$112,170


Board of Equalization (BOE) Determination

BOE Land: \$102,600  
BOE Improvement: \$4,070  
TOTAL: \$106,670

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

Andy Schmidt, Petitioner and Dana Glenn, 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 : November 1, 2023  
Decision Entered On: November 9, 2023  
Hearing Examiner: Jessica Hutchinson-Leavitt      Date Mailed: 12/18/23

  
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: Flying A Land LLC  
Petition: BE-23-0240  
Parcel: 956825  
Address: Game Farm Rd

Hearing: November 1, 2023 9:01 A.M.

Present at hearing: Andy Schmidt, appellant; Dana Glenn, appraiser; Anthony Clayton, appraiser; Jessica Miller, BOE Clerk; Jessica Hutchinson, Hearing Examiner

Testimony given: Andy Schmidt, Anthony Clayton, and Dana Glenn

Assessor's determination:

Land: \$108,100  
Improvements: \$4,070  
Total: \$112,070

Taxpayer's estimate:

Land: \$40,932  
Improvements: \$0  
Total: \$40,932

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

The subject property is one parcel in a development project off of Wilson Creek Road in Ellensburg. The hearings for cases BE 23-0223 through BE 23-0260 were combined into one hearing and the evidence and testimony applied to all of the cases.

Mr. Schmidt started by saying that he is not contesting the access adjustments made to the parcels by Mr. Clayton, only to the value of the water listed as an improvement on each of the parcels. Mr. Schmidt stated that he purchased a bulk water right for the development at \$716 per lot but the value set by the Assessor's Office is \$4,070. He stated that he does not understand how the county arrived at \$4,070 for a value on water when there is a wide range of prices to purchase a water right in the county. He stated that he agreed with the value of \$4,070 when the lots are finished with access and ready to be sold and built on but not before then.

Mr. Schmidt went on to state that 37 lots are finished in the plat process and there are 58 water rights total. Not all the parcels have final plat approval and there is no guarantee that they will achieve final approval. He stated that parcel 958408 (BE 23-0233) is a 44 acre parcel that is being valued with 13 water rights but it should not be valued for 13 rights when it is still just one lot (no final plat approval yet).

Mr. Glenn stated that when someone wants to build on a property, they must be able to prove that they own a water right for that parcel and that water is available. The Assessor's Office uses the same value

for all parcels uniformly in Kittitas County. The \$4,070 value is attributed to a water right attached to the parcel, then when a well is drilled the value changes to reflect that. Mr. Glenn stated that every year, the appraisers go through water right mitigation records to discover water rights purchases and add the value to the parcel. Mr. Glenn referenced the Assessor's evidence packet to show an excise affidavit for Flying A Land's purchase of water right with the parcels numbers that the water right was purchased for. Page 8 of the affidavit lists the parcel numbers where the Department of Ecology has approved the water use.

Mr. Glenn went on to state that he included more documents in the evidence packet that explain how the Assessor's Office arrives at a value of \$4,070. There are several third party water banks that homeowners can purchase water rights from that range in cost from \$5,000 to \$35,000. The County also has water rights available to purchase for around \$4,000 to \$5,000. The value of \$4,070 is a conservative value based on this evidence. Since the Assessor's Office is tasked with valuing property equally across the entire county, it would not be equitable to lower the value of Flying A Land's water rights because he happened to get a bulk water right price.

Mr. Clayton addressed the issue of multiple water rights being attached to parcel 958408. He stated that in the plat approval process water rights for each proposed parcel must be attached to the original parcel in order to eventually get plat approval.

Mr. Schmidt stated that there is still a long way to go for final approval of the plat and there is no guarantee it will happen. There is currently no water infrastructure (pipes, well, etc.) and it is still unclear what system the plat will use (Group A, Group B, etc.).

#### **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:**

For the issue of access to the parcels:

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

The changes proposed by the Assessor’s Office in value to the land portion of the parcels is evidenced by the estimates of work needed provided to them by the appellant (estimates of work by Central Paving in evidence).

For the issue of the value of water rights:

The Hearing Examiner has determined that the appellant has not met the burden of proof to overturn the Assessed Value of the property with clear, cogent, and convincing evidence.

While the appellant was able to purchase water rights for the property at a much lower rate than the assessed value, the Assessor’s Office has a duty to value all property in the county equitably. The value of \$4,070 is conservative and reasonable considering that there is a possibility of a much higher rate as evidenced by pages 13-20 in the Assessor’s evidence packet. The water may not be being used currently, but the platting process may not proceed without the water rights being attached to those parcels, ready to use. For that, the value of the water right should be equal to that of any taxpayer in the county, no matter what part of the building process they are currently in.

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 The Examiner proposes that the Kittitas County Board of Equalization reduce the value of the land to \$102,600 for a total of \$106,670.

DATED 11/9/23



Jessica Hutchinson-Leavitt, Hearing Examiner