September 29, 2008

Adding New Value to the Assessment Rolls

This Property Tax Special Notice is in response to recent inquiries regarding the question of when infrastructure improvements to a new subdivision can be added to the assessment rolls.

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Distinction between “improvements to property” and “new construction.”

Improvements
The value of “improvements to property,” multiplied by the levy rate of the taxing district for the preceding year, is allowed to be added to a taxing district’s levy amount outside (or in addition to) the 101% levy limit. (RCW 84.55.010.) Other values, such as “new construction” and “increases in the assessed value of state assessed property,” and “increases in assessed value due to construction of electric generation wind turbine facilities classified as personal property,” multiplied by the levy rate of the taxing district for the preceding year, are also allowed to be added to a taxing district’s levy amount outside the 101% limit.

“Improvement” is defined, for levy purposes, in WAC 458-19-005(2)(i), as follows:

> ‘Improvement’ means any valuable change in or addition to real property, including the subdivision or segregation of parcels of real property or the merger of parcels of real property.

Utility infrastructure in a subdivision is “a valuable change in or addition to real property,” the value of which is properly included in the value of “improvements to property.” As a valuable change to the property, the value of the infrastructure may be included for levy purposes outside the 101% levy limit, but unlike “new construction,” infrastructure improvements may only be added to the assessment rolls in any county in accordance with the revaluation cycle of that county. Since utility infrastructure in new subdivisions generally does not require a “building permit,” the addition of infrastructure does not qualify as “new construction” value. (*See* definition of “new construction” in RCW 36.21.080 and see WAC 458-12-342 below.) However, changes in value attributable to “new construction” (discussed below), segregations, and mergers may be placed on the assessment rolls regardless of the revaluation cycle for the county. In such cases, the value is determined as of January 1st of the most recent year of revaluation for the “parent” parcel or the merged parcels. (RCW 84.40.042 and WAC 458-07-020(3)(f).)

New Construction
New construction is defined in RCW 36.21.080 and WAC 458-12-342. The rule provides as follows:

> (1) New construction covered under the provisions of RCW 36.21.070 and 36.21.080, and defined in WAC 458-19-005(2)(q), shall be assessed at its true and fair value as of July 31st each year regardless of its percentage of completion. In instances when new construction continues after July 31 of any year, the increase in value of the property due to the new construction that occurs between August 1 of that year through July 31 of the following year is added to the assessment roll as 'new construction' in the following year. New construction as used in this section refers only to real property, as defined in RCW 84.04.090 and further defined in WAC 458-12-010, and also to improvements, as described in WAC 458-12-005(4), located on leased public land, for which a building permit was issued or should have been issued pursuant to chapter 19.27, 19.27A, or 19.28 RCW or other laws providing for building permits.
> (2) The assessor is authorized to place new construction on the assessment rolls up to August 31st each year and shall notify the owner, or person responsible for payment of taxes, of the value of any new

> construction that has been assessed. The notice shall advise the owner, or person responsible for payment of taxes, that such owner or person has thirty days from the date of mailing of the notice, or up to sixty days when the county legislative authority has adopted a longer time period, whichever is later, to appeal the valuation to the county board of equalization as provided in WAC 458-14-056.

All values, except "new construction" value, are added to the assessment rolls using the value as of January 1st of the year of revaluation. (RCW 84.40.020.)

Below are several examples of how and when new construction and improvement value is added to the assessment roll. In all examples, it should be noted that it is always preferred for the assessor to place the true and fair market value on newly subdivided parcels as quickly as possible after the subdivision is recorded. When this is done in the same year as the subdivision occurs, it helps to avoid extreme or irrational results that may otherwise be required.

Example -- County on a four-year revaluation cycle
<u>First example: advance tax deposit paid at time of plat approval</u>
This example assumes a county on a four-year revaluation cycle. A subdivision has been given final plat approval and recorded on June 30, 2003. An advance tax deposit was paid in accordance with RCW 58.08.040 because the plat was recorded after May 31st and before the date of collection of taxes in the next year. The original parcel was last revalued, in cycle, in 2001. The new values for the newly established parcels were put on the assessment roll by the assessor on September 30, 2004. In 2005, the subdivision was revalued, in cycle. In 2006, utility infrastructure was added to the subdivision. In 2007, houses were built. In 2009, the subdivision is revalued, in accordance with its four-year cycle.

Under RCW 84.40.042, when the plat is recorded and advance tax paid, the assessor puts the market value of the newly created lots on the assessment roll by October 30 of, in this example, 2004, the year following the recording of the plat. The value put on those lots is the value they would have had on January 1, 2001, as though the subdivision had been recorded in 2001. The increase in value for the lots due to the segregation is an "improvement" for purposes of increasing the appropriate taxing districts' levy amounts above the levy limitation in the 2004 levy, for collection in 2005. (RCW 84.55.010) This increase in value can be put on the assessment roll in 2004, "out of cycle." (WAC 458-07-020(3)(f)). Also, if sales of the lots include an amount for utility infrastructure to be installed in the future, then the value of that infrastructure may be put on the roll along with the increase in value due to the segregation; and this may be done "out of cycle." However, no additional value for "improvements" may be added to the assessment roll later when the infrastructure improvements are actually installed. If the sales of the lots do not include any amount for infrastructure improvements, then those improvements may be added to the roll later, but only in accordance with the county's revaluation cycle.

<u>Second example: no advance tax deposit paid</u>
If the plat had been recorded prior to May 31, 2003, then no advance tax deposit would have been necessary under RCW 58.08.040. In this situation, RCW 84.40.042 requires the assessor to put the true and fair value on the lots not later than the end of the calendar year following the recording of the plat. (*See also*, WAC 458-07-035.)

In 2005, the subdivision is revalued in cycle, and the 2001 values for the new parcels are adjusted to market value for January 1, 2005.

In 2006, when the utility infrastructure is actually installed, the value of the utility infrastructure will not be added (again) if it was already included in the sale price of the lot and if that sale price was used by the assessor to determine the assessed value of the lot. However, if the utility infrastructure value was not included in the sale price of the lot, even though the installation of utility infrastructure adds value to the land, there is no authority to add such value to the assessment roll out of cycle, and thus there would be no change to the assessment roll for 2006.

In 2007, houses are built. Since these houses qualify for valuation as new construction, the new value is put on the assessment roll by the end of August, at the value of the new construction on July 31, 2007. New construction can be added to the assessment roll outside the normal four-year cycle. The land value is not adjusted; only the new construction value is added.

In 2008, to the extent that there was additional "new construction" carried out after July 31, **2007**, that value as of July 31, **2008**, can be added to the roll by the end of August 2008. (WAC 458-12-342).

In 2009, the subdivision is again revalued, in cycle, as of January 1, 2009. To the extent that the utility infrastructure improvements have not been valued previously, that "improvement" value is put on the roll and is used (along with any additional new construction or increases in the value of state assessed property, etc.) to increase the appropriate taxing districts' levy amounts outside the 101% levy limit.

Examples -- County with annual revaluation

First example: advance tax deposit paid at time of plat approval

Suppose that a subdivision has been given final plat approval and recorded on June 30, 2003. An advance tax deposit was paid in accordance with RCW 58.08.040, because the plat was recorded after May 31st and before the date of collection of taxes in the next year. The assessor closed the assessment roll for assessment year 2003 on May 31, 2003. The subdivision developer started to sell the lots in July 2003. The assessor subsequently placed a value on the new lots on November 1, 2003, using the value of the parent parcel as of January 1, 2003, and allocated that value among the new lots. (For example, if the parent parcel of ten acres had an assessed value as of January 1, 2003, of $100,000, and that parcel was subdivided into ten equal-sized lots of one acre each, then each lot would have an allocated value of $10,000.) The allocated value is used to set levy rates for taxes due on the new lots in 2004 (using the advance tax deposit). The assessor closed the assessment roll for assessment year 2004 on July 20, 2004. The new market values were established by the assessor on September 30, 2004 (prior to October 30, as required by law), based on true and fair market value as of January 1, 2003. In 2006, utility infrastructure was added to the subdivision. In 2007, houses were built.

Year 1

At the time that the developer started to sell the lots (July 2003), all property taxes that were due in 2003 would have been paid on the entire property. RCW 58.08.030, RCW 58.17.160(4), RCW 84.40.042(1)(c), and RCW 84.56.345. Therefore, in 2003, a buyer of one of the new lots would not be subject to any property tax (other than what the buyer might agree to pay the seller under their contract of sale; in other words, the buyer would not get a tax statement from the treasurer). An advance deposit for taxes due and payable in 2004 would also have been paid at the time of recording the plat. The advance deposit is based on the most recent assessed value of the parent parcel, less any subdivision improvements. RCW 58.08.040. The assessor, in certifying levy rates in 2003 for taxes due in 2004, must use "the value of the property at the time of filing a plat, replat, or altered plat. . .." and the treasurer "shall appropriate so much of the deposit as will pay the taxes and assessments on the property when the levy rates are certified by the assessor." RCW 58.08.040. So, even though a buyer purchased a new lot in 2003 and would normally be liable for the taxes on that lot, due in 2004 (under RCW 84.60.020), "an additional property tax shall not be due on the land until the calendar year following the year for which the advance tax deposit was paid if the deposit was sufficient to pay the full amount of the taxes due on the property." RCW 84.40.042(1)(a). Generally speaking therefore, the buyer of the new lot will also not pay any property taxes on the new lot in 2004. A buyer in 2003 of a newly subdivided lot that was subject to the advance tax deposit requirement will normally pay property taxes on the lot beginning in 2005.

Year 2

In 2004, before October 30, the assessor revalues the lots based on their market value as of January 1, 2003, the year the original parcel was last revalued, in accordance with RCW 84.40.042(1)(a). *See also*, WAC 458-07-035(3)(a). If the assessor has already closed the assessment roll for 2004 at the time the market value for the new lots is established, then the value established as of January 1, 2003, will be used as the assessed value for those lots as of January 1, 2005, subject to review in the normal course of establishing assessed values in 2005, prior to roll closure. In such a case, when the rolls were closed in 2004 before the market value was established, the previous *allocated* value as of January 1, 2003, will be used to set levies in 2004 for 2005 taxes. If the assessor has not closed the assessment roll for 2004 at the time the market value for the new lots is established, then the value established as of January 1, 2003, will be used as the assessed value for those lots as of January 1, 2004. WAC 458-07-035.

Year 3 and subsequent

In subsequent years, the true and fair market value including improvements such as utility infrastructure will be put on the assessment roll as of January 1; except for new construction, when the market value of the new construction as of July 31 will be put on the roll by August 31.

The owner of a new subdivided lot, in this example, would have a right to appeal the value of the lot to the board of equalization (BOE) based on the value used to set taxes due and payable in 2005. When the assessor establishes the market value of the new lots in 2004, he/she must notify the taxpayer of those values. RCW 84.40.045. "The assessor shall give notice of any change in the true and fair value of real property. . .." Since allocated values are not changes in the true and fair value of real property (they are merely based on the previous true and fair valuation of the parent parcel), the assessor is not required to notify the owners of the new parcels of a change in value until the true and fair valuation for those new lots is changed. (*See also,* RCW 84.40.038). Owners have a right to petition the BOE when there is a change in the "assessed valuation" placed on property. When allocated values are used for the child parcels, the assessed value is the same as the value on the parent parcel; the "assessed value" for that real property did not change. However, if the assessor does not comply with his/her statutory duty to put the market value on the roll by October 30 of the year following the recording of the plat, then the taxpayer has a right to appeal the value used to determine his/her 2005 taxes, even if it is an allocated value. (Practically speaking, the taxpayer may not want to appeal an allocated value because the allocated value will almost always be less than the market value.)

For levy purposes, the increase in value associated with placing the true and fair market value on the assessment roll would be available in the assessment year the increased value was placed on the roll. That is, if the market value for the new parcels was put on the roll before roll closure, then the market value could be used in that year for levy purposes. If the market value was put on the new parcels after roll closure, then that increase in value would not be available for levy purposes until the following year. The "improvement" value used for levy purposes is the increase in market value due to a subdivision of property based on the difference in the same assessment year (the year the parent parcel was last revalued) between the value of the parent parcel and the total market values of the child parcels.

Second example: No advance tax deposit paid
Suppose that a subdivision has been given final plat approval and recorded on March 1, 2003. No advance tax deposit was paid in accordance with RCW 58.08.040, because the plat was recorded after the date of collection of taxes and before May 31st. The assessor closed the assessment roll for assessment year 2003 on May 31, 2003. The subdivision developer started to sell the lots in April 2003. The assessor subsequently placed a value on the new lots on November 1, 2003, using the value of the parent parcel as of January 1, 2003, and allocated that value among the new lots. The allocated value is used to set levy rates for taxes due on the new lots in 2004. The new market values established by the assessor on November 30, 2004 (by the end of the calendar year following the recording of the plat, as required by law), are based on true and fair market value as of January 1, 2005, assuming the assessor had closed the assessment roll by November 30, 2004. The assessed value of the parcels for assessment year 2005 are subject to review in the normal course of establishing assessed values, prior to roll closure. The assessor closed the assessment roll for assessment year 2004 on July 20, 2004. In 2006, utility infrastructure was added to the subdivision. In 2007, houses were built.

Year 1
At the time that the developer started to sell the lots (April 2003), all property taxes that were due in 2003 would have been paid on the entire property. RCW 58.08.030, RCW 58.17.160(4), RCW 84.40.042(1)(c), and RCW 84.56.345. Therefore, in 2003, a buyer of one of the new lots would not be subject to any property tax (other than what the buyer might agree to pay the seller under their contract of sale; in other words, the buyer would not get a tax statement from the treasurer). Although it is preferable for the assessor to establish the true and fair market value of the new lots as soon as possible after a subdivision occurs, it is not always possible to do so immediately. The assessor, in certifying levy rates in 2003 for taxes due in 2004, may have to use the latest assessed value of the parent parcel allocated among the child parcels as the value against which to apply the levy rate.

Year 2
However, the assessor is required to establish the true and fair market value of the new parcels no later than the end of the calendar year following the recording of the plat, which in this case is December 31, 2004. RCW 84.40.042(1)(b). In establishing that market value, the assessor uses the value of the new lots as of January 1, 2003. WAC 458-07-035(3)(b). In the facts of the example, the assessor closed the roll (July 20, 2004) before determining the market value of the new lots in 2004 (November 30, 2004). In such a case, the market value will be put on the roll for assessment year

2005, for taxes payable in 2006. WAC 458-07-035(3)(b). The assessed value for January 1, 2004, will be the previously allocated value.

Year 3 and subsequent
In subsequent years, the true and fair market value including improvements such as utility infrastructure will be put on the assessment roll at the value as of January 1; except for new construction, when the market value as of July 31 will be put on the roll by August 31.

The owner of the new subdivided lot, in this example, would not have a right to appeal the value of the lot to the board of equalization (BOE) based on the value used to set taxes due and payable in 2004, only in very limited circumstances, unless the assessor had actually changed the value to true and fair market value, rather than merely an allocated value based on the value of the parent parcel. When the assessor establishes the market value of the new lots in 2004, he/she must notify the taxpayers of those values. RCW 84.40.045. "The assessor shall give notice of any change in the true and fair value of real property. . .." Since allocated values are not changes in the true and fair value of real property (they are based on a previous true and fair valuation), the assessor is not required to notify the owners of the new parcels until the true and fair valuation for those new lots is changed. (*See also,* RCW 84.40.038). Owners have a right to petition the BOE when there is a change in the "assessed valuation" placed on property. When allocated values are used for the child parcels, the assessed value is the same as the value on the parent parcel, and there has been no change in "assessed value." However, if the assessor does not comply with his/her statutory duty to put the market value on the roll by the end of the year following the recording of the plat, then the taxpayer has a right to appeal the value used to determine his/her 2005 taxes, even if it is an allocated value. (Practically speaking, the taxpayer may not want to appeal an allocated value because the allocated value will almost always be less than the market value.)

For levy purposes, the increase in value associated with placing the true and fair market value on the assessment roll would be available in the assessment year the increased value was placed on the roll. That is, if the market value for the new parcels was put on the roll before roll closure, then the market value could be used in that year for levy purposes. If the market value was put on the new parcels after roll closure, then that increase in value would not be available for levy purposes until the following year. The "improvement" value used for levy purposes is the increase in market value due to a subdivision of property based on the difference in the same assessment year (the year the parent parcel was last revalued) between the value of the parent parcel and the total market values of the child parcels.

Ratio Issue
Using the first example above, the new lots were valued at market value by the assessor on September 30, 2004, effective for assessment year 2005. The lots of the new subdivision cannot be part of the Department's ratio valid sales study until the assessor has valued the lots. WAC 458-53-080 provides in numerical code 26 that: "Current year segregations that have not been appraised" may not be used in the ratio valid sales study, but should be included in the invalid report if the sale occurs between August 1st of the previous year and March 31st of the current year. So, these lots (because they were valued in September 2004) may be used as part of the ratio sales study for the 2005 assessment year. (*See* WAC 458-53-070(2)). However, because the lots were in the part of the county that was revalued in 2005, the ratio for the county should not be significantly impacted by the ratio sales study. It should also be noted that sales of lots that were not timely assessed (based upon statutory requirements) are considered valid sales for purposes of the ratio program. The inclusion of such sales in the study could significantly impact the county ratio.

Questions: If you have questions or need additional information, please contact Jim Winterstein at (360) 570-5880 or JimWi@dor.wa.gov.