THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

TARGET CORPORATION T-1331, TARGET CORPORATION T-1292 and TARGET T-0337, Appellants. v. LINDA HJELLE, Snohomish County Assessor, Respondent.	)	Docket Nos. 20-011, 20-123, and 20-124 RE: Property Tax Appeals INITIAL DECISION
LINDA HJELLE, Snohomish County Assessor, Appellant. v. TARGET CORPORATION T-1331, Respondent.	)	Docket No. 21-100 RE: Property Tax Appeal INITIAL DECISION

These matters came before Bill G. Pardee, Tax Referee, presiding for the Board of Tax Appeals (Board), on September 16, 2021, in a formal hearing pursuant to the rules and procedures set forth in chapter 456-09 WAC (Washington Administrative Code). Michelle DeLappe and David Papiez, of Fox Rothschild LLP, represented the Appellants/Respondent, Target Corporation T-1331, Target Corporation T-1292, and Target T-0337 (collectively Target and denoted Owner).[1] Andrew T. Robinson, MAI, Senior Vice President, Valuation Advisory Services, Kidder Mathews, testified on behalf of the Owner. Sean Reay, Deputy Prosecuting Attorney, Snohomish County Prosecuting Attorney's Office, represented the Respondent/Appellant,[2] Linda Hjelle, Snohomish County Assessor (Assessor). Evelina Shtiui, Vicky Kamihara, and Bruce Jones, Commercial Appraisers, testified on behalf of the Assessor.

[1] Target is the Appellant in Docket Nos. 20-011, 20-123, and 20-124, and is the Respondent in Docket No. 21-100.
[2] The Assessor is the Appellant in Docket No. 21-100 and the Respondent in Docket Nos. 20-011, 20-123, and 20-124.

The Board heard the testimony, reviewed the evidence, and considered the arguments made on behalf of both parties. The Board now makes its decision as follows:

VALUATIONS FOR ASSESSMENT-YEAR 2018

DOCKET NO. PARCEL NO.	VALUATIONS OF THE ASSESSOR AND COUNTY BOARD	CONTENDED VALUATIONS OF THE OWNER	VALUATIONS OF THE BOARD OF TAX APPEALS
20-011 00493400500102 (Parcel 102)	*Assessor's revised* Land: $ 7,688,400 <u>Impr: $ 8,618,100</u> Total: $16,306,500 *Assessor's original and County Board* Land: $ 7,688,400 <u>Impr: $11,377,600</u> Total: $19,066,000	Land: $ 7,688,400 <u>Impr: $ 4,511,600</u> Total: $12,200,000	Land: $ 7,688,400 <u>Impr: $ 8,618,100</u> Total: $16,306,500

VALUATIONS FOR ASSESSMENT-YEAR 2019

DOCKET NOS. PARCEL NOS.	VALUATIONS OF THE ASSESSOR AND COUNTY BOARD	CONTENDED VALUATIONS OF THE OWNER	VALUATIONS OF THE BOARD OF TAX APPEALS
21-100 Parcel 102	*Assessor's revised* Land: $12,009,400 <u>Impr: $ 4,673,600</u> Total: $16,683,000 *County Board* Land: $ 7,730,700 <u>Impr: $ 4,819,300</u> Total: $12,550,000	Land: $ 7,730,700 <u>Impr: $ 4,819,300</u> Total: $12,550,000	Land: $12,009,400 <u>Impr: $ 4,673,600</u> Total: $16,683,000

DOCKET NOS. PARCEL NOS.	VALUATIONS OF THE ASSESSOR AND COUNTY BOARD	CONTENDED VALUATIONS OF THE OWNER	VALUATIONS OF THE BOARD OF TAX APPEALS
20-123 Parcel 00482800001306 (Parcel 306)	Land: $ 3,790,600 Impr: $12,169,400 Total: $15,960,000	Land: $ 3,790,600 Impr: $ 9,509,400 Total: $13,300,000	Land: $ 3,790,600 Impr: $12,169,400 Total: $15,960,000
20-124 Parcel 28051800304100 (Parcel 100)	Land: $ 6,903,500 Impr: $ 7,948,500 Total: $14,852,000	Land: $ 3,790,600 Impr: $ 6,509,400 Total: $10,300,000	Land: $ 6,903,500 Impr: $ 7,948,500 Total: $14,852,000

ISSUES

The issues in these appeals are the January 1, 2018, and January 1, 2019, true and fair market value of a retail store space located at 9601 Market Place, in Lake Stevens, Washington, and the January 1, 2019, true and fair market value of retail store spaces located at 16818 Twin Lakes Avenue, in Marysville, Washington, and 405 Southeast Everett Mall Way, in Everett, Washington.

PROCEDURAL HISTORY

For 2018, the Assessor originally assessed Parcel 102 a higher value. The Owner appealed this value to the County Board, which sustained the Assessor's original assessed value. The Owner now appeals to this Board, contending the value above. After reviewing relevant sales, cost and income data, the Assessor asks the Board to value Parcel 102 at a lower value than its original assessed value.

For 2019, the Assessor originally assessed Parcel 102 a higher value. The Owner appealed this value to the County Board, which lowered the Assessor's original assessed value. The Assessor now appeals to this Board, seeking a value lower than the original assessed value, but higher than the value set by the County Board. The Owner asks the Board to sustain the County Board's value.

For 2019, as to Parcels 306 and 100, the Assessor assigned those properties the values shown in the table above. The Owner appealed to the County Board, which sustained the

Assessor's values. The Owner now appeals to this Board, contending the values above. The Assessor asks the Board to sustain the original assessed values.

FACTS AND CONTENTIONS

Parcel 102

This parcel, located at 9601 Market Place, in Lake Stevens, Washington, is improved with a 2001-built, retail space occupied by Target, CVS Pharmacy, and a Starbucks retail store. The Assessor contends the parcel's improvements measure 125,324 square feet of net rentable area (NRA), whereas the Owner contends the improvements measure 125,434 square feet of NRA.

Parcel 306

This parcel, located at 16818 Twin Lakes Avenue, in Marysville, Washington, is improved with a 2006-built, retail space occupied by Target, with 126,905 square feet of NRA.

Parcel 100

This parcel, located at 405 Southeast Everett Mall Way, in Everett, Washington, is improved with a 1988-built, retail space occupied by Target, with 107,895 square feet of NRA.

Owner's Evidence and Arguments

2018

Parcel 102

As support for its valuation of this parcel ($97 per square foot of NRA), the Owner provides an income approach to value, as set forth in the following table:[3]

[3] Ex. A8-14 (Docket No. 20-011).

Potential Gross Income[4]	$1,887,930[5]
Vacancy & Collection Loss	5% – $94,397
Effective Gross Income[6]	$1,793,534
Expenses	$828,013[7]
Reserve for Replacement	$12,543
Net Operating Income[8]	$952,977
Capitalization Rate	7.88%[9]
Income Approach Value	$12,100,000
Price Per Square Foot	$96

As further support for its 2018 value of Parcel 102 ($97 per square foot of NRA), the Owner provides seven comparable sales, whose adjusted sale prices range from $70 to $122 per square foot of NRA:[10]

a. Owner's Sale No. 1 was the August 2017 sale of 4299 Meridian Street, in Bellingham, of a 1988-built, retail space for $6,500,000, or $46 per square foot, with a final adjusted value of $70 per square foot.[11] The property has a NRA of 141,617 square feet.

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[4] PGI.

[5] The Owner calculates this figure by multiplying the NRA of the retail space (125,434 square feet) by an annual rental rate of $8.50 per square foot ($1,066,189) and adding recoveries from tenant(s) for Common Area Maintenance (CAM), Management/Administrative Surcharge, Property Taxes, and Insurance ($821,741). The Owner provides eight rent comparables whose average rental rates range from $6.62 to $12.45 per square foot. Ex. A8-10 (Docket No. 20-011). The Owner states that based upon market activity it estimates market rent at $8.50 per square foot. Ex. A8-8 (Docket No. 20-011).

[6] EGI.

[7] This includes the $821,741 in recoveries from tenants that the Owner included in its PGI, plus $6,272 of other Owner expense.

[8] NOI.

[9] The Owner supports its capitalization rate with data on capitalization rates from the *Boulder Group* Net Lease Big Box Report. Exs. A8-9 and A8-11 (Docket No. 20-011). The Owner explains the data from this publication shows an increase in the median capitalization rates for larger single-tenant properties at 6.75 percent in the fourth quarter of 2017 versus 6.5 percent in the fourth quarter of 2016. The Owner stresses that for single-tenant properties, capitalization rates are a function of credit strength and remaining lease term. For example, the same publication shows a median capitalization rate of 5.5 percent for investment grade tenants with over 15 years of remaining lease term, and the median capitalization rates increase with less remaining lease term and lack of tenant credit. The Owner notes that the median capitalization rate for non-investment grade tenants with less than six years remaining on the lease term is 8.1 percent. The Owner adds that for the fee simple premise of market value, this highest capitalization rate (8.1 percent) is most appropriate. Ex. A8-9 (Docket No. 20-011).

[10] Exs. A8-15 through A8-17 (Docket No. 20-011).

[11] The Owner's final adjusted value is the result of percentage adjustments (positive or negative) the Owner makes to the sale price per square foot of each comparable sale for differences between the subject property and the comparable sale for items such as conditions, motivation, time-trending, location, age, size, parking, land-to-building ratio, quality, function, and tenancy. Ex. A8-17 (Docket No. 20-011). The gross adjustments the Owner makes to Owner's Sale Nos. 1 through 7 are 53, 33, 38, 54, 63, 91, and 96 percent, respectively. *Id.* Of note, the Owner makes an adjustment for location to all of its comparable sales, except for Owner's Sale No. 5, located in Mount Vernon. *Id.* The Owner also only makes downward adjustments for tenancy as to Owner's Sale Nos. 4 and

b. Owner's Sale No. 2 is the November 2017 sale of 201 37th Avenue Southeast, in Puyallup, of a 1993-built, retail space for $6,174,000, or $81 per square foot, with a final adjusted value of $79 per square foot. The property has a NRA of 76,112 square feet.

c. Owner's Sale No. 3 is the May 2018 sale of 307 37th Avenue Southeast, in Puyallup, of a 1993-built, retail space for $11,811,143, or $95 per square foot, with a final adjusted value of $109 per square foot. The property has a NRA of 124,435 square feet.

d. Owner's Sale No. 4 is the September 2018 sale of 11307 Canyon Road East, in Puyallup, of a 2002-built, retail space for $11,400,100, or $132 per square foot, with a final adjusted value of $99 per square foot. The property has a NRA of 86,355 square feet.

e. Owner's Sale No. 5 is the May 2018 sale of 1717 Freeway Drive, in Mount Vernon, of a 1993-built, retail space for $16,991,453, or $135 per square foot, with a final adjusted value of $122 per square foot. The property has a NRA of 126,072 square feet.

f. Owner's Sale No. 6 is the April 2018 sale of 1201 Northwest Louisiana Avenue, in Chehalis, of a 1979-built, retail space for $4,400,000, or $53 per square foot, with a final adjusted value of $97 per square foot. The property has a NRA of 83,043 square feet.

g. Owner's Sale No. 7 is the February 2018 sale of 4210 Wheaton Way, in Bremerton, of a 1975-built, retail space for $3,300,000, or $39 per square foot, with a final adjusted value of $66 per square foot. The property has a NRA of 84,971 square feet.

2019

Parcel 102

As support for its valuation of this parcel ($100 per square foot of NRA), the Owner provides an income approach to value, as set forth in the following table:[12]

5 (30 and 35 percent respectively) because at the time of sale they included significant terms remaining on existing leases. Exs. A8-8 and A8-17 (Docket No. 20-011).

[12] Ex. A9-13 (Docket No. 21-100).

PGI	$1,919,896[13]
Vacancy & Collection Loss	5% – $95,995
EGI	$1,823,902
Expenses	$828,621[14]
Reserve for Replacement	$12,543
NOI	$982,738
Capitalization Rate	7.8%[15]
Income Approach Value	$12,600,000
Price Per Square Foot	$100

As further support for its 2019 value of Parcel 102 ($100 per square foot of NRA), the Owner provides seven comparable sales, whose adjusted sale prices range from $68 to $126 per square foot of NRA:[16]

a. Owner's Sale No. 8 is the same as Owner's Sale No. 1, with a final adjusted value of $72 per square foot.[17]

b. Owner's Sale No. 9 is the same as Owner's Sale No. 2, with a final adjusted value of $81 per square foot.

c. Owner's Sale No. 10 is the same as Owner's Sale No. 3, with a final adjusted value of $113 per square foot.

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[13] The Owner calculates this figure by multiplying the NRA of the retail space (125,434 square feet) by an annual rental rate of $8.75 per square foot ($1,097,548) and adding recoveries from tenant(s) for CAM, Management/Administrative Surcharge, Property Taxes, and Insurance ($822,349). The Owner provides eight rent comparables whose rental rates for lease years one through five range from $6 to $11.50 per square foot. Exs. A9-9 (Docket No. 21-100). The Owner states that based upon market activity it estimates market rent at $8.75 per square foot. Ex. A9-7 (Docket No. 21-100).

[14] This includes the $822,349 in recoveries from tenants that the Owner included in its PGI, plus $6,272 of other Owner expense.

[15] The Owner supports its capitalization rate with data on capitalization rates from the *Boulder Group* Net Lease Big Box Report. Exs. A9-8 and A9-10 (Docket No. 20-011). The Owner explains the data from this publication shows an increase in the median capitalization rates for larger single-tenant properties at 7.04 percent in the fourth quarter of 2018 versus 6.75 percent in the fourth quarter of 2017. The Owner stresses that for single-tenant properties, capitalization rates are a function of credit strength and remaining lease term. For example, the same publication shows a median capitalization rate of 5.5 percent for investment grade tenants with over 15 years of remaining lease term, and that median capitalization rates increase with less remaining lease term and lack of tenant credit. The Owner notes that the median capitalization rate for non-investment grade tenants with less than six years remaining on the lease term is 7.7 percent. The Owner adds that for the fee simple premise of market value, this highest capitalization rate (7.7 percent) is most appropriate. Ex. A9-8 (Docket No. 21-100).

[16] Exs. A9-14 through A9-16 (Docket No. 21-100).

[17] The gross adjustments the Owner makes to Owner's Sale Nos. 8 through 14 are 56, 36, 38, 53, 63, 92, and 98 percent respectively. Ex. A9-16 (Docket No. 21-100). Of note, the Owner makes an adjustment for location to all of its comparable sales, except for Owner's Sale No. 12, located in Mount Vernon. *Id.* The Owner also only makes downward adjustments for tenancy as to Owner's Sale Nos. 11 and 12 (30 and 35 percent respectively) because at the time of sale they included significant terms remaining on existing leases. Exs. A9-7 and A9-16 (Docket No. 21-100).

d. Owner's Sale No. 11 is the same as Owner's Sale No. 4, with a final adjusted value of $102 per square foot.

e. Owner's Sale No. 12 is the same as Owner's Sale No. 5, with a final adjusted value of $126 per square foot.

f. Owner's Sale No. 13 is the same as Owner's Sale No. 6, with a final adjusted value of $100 per square foot.

g. Owner's Sale No. 14 is the same as Owner's Sale No. 7, with a final adjusted value of $68 per square foot.

Parcel 306

As support for its valuation of this parcel ($105 per square foot of NRA), the Owner provides an income approach to value, as set forth in the following table:[18]

PGI	$1,879,480[19]
Vacancy & Collection Loss	5% – $93,974
EGI	$1,785,506
Expenses	$743,680[20]
Reserve for Replacement	$12,691
NOI	$1,029,135
Capitalization Rate	7.74%[21]
Income Approach Value	$13,300,000
Price Per Square Foot	$105

[18] Ex. A6-14 (Docket No. 20-123).

[19] The Owner calculates this figure by multiplying the NRA of the retail space (126,905 square feet) by an annual rental rate of $9 per square foot ($1,142,145) and adding recoveries from tenant(s) for CAM, Management/Administrative Surcharge, Property Taxes, and Insurance ($737,335). The Owner provides eight rent comparables whose rental rates for lease years one through five range from $6 to $11.50 per square foot. Exs. A6-10 (Docket No. 20-123). The Owner states that based upon market activity it estimates market rent at $9 per square foot. Ex. A6-7 (Docket No. 20-123).

[20] This includes the $737,335 in recoveries from tenants that the Owner included in its PGI, plus $6,345 of other Owner expense.

[21] The Owner supports its capitalization rate with data on capitalization rates from the *Boulder Group* Net Lease Big Box Report. Exs. A6-7 and A6-11 (Docket No. 20-123). The Owner explains the data from this publication shows an increase in the median capitalization rates for larger single-tenant properties at 7.04 percent in fourth quarter 2018 versus 6.75 percent in the fourth quarter 2017. The Owner stresses that for single-tenant properties, capitalization rates are a function of credit strength and remaining lease term. For example, the same publication shows a median capitalization rate of 5.5 percent for investment grade tenants with over 15 years of remaining lease term, and the median capitalization rates increase with less remaining lease term and lack of tenant credit. The Owner notes that the median capitalization rate for non-investment grade tenants with less than six years remaining on the lease term is 7.7 percent. Ex. A6-7 (Docket No. 20-123). The Owner adds that for the fee simple premise of market value, this highest capitalization rate (7.7 percent) is most appropriate. Exs. A6-7 and A6-8 (Docket No. 20-123).

As further support for its value of Parcel 306 ($105 per square foot of NRA), the Owner provides seven comparable sales, whose adjusted sale prices range from $72 to $135 per square foot of NRA:[22]

a. Owner's Sale No. 15 is the same as Owner's Sale No. 1, with a final adjusted value of $76 per square foot.[23]
b. Owner's Sale No. 16 is the same as Owner's Sale No. 2, with a final adjusted value of $87 per square foot.
c. Owner's Sale No. 17 is the same as Owner's Sale No. 3, with a final adjusted value of $119 per square foot.
d. Owner's Sale No. 18 is the same as Owner's Sale No. 4, with a final adjusted value of $110 per square foot.
e. Owner's Sale No. 19 is the same as Owner's Sale No. 5, with a final adjusted value of $135 per square foot.
f. Owner's Sale No. 20 is the same as Owner's Sale No. 6, with a final adjusted value of $103 per square foot.
g. Owner's Sale No. 21 is the same as Owner's Sale No. 7, with a final adjusted value of $72 per square foot.

<u>Parcel 100</u>

As support for its valuation of this parcel ($95 per square foot of NRA), the Owner provides an income approach to value, as set forth in the following table:[24]

[22] Exs. A6-15 through A6-17 (Docket No. 20-123).
[23] The gross adjustments the Owner makes to Owner's Sale Nos. 15 through 21 are 62, 43, 45, 59, 70, 99, and 100 percent, respectively. Ex. A6-17 (Docket No. 20-123). Of note, the Owner makes an adjustment for location as to all of its comparable sales, except for Owner's Sale No. 19, located in Mount Vernon. *Id.* The Owner also only makes downward adjustments for tenancy as to Owner's Sale Nos. 18 and 19 (30 and 35 percent respectively) because at the time of sale they included significant terms remaining on existing leases. Exs. A6-6 through A6-7, and A6-17 (Docket No. 20-123).
[24] Ex. A3-14 (Docket No. 20-124).

PGI	$1,520,722[25]
Vacancy & Collection Loss	5% – $76,036
EGI	$1,444,686
Expenses	$635,983[26]
Reserve for Replacement	$10,790
NOI	$797,913
Capitalization Rate	7.75%[27]
Income Approach Value	$10,300,000
Price Per Square Foot	$95

As further support for its value of this parcel ($95 per square foot of NRA), the Owner provides seven comparable sales, whose adjusted sale prices range from $66 to $111 per square foot of NRA:[28]

a. Owner's Sale No. 22 is the same as Owner's Sale No. 1, with a final adjusted value of $67 per square foot.[29]
b. Owner's Sale No. 23 is the same as Owner's Sale No. 2, with a final adjusted value of $77 per square foot.

[25] The Owner calculates this figure by multiplying the NRA of the retail space (107,895 square feet) by an annual rental rate of $8.25 per square foot ($890,134) and adding recoveries from tenant(s) for CAM, Management/Administrative Surcharge, Property Taxes, and Insurance ($630,588). The Owner provides eight rent comparables whose rental rates for lease years one through five range from $6 to $18 per square foot. Exs. A3-10 (Docket No. 20-124). The Owner states that based upon market activity it estimates market rent at $8.25 per square foot. Ex. A3-8 (Docket No. 20-124).
[26] This includes the $630,588 in recoveries from tenants that the Owner included in its PGI, plus $5,395 of other Owner expense.
[27] The Owner supports its capitalization rate with data on capitalization rates from the *Boulder Group* Net Lease Big Box Report. Exs. A6-7 and A3-11 (Docket No. 20-124). The Owner explains the data from this publication shows an increase in the median capitalization rates for larger single-tenant properties at 7.04 percent in fourth quarter 2018 versus 6.75 percent in fourth quarter 2017. The Owner stresses that for single-tenant properties, capitalization rates are a function of credit strength and remaining lease term. For example, the same publication shows a median capitalization rate of 5.5 percent for investment grade tenants with over 15 years of remaining lease term, and that median capitalization rates increase with less remaining lease term and lack of tenant credit. The Owner notes that the median capitalization rate for non-investment grade tenants with less than six years remaining on the lease term is 7.7 percent. The Owner adds that for the fee simple premise of market value, this highest capitalization rate (7.7 percent) is most appropriate. Ex. A3-8 (Docket No. 20-124).
[28] Exs. A3-15 through A3-17 (Docket No. 20-124).
[29] The gross adjustments the Owner makes to Owner's Sale Nos. 22 through 28 are 48, 12, 18, 36, 53, 80, and 81 percent respectively. Ex. A3-17 (Docket No. 20-124) Of note, the Owner makes an adjustment for location as to all of its comparable sales, except for Owner's Sale No. 25, located in Puyallup. *Id.* The Owner also only makes downward adjustments for tenancy as to Owner's Sale Nos. 25 and 26 (30 and 35 percent respectively) because at the time of sale they included significant terms remaining on existing leases. Exs. A3-7 and A3-17 (Docket No. 20-124).

c. Owner's Sale No. 24 is the same as Owner's Sale No. 3, with a final adjusted value of $103 per square foot.

d. Owner's Sale No. 25 is the same as Owner's Sale No. 4, with a final adjusted value of $88 per square foot.

e. Owner's Sale No. 26 is the same as Owner's Sale No. 5, with a final adjusted value of $111 per square foot.

f. Owner's Sale No. 27 is the same as Owner's Sale No. 6, with a final adjusted value of $94 per square foot.

g. Owner's Sale No. 28 is the same as Owner's Sale No. 7, with a final adjusted value of $66 per square foot.

Assessor's Evidence and Arguments

2018

Parcel 102

As support for her value of this parcel ($130 per square foot of NRA), the Assessor provides an income approach to value, as set forth in the following table:[30]

PGI	$1,379,774[31]
Vacancy & Collection Loss	6.5% – $89,685[32]
EGI	$1,290,089
Expenses	10.7% – $137,977
NOI	$1,152,111
Capitalization Rate	7%[33]
Income Approach Value	$16,458,700[34]
Price Per Square Foot	$131

[30] Ex. R1-013 (Docket No. 20-011).

[31] The Assessor calculates this figure by multiplying the NRA of the retail space (125,434 square feet) by an annual rental rate of $11 per square foot. The Assessor provides a *CoStar* report showing that for regional retail lease comparables greater than 50,000 square feet, the starting triple-net (NNN) annual lease rate is between $6 and $30 per square foot. Ex. R1-014 (Docket No. 20-011). Additional research the Assessor provides from *CoStar* indicates that for the Lake Stevens retail market the annual market rent for retail, as of January 1, 2018, is $20 per square foot. Ex. R1-020 (Docket No. 20-011).

[32] The Assessor supports her vacancy and collection loss rate with data from *CoStar*, which shows that the vacancy rate for retail properties in Lake Stevens is roughly 6.5 percent as of January 1, 2018. Ex. R1-018 (Docket No. 20-011).

[33] The Assessor supports her capitalization rate with data from *CoStar* concerning reported capitalization rates from sales of retail properties greater than 50,000 square feet in size in King, Pierce and Snohomish Counties, which range from 4.5 to 8 percent. Ex. R1-016 (Docket No. 20-011). The Assessor also provides additional data from *CoStar* which shows that the market capitalization rate for retail properties in Lake Stevens was roughly 6.7 percent as of January 1, 2018. Ex. R1-019 (Docket No. 20-011).

[34] Rounded to the nearest hundred.

As further support for her 2018 valuation of Parcel 102 ($130 per square foot of NRA), the Assessor provides six comparable sales, whose adjusted sale prices range from $126 to $168 per square foot of NRA:[35]

a. Assessor's Sale No. 1 is the June 2017 sale of 440 Rainier Avenue South, in Renton, of a 1972-built, retail space for $15,049,407, time-trended to $15,278,240, or $130 per square foot, with a final adjusted value of $143 per square foot.[36] The property has NRA of 117,830 square feet.

b. Assessor's Sale No. 2 is the June 2015 sale of 5801 Summitview Avenue, in Yakima, of a 1989-built, retail space for $9,931,506, time-trended to $10,682,491, or $114 per square foot, with a final adjusted value of $126 per square foot. The property has NRA of 93,471 square feet.

c. Assessor's Sale No. 3 is the same as Owner's Sale No. 5, time-trended to $16,861,573, or $144 per square foot, with a final adjusted value of $157 per square foot.[37]

d. Assessor's Sale No. 4 is the October 2017 sale of 13624 Highway 99, in Lynnwood, of a 1992-built, retail space for $7,300,000, time-trended to $7,345,000, or $141 per square foot, with a final adjusted value of $147 per square foot. The property has NRA of 52,088 square feet.

e. Assessor's Sale No. 5 is the December 2015 sale of 3701 and 3715 East Valley Road, in Renton, of a 1995 and 2009-built, automobile dealership for $31,688,894, time-trended to $33,652,737, or $168 per square foot, with a final adjusted value of also $168 per square foot. The property has NRA of 200,346 square feet.

f. Assessor's Sale No. 6 is the June 2016 sale of 303 91st Avenue Northeast, in Lake Stevens, of a 1993, 1994, and 1997-built, multi-tenant retail and office space for $17,500,000, time-trended to $18,311,233, or $185 per square foot, with a final

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[35] Ex. R1-006 (Docket No. 20-011).

[36] The Assessor's final adjusted value is the result of percentage adjustments (positive or negative) the Assessor makes to the sale price per square foot of each comparable sale for differences between the subject property and the comparable sale for items such as time-trending, location, year built, use, quality, condition, building area, and land-to-building ratio. Ex. R1-006 (Docket No. 20-011). Exclusive of time-trending, which the Assessor sets at 3 percent annually, the total gross adjustments the Assessor makes to Assessor Sale Nos. 1 through 6 are 10, 20, 9, 24, 10, and 23 percent, respectively. *Id.*

[37] The Assessor states that the property has total NRA of 117,298 square feet, whereas the Owner has a different amount listed above.

adjusted value of $153 per square foot. The property has NRA of 99,197 square feet.

2019

Parcel 102

As support for her value of this parcel ($133 per square foot of NRA), the Assessor provides an income approach to value, as set forth in the following table:[38]

PGI	$1,379,774[39]
Vacancy & Collection Loss	7% – $96,584[40]
EGI	$1,283,190
Expenses	10.8% – $137,977
NOI	$1,145,212
Capitalization Rate	6.75%[41]
Income Approach Value	$16,966,100[42]
Price Per Square Foot	$135

As further support for her 2019 valuation of Parcel 102 ($133 per square foot of NRA), the Assessor provides seven comparable sales, whose adjusted sale prices range from $127 to $173 per square foot of NRA:[43]

a. Assessor's Sale No. 7 is the same as Owner's Sale No. 4 for $11,400,000, time-trended to $11,516,186, or $133 per square foot, with a final adjusted value of $127 per square foot.[44]

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[38] Ex. R4-013 (Docket No. 21-100).
[39] The Assessor calculates this figure by multiplying the NRA of the retail space (125,434 square feet) by an annual rental rate of $11 per square foot. The Assessor provides a *CoStar* report showing that for regional retail lease comparables greater than 50,000 square feet, the starting NNN annual lease rate is between $5.58 and $30 per square foot. Ex. R4-014 (Docket No. 21-100). Additional research the Assessor provides from *CoStar* indicates that for the Lake Stevens retail market the annual market rent for retail, as of January 1, 2019, is roughly $21 per square foot. Ex. R4-020 (Docket No. 21-100).
[40] The Assessor supports her vacancy and collection loss rate with data from *CoStar*, which shows that the vacancy rate for retail properties in Lake Stevens is a little less than 4 percent as of January 1, 2019. Ex. R4-018 (Docket No. 21-100).
[41] The Assessor supports her capitalization rate with data from *CoStar* concerning reported capitalization rates from sales of retail properties greater than 50,000 square feet in size in King, Pierce and Snohomish Counties, which range from 4.5 to 8 percent. Ex. R4-016 (Docket No. 21-100). The Assessor also provides additional data from *CoStar* which shows that the market capitalization rate for retail properties in Lake Stevens was roughly 6.5 percent as of January 1, 2019. Ex. R4-019 (Docket No. 21-100).
[42] Rounded to the nearest hundred.
[43] Ex. R4-006 (Docket No. 21-100).
[44] The Assessor's final adjusted value is the result of percentage adjustments (positive or negative) the Assessor makes to the sale price per square foot of each comparable sale for differences between the subject property and the comparable sale for items such as time-trending, location, year built, use, quality, condition, building area, and land-to-building ratio. Ex. R4-006 (Docket No. 21-100). Exclusive of time-trending, which the Assessor sets at 3

b. Assessor's Sale No. 8 is the same as Owner's Sale No. 5, time-trended to $17,371,317, or $148 per square foot, with a final adjusted value of $61 per square foot.
c. Assessor's Sale No. 9 is the same as Assessor's Sale No. 1, time-trended to $15,729,723, or $133 per square foot, with a final adjusted value of $147 per square foot.
d. Assessor's Sale No. 10 is the same as Assessor's Sale No. 2, time-trended to $10,980,436, or $117 per square foot, with a final adjusted value of $129 per square foot.
e. Assessor's Sale No. 11 is the same as Assessor's Sale No. 4, time-trended to $7,564,000, or $145 per square foot, with a final adjusted value of also $151 per square foot.
f. Assessor's Sale No. 12 is the same as Assessor's Sale No. 5, time-trended to $34,603,434, or $173 per square foot, with a final adjusted value of also $173 per square foot.
g. Assessor's Sale No. 13 is the same as Assessor's Sale No. 6, time-trended to $18,836,233, or $190 per square foot, with a final adjusted value of $158 per square foot.

<u>Parcel 306</u>

As support for her value of this parcel ($126 per square foot of NRA), the Assessor provides an income approach to value, as set forth in the following table:[45]

percent annually, the total gross adjustments the Assessor makes to Assessor Sale Nos. 7 through 13 are 10, 18, 20, 30, 28, 10, and 23 percent, respectively. *Id.*

[45] Ex. R2-010 (Docket No. 20-123).

PGI	$1,776,670[46]
Vacancy & Collection Loss	5% – $88,834[47]
EGI	$1,687,837
Expenses	10.5% – $177,667
NOI	$1,510,170
Capitalization Rate	7%[48]
Income Approach Value	$21,573,850
Price Per Square Foot	$170

As further support for her valuation of this parcel ($126 per square foot of NRA), the Assessor provides eight comparable sales, whose adjusted sale prices range from $152 to $250 per square foot of NRA:[49]

a. Assessor's Sale No. 14 is the August 2018 sale of 17216 Highway 99, in Lynnwood, of a 1992-built, retail space for $4,663,000, time-trended to $4,699,793, or $206 per square foot, with a final adjusted value of $167 per square foot.[50] The property has NRA of 22,810 square feet.

b. Assessor's Sale No. 15 is the November 2018 sale of 6007 244th Street Southwest, in Mountlake Terrace, of a 1994-built, retail space for $7,800,000, time-trended to $7,815,386, or $242 per square foot, with a final adjusted value of $181 per square foot. The property has NRA of 32,330 square feet.

c. Assessor's Sale No. 16 is the January 2019 sale of 3405 172nd Street Northeast, in Arlington, of a 1985-built, retail-strip-mall space for $4,880,000, time-trended to $4,874,117, or $209 per square foot, with a final adjusted value of $177 per square

[46] The Assessor calculates this figure by multiplying the NRA of the retail space (126,905 square feet) by an annual rental rate of $14 per square foot. The Assessor provides data from *CoStar* for Snohomish County Analytics (Power Center) that indicates that the annual NNN market rental rate for first quarter 2019 was $19.99 per square foot. Ex. R2-012 (Docket No. 20-123).

[47] The Assessor supports her vacancy and collection loss rate with data from *CoStar* for Snohomish County Analytics (Power Center) that indicates the vacancy rate for North Snohomish County was 3.8 percent and for North Snohomish Power Center was 0.4 percent for first quarter 2019. Ex. R2-012 (Docket No. 20-123).

[48] The Assessor supports her capitalization rate with data from *CoStar* for Snohomish County Analytics (Power Center) that indicates market capitalization rate was 6.62 percent for North Snohomish County and 6.47 percent for North Snohomish County Power Center for first quarter 2019. Ex. R2-012 (Docket No. 20-123).

[49] Exs. R2-005 and R2-006 (Docket No. 20-123).

[50] The Assessor's final adjusted value is the result of percentage adjustments (positive or negative) the Assessor makes to the sale price per square foot of each comparable sale for differences between the subject property and the comparable sale for items such as time-trending, location, year built, predominant use, quality, condition, and building area. Exs. R2-005 and R2-006 (Docket No. 20-123). Exclusive of time-trending, which the Assessor sets at 2 percent annually, the total gross adjustments the Assessor makes to Assessor Sale Nos. 14 through 21 are 31, 35, 45, 36, 8, 30, 5, and 25 percent respectively. *Id.*

foot. The property has NRA of 32,330 square feet.

d. Assessor's Sale No. 17 is the same as Assessor's Sale No. 4, time-trended to $7,467,000, or $144 per square foot, with a final adjusted value of $152 per square foot.

e. Assessor's Sale No. 18 is the June 2015 sale of 4602 Center Street, in Tacoma, of a 2000-built, retail space for $32,655,000, time-trended to $34,947,113, or $255 per square foot, with a final adjusted value of $250 per square foot. The property has NRA of 137,071 square feet.

f. Assessor's Sale No. 19 is the same as Owner's Sale No. 4, time-trended to $11,473,186, or $133 per square foot, with a final adjusted value of also $173 per square foot.

g. Assessor's Sale No. 20 is the same as Assessor's Sale No. 5, time-trended to $33,631,901, or $153 per square foot, with a final adjusted value of $161 per square foot.

h. Assessor's Sale No. 21 is the January 2016 sale of 3916/3922 148th Street Southeast, in Mill Creek, of a 2006-built, retail space for $7,060,650, time-trended to $7,483,515, or $224 per square foot, with a final adjusted value of $168 per square foot. The property has NRA of 33,369 square feet.

<u>Parcel 100</u>

As support for her value of this parcel ($138 per square foot of NRA), the Assessor provides an income approach to value, as set forth in the following table:[51]

[51] Ex. R3-018 (Docket No. 20-124).

PGI	$1,186,645[52]
Vacancy & Collection Loss	9.8% – $116,311[53]
EGI	$1,070,534
Expenses	7% – $83,079
NOI	$987,455
Capitalization Rate	6.35%[54]
Income Approach Value	$15,550,500
Price Per Square Foot	$144

As further support for her valuation of Parcel 100 ($138 per square foot of NRA), the Assessor provides 12 comparable sales, whose adjusted sale prices range from $129 to $269 per square foot of NRA:[55]

a. Assessor's Sale No. 22 is the April 2017 sale of 17214 Highway 99, in Lynnwood, of a 2005-built, retail space for $2,700,000, time-trended to $2,840,918, or $194 per square foot, with a final adjusted value of $146 per square foot.[56] The property has NRA of 14,618 square feet.

b. Assessor's Sale No. 23 is the same as Assessor's Sale No. 14, time-trended to $4,718,189, or $214 per square foot, with a final adjusted value of $172 per square foot.

[52] The Assessor calculates this figure by multiplying the NRA of the retail space (107,895 square feet) by an annual rental rate of $11 per square foot. The Assessor provides data on 16 rent comparables in the subject's regional area for retail spaces equal to or greater than 50,000 square feet showing the average NNN effective annual rental rate as $14.07 per square foot, with a low of $8 and high of $16.93 per square foot. Exs. R3-019 and R3-020 (Docket No. 20-124). The Assessor also supplies data from *CoStar* Market Rent Survey that indicates that for South Everett/Harbor Point the annal market rent per square foot for the first quarter 2019 is $21.31 per square foot. Ex. R3-021 (Docket No. 20-124). Finally, the Assessor supplies annual NNN rent comparables from *CoStar* for Snohomish County for retail properties greater than 50,000 square feet whose starting rents range from $5.58 to $30 per square foot. Ex. R3-022 (Docket No. 20-124).

[53] The Assessor supports her vacancy and collection loss rate with data from *CoStar* Vacancy Report for South Everett/Harbor Point Neighborhood Center that indicates a vacancy rate of 9.8 percent for first quarter 2019. Ex. R3-024 (Docket No. 20-124).

[54] The Assessor supports her capitalization rate with data from *CoStar* for South Everett/Harbor Point Neighborhood Center that indicates market capitalization rate was 6.349 percent for first quarter 2019. Ex. R3-025 (Docket No. 20-124).

[55] Exs. R2-005 and R2-006 (Docket No. 20-123). The Assessor also supports her capitalization rate with data from *CoStar* for King, Pierce, and Snohomish Counties as to retail properties greater than 50,000 square foot in size, that shows actual capitalization rates ranging from a low of 4.5 percent to a high of 8 percent. Ex. R3-026 (Docket No. 20-124).

[56] The Assessor's final adjusted value is the result of percentage adjustments (positive or negative) the Assessor makes to the sale price per square foot of each comparable sale for differences between the subject property and the comparable sale for items such as time-trending, location, use year built, quality, condition, and building area. Exs. R3-005 and R3-006 (Docket No. 20-124). Exclusive of time-trending, which the Assessor sets at 3 percent annually, the total gross adjustments the Assessor makes to Assessor Sale Nos. 22 through 33 are 25, 20, 25, 20, 20, 10, 35, 20, 20. 10, 10, and 10 percent, respectively. *Id.*

c. Assessor's Sale No. 24 is the March 2018 sale of 4128 Rucker Avenue, in Everett, of a 2002-built, retail supermarket space for $13,325,000, time-trended to $13,652,466, or $304 per square foot, with a final adjusted value of $228 per square foot. The property has NRA of 44,865 square feet.

d. Assessor's Sale No. 25 is the same as Assessor's Sale No. 4, time-trended to $7,564,000, or $151 per square foot, with a final adjusted value of $136 per square foot.

e. Assessor's Sale No. 26 is the June 2018 sale of 19651 State Route 2, in Monroe, of a 1986-built, retail supermarket space for $13,142,000, time-trended to $13,351,552, or $221 per square foot, with a final adjusted value of $199 per square foot. The property has NRA of 137,071 square feet.

f. Assessor's Sale No. 27 is the June 2015 sale of 420 Telegraph Road, in Bellingham, of a 1997-built, retail space for $25,590,000, time-trended to $28,328,481, or $269 per square foot, with a final adjusted value of also $269 per square foot. The property has NRA of 105,276 square feet.

g. Assessor's Sale No. 28 is the same as Assessor's Sale No. 18, time-trended to $36,093,169, or $308 per square foot, with a final adjusted value of also $231 per square foot.

h. Assessor's Sale No. 29 is the December 2018 sale of 13101 Southeast Kent-Kangly Road, in Kent, of a 2002-built, retail supermarket space for $17,900,000, time-trended to $17,919,126, or $300 per square foot, with a final adjusted value of $240 per square foot. The property has NRA of 59,183 square feet.

i. Assessor's Sale No. 30 is the same as Owner's Sale No. 4, time-trended to $11,516,186, or $133 per square foot, with a final adjusted value of also $133 per square foot.

j. Assessor's Sale No. 31 is the same as Assessor's Sale No. 2, time-trended to $10,980,436, or $117 per square foot, with a final adjusted value of $129 per square foot.

k. Assessor's Sale No. 32 is the same as Assessor's Sale No. 1, time-trended to $15,729,723, or $149 per square foot, with a final adjusted value of $164 per square foot.

l. Assessor's Sale No. 33 is the same as Owner's Sale No. 5, time-trended to $17,371,317, or $148 per square foot, with a final adjusted value of $163 per square foot.

Owner's Rebuttal of Assessor's Evidence

The Owner asserts that the Assessor uses comparable sales in its sales comparison approach "that are dramatically different from the subject properties in terms of size, number of tenants, and tenancy attributes. Despite the significant differences, [the Assessor] made very few adjustments. For the adjustments made, the Assessor provides no market data to support the size of the adjustments."[57] In particular, the Owner notes that seven of the Assessor's sales are subject to long-term leases, and six involve credit tenants.[58] The Owner stresses that if the Assessor uses such comparable sales "downward tenancy adjustments must be made. . . . The [Owner's] appraisals show these tenancy adjustments; the Assessor does not."[59]

Assessor's Rebuttal of Owner's Evidence

The Assessor raises the following issues with the Owner's comparable sales that it characterizes as "problematic":[60]

- Owner's Sale No. 1 (8, 15, 22) involves the sale of a former Costco. After the sale, Costco moved to a new, larger building. Deed restrictions on the building limit potential users and therefore decrease the value. Additionally, the buyer assumed a ground lease on a portion of the property. This is not a reliable sale.
- Owner's Sale No. 2 (9, 16, 23) involves a former Top Foods. The property sold twice within four months in 2017. The first sale was a trustee deed foreclosure and the second sale was a special warranty deed auction sale. At the time of the second sale the property was vacant. This was a distressed foreclosure.
- Owner's Sale No. 3 (10, 17, 24) involved a former Lowe's in Puyallup, and was vacant since 2011, although Lowe's was still leasing the property. At the time of the sale, the building had been taken over by transient dwellers and was rundown.

57 Owner's Response Brief, 5:2-6.
58 Owner's Response Brief, 8:22-23.
59 Owner's Response Brief, 8:24-9:3.
60 Assessor's Response to Owner's Trial Brief, pp. 2-3.

- Owner's Sale No. 6 (13, 20, 27) involved a former Kmart in Chehalis that was converted to a self-storage facility by U-Haul. The property has a history of flooding.
- Owner's Sale No. 7 (14, 21, 28) involved the sale of a former Kmart in Bremerton. Prior to the sale, the building was vacant for approximately 10 to 12 years and had significant deferred maintenance issues. Due to the conditions of the sale, this is a distressed sale and is an unreliable market comparable.
- Although Owner's Sale No. 4 (11, 18, 25) is a reliable comparable for purposes of a 2019 valuation, it is not for 2018 because of the date of the sale (September 2018).

The remainder of the parties' evidence is contained within the record. The Board reviewed all of the evidence prior to rendering this decision.

APPLICABLE LAW

General Principles of Property Valuation for Taxation Purposes. Under Washington law, all property must be valued at "one hundred percent of . . . true and fair value."[61] *True and fair value* is synonymous with *fair market value*,[62] which "is the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell."[63] To reach an opinion of fair market value, the appraiser must consider a property's highest and best use,[64] unless the use is prohibited "under existing zoning or land use planning ordinances or statutes or other government restrictions."[65] In the course of determining a property's value, assessors must allocate the value to the land and the structures, giving care that the sum of those values does not "exceed the true and fair value of the total property as it exists."[66]

Washington law[67] requires that fair market value be determined using the sales comparison approach, with further consideration of the cost and income capitalization

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[61] RCW 84.40.030(1).
[62] *Cascade Court Ltd. Partnership v. Noble*, 105 Wn. App. 563, 567, 20 P.3d 997 (2001) (observing that "[t]he phrase 'true and fair value in money' has been consistently interpreted to mean 'fair market value'").
[63] WAC 458-07-030(1).
[64] WAC 458-07-030(3).
[65] RCW 84.40.030(3)(a).
[66] RCW 84.04.090 defines *real property* as "the land itself . . . and all buildings, structures or improvements or other fixtures of whatsoever kind thereon." RCW 84.40.030(3)(c) "necessarily contemplates the potential adjustment of component values to keep their sum within a property's total assessed value." *University Village Ltd. Partners v. King County*, 106 Wn. App. 321, 326, 23 P.3d 1090 (2001).
[67] RCW 84.40.030(3).

approaches if there are not sufficient comparable sales available. In the absence of a sufficient number of comparable sales, or when valuing a complex property, either the cost or income capitalization approach, or both, "must be the dominant factors in valuation."[68] The assessed values of other properties do not constitute relevant evidence of the subject property's market value, nor does the assessed value of the subject property from a previous or subsequent assessment year.[69] A comparison of assessed values is not a recognized appraisal practice, nor is it authorized by RCW 84.40.030(3).

Sales Comparison Approach. In the sales comparison approach,[70] an appraiser arrives at a property's fair market value by considering sales of the property being appraised or sales of similar properties occurring within the past five years.[71] Key factors for determining whether a sale property and the subject property are "similar" include: (1) location; (2) age, size, construction quality, and condition of improvements; and (3) special features of the site, such as view or waterfront.[72] The Board places the greatest weight on sales most similar to the subject property that sold closest to the assessment date.[73]

Cost and Income Capitalization Approaches. In the cost approach, "value is indicated by the current cost of reproducing or replacing the improvements (including indirect costs and entrepreneurial incentive), less depreciation, plus land value."[74] "Because cost and market value are usually more closely related when improvements are new, the cost approach is more important in estimating the market value of new or relatively new construction."[75] The income approach is used to determine the fair market value of income-producing properties, such as hotels, apartments, office buildings, and shopping centers.[76] "The income capitalization approach to value consists of methods, techniques, and mathematical procedures that an appraiser uses to analyze a property's capacity to generate benefits (i.e., usually the monetary

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[68] RCW 84.40.030(3)(b).
[69] *Matalone v. Hara*, BTA Docket No. 71193 (2010).
[70] Appraisal Institute, The Appraisal of Real Estate 351 (15th ed. 2020).
[71] RCW 84.40.030(3)(a).
[72] *See* THE APPRAISAL OF REAL ESTATE, *supra,* at 355, 363, 377.
[73] *See* WAC 458-14-087(4) (requiring the Board of Equalization to assign "[m]ore weight . . . to similar sales occurring closest to the assessment date which require the fewest adjustments for characteristics"). In some decisions, the Board has viewed as dissimilar a sale property that requires gross adjustments in excess of 25 percent of the sale price. *See Reef Adams, LLC v. Washam*, BTA Docket No. 70007, at 7 (2011).
[74] THE APPRAISAL OF REAL ESTATE, *supra,* at 29.
[75] *Id.* at 530.
[76] *Id.* at 414.

benefits of periodic income and reversion from a future sale) and convert these benefits into an indication of present value."[77] RCW 84.40.030(3)(b) defines the income to be capitalized as "income that would be derived from prudent use of the property, as limited by law or ordinance."

Burden of Proof. Under RCW 84.40.0301, an assessor's original valuation of property is presumed correct, a presumption that applies solely to the assessor's valuation, not to any decision of a county board of equalization.[78] To overcome an assessor's presumption of correctness, and for an owner or taxpayer to prevail on appeal, the record must contain "clear, cogent and convincing"[79] evidence sufficient to indicate that a value correction is in order. The "clear, cogent, and convincing" standard requires "proof that is less than 'beyond a reasonable doubt,' but more than a mere 'preponderance'"; evidence is "clear, cogent, and convincing" if it shows "that the fact in issue is 'highly probable.'"[80]

The Washington Supreme Court has identified[81] two circumstances in which an owner's standard of proof shifts from "clear, cogent, and convincing" evidence to a "preponderance of the evidence," i.e., evidence that makes a fact "more probably true than not true."[82] First, if an owner establishes that an assessor misapplied the law when determining a component value within an overall assessment,[83] "the standard of proof shifts to preponderance of the evidence for all contested issues related to that value."[84] Second, if the owner establishes that an assessor's "overall approach or technique" was "flawed" or invalid, or if an assessor provides a substantially revised assessment on appeal, "the standard of proof shifts to a preponderance of the evidence for all issues."[85] A substantially revised assessment will shift the standard of proof only when the revision is "based upon an exercise of appraisal judgment,"[86] but not when the

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[77] *Id.* at 413.
[78] AGO 1986 No. 3, at 10.
[79] RCW 84.40.0301.
[80] *Tiger Oil Corp. v. Yakima County*, 158 Wn. App. 553, 562, 242 P.3d 936 (2010) (quoting *Davis v. Dep't of Labor & Indus*., 94 Wn.2d 119, 126, 615 P.2d 1279 (1980), and *In re Welfare of Sego*, 82 Wn.2d 736, 739, 513 P.2d 831 (1973)).
[81] *Weyerhaeuser Co. v. Easter*, 126 Wn.2d 370, 894 P.2d 1290 (1995).
[82] *In re Welfare of Sego*, 82 Wn.2d at 739 n.2.
[83] The circumstance described here occurs when a property's value is derived from multiple components, as in the cost approach to value.
[84] *Weyerhaeuser*, 126 Wn.2d at 381.
[85] *Id.* Washington law provides, however, that "the assessor 'should be afforded considerable discretion' in [his or] her choice of the proper valuation method(s)." *Sahalee Country Club, Inc. v. Board of Tax Appeals,* 108 Wn.2d 26, 36, 735 P.2d 1320 (1987) (quoting *Folsom v. County of Spokane*, 106 Wn.2d 760, 769, 725 P.2d 987 (1986)).
[86] WAC 458-14-005(19).

assessor is merely correcting a "manifest error."[87]

Authority of the Board of Tax Appeals. To resolve a property valuation appeal, the Board holds a *de novo*, or new, hearing and relies on the testimony and evidence presented to the Board.[88] Consistent with RCW 84.40.030(1), the Board may uphold either party's contended value or find a different value. Under RCW 84.08.060, however, "the board of tax appeals . . . shall not raise the valuation of the property to an amount greater than the larger of either the valuation of the property by the county assessor or the valuation of the property assigned by the county board of equalization." Ultimately, the Board makes "such order as in its judgment is just and proper."[89]

ANALYSIS

In its Response Brief for each of the docket numbers at issue, the Owner states that, aside from the Assessor's concession that the presumption of correctness under RCW 84.40.0301 is inapplicable to her substantially reduced assessed values on appeal of Parcel 102 for 2018 and 2019, because they were the product of appraisal judgment, the Owner nevertheless asserts that the Assessor's values of Parcels 100 and 306 for 2019 are also not entitled to the presumption of correctness "because the Assessor never explains how she determined her values."[90]

RCW 84.40.0301, which the Owner cites in its Opening Brief, codifies the presumption of correctness as to the determination of the valuation of property for purposes of taxation, and states:

> 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.

The Owner then couples RCW 84.40.0301 with another statute, RCW 84.48.150, which it states in its Response Brief "guarantees a taxpayer the right to receive a determination of the value of its property—and that 'determination of value' is not merely the assessed value itself."[91] Rather, the Owner argues that RCW 84.48.150 requires that the factors the Assessor uses in

[87] For examples of "manifest errors," see WAC 458-14-005(14)(a)-(j).
[88] *See Ridder v. McGinnis*, BTA Docket No. 33754, at 4 (1988) (citing AGO 1986 No. 3, at 8-9); RCW 84.08.130(1).
[89] RCW 84.08.130(1).
[90] Owner's Response Brief, 9:10-17.
[91] Owner's Response Brief, 9:21-23.

making the determination of value should show how the assessor actually arrived at the assessed value, and then quotes from RCW 84.48.150,[92] which states in full:

> (1) The assessor must, upon the request of any taxpayer who petitions the board of equalization for review of a tax claim or valuation dispute, make available to said taxpayer a compilation of comparable sales utilized by the assessor in establishing such taxpayer's property valuation. If valuation criteria other than comparable sales were used, the assessor must furnish the taxpayer with such other factors and the addresses of such other property used in making the determination of value.
>
> (2) The assessor must within sixty days of such request but at least twenty-one business days, excluding legal holidays, prior to such taxpayer's appearance before the board of equalization make available to the taxpayer the valuation criteria and/or comparable sales that may not be subsequently changed by the assessor unless the assessor has found new evidence supporting the assessor's valuation, in which situation the assessor must provide such additional evidence to the taxpayer and the board of equalization at least twenty-one business days prior to the hearing at the board of equalization. A taxpayer who lists comparable sales on a notice of appeal may not subsequently change such sales unless the taxpayer has found new evidence supporting the taxpayer's proposed valuation in which case the taxpayer must provide such additional evidence to the assessor and board of equalization at least twenty-one business days, excluding legal holidays, prior to the hearing. If either the assessor or taxpayer does not meet the requirements of this section the board of equalization may continue the hearing to provide the parties an opportunity to review all evidence or, upon objection, refuse to consider sales not submitted in a timely manner.

But contrary to what the Owner asserts, RCW 84.48.150 does not clarify what is meant by the determination of value by a public official such as the Assessor or change the fact that the public official's determination of value is what is presumed correct. RCW 84.48.150 is located in a different statutory chapter than RCW 84.40.0301, and deals solely with proceedings before county boards of equalization. The rules of statutory construction require that, when possible, the various provisions of an act be harmonized; this usually arises within particular statutory chapters. *State v. Williams*, 62 Wn. App. 336, 338, 813 P.2d 1293 (1991). Statutes that concern the same subject matter, in *pari materia*, should be construed "as constituting one law to the end that a harmonious total schema which maintains the integrity of both is derived." *Beach v. Bd. of Adjustment*, 73 Wn.2d 343, 346, 438 P.2d 617 (1968); *State v. Houck*, 32 Wn.2d 681, 684, 203 P.2d 693 (1949). In seeking to harmonize provisions of a statute, statutes relating to the same

[92] Owner's Response Brief, 9:23-10:6.

subject must be read as complementary instead of in conflict with each other. *State v. Chapman*, 140 Wn.2d 436, 448, 998 P.2d 282 (2000). RCW 84.40.030(3), located in the same chapter as RCW 84.40.0301, is the provision that clarifies how a public official determines value. RCW 84.40.030(3) explains how the true and fair value of real property for purposes of taxation is to be determined, namely through the sales comparison approach, or the income and cost approaches where applicable, and states in relevant part:

> The *true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) 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. . . . In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection must be the dominant factors in valuation. When provisions of this subsection are relied upon for establishing values the property owner must be advised upon request of the factors used in arriving at such value. [Emphasis added.][93]

As RCW 84.40.040(3) permits, the Assessor uses both sales comparison and income approaches to value each of the subject parcels for the years in question. The sales comparison approach the Assessor uses in determining the 2019 value for Parcel 306 is the only instance where her contended value is not bracketed by the adjusted sale prices of her comparable sales (Assessor's Sale Nos. 14 through 21). As to the Assessor's lack of bracketing of her contended value in her sales comparison approach in this instance, a leading treatise directly addresses the opinion of value flowing from that approach, and the presence or absence of bracketing of a contended value, and whether that is necessary, and states:

[93] See also WAC 458-07-030(2), which states in part: "*In determining true and fair value*, the assessor may use the sales (market data) approach, the cost approach, or the income approach, or a combination of the three approaches to value." [Emphasis added.]

> Reliable results can usually be obtained by bracketing the subject property between comparable properties that are superior and inferior to it. . . . *It is unrealistic to expect that the value indication will always be supported by at least one sale at a price above and one at a price below*. For example, if the comparable properties are either all superior or all inferior, only an upper or lower limit of values is set and no range (or bracket) of possible values for the subject property can be defined. If all the comparable properties are inferior in terms of qualitative factors, the only conclusion that can be drawn is that the value of the subject property is higher than the highest value indication from the comparable properties.
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> Qualitative factors are the primary focus of bracketing. *If the available comparable sales do not bracket the subject property's value, appraisers should consider employing analytical techniques to establish a bracket*. Quantitative adjustments to the comparable sales can often serve this purpose.[94]

The same treatise explains that the sales comparison approach is not designed to be a formula resulting in detailed mathematical precision, stating: "The sales comparison approach is not formulaic. *It does not lend itself to detailed mathematical precision*. Rather, it is based on judgment and experience as much as quantitative analysis."[95]

As for the final value opinion of real estate that is the subject of an appraisal, which frequently flows from various approaches to value (e.g., sales comparison approach and income approaches herein), the same treatise introduces us to the concept of reconciliation, and states:

> Resolving the differences among various value indications is called *reconciliation*. . . . *The final value opinion is not the average of the different value indications derived*. No mechanical formula is used to select one indication of value over the others. The strengths and weaknesses of each of the approaches used, and the quantity and quality of the data analyzed, must be considered and addressed in an appraisal report, and an appraiser must explain why one approach may have relied upon more than in a particular assignment. *Final reconciliation relies on the property application of appraisal techniques and the appraiser's judgment*.
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> In an appraisal report, the final opinion of value may be stated as a single figure, as a range of values, or in relation to a benchmark amount (e.g., "not more than" or "not less than" a certain amount). . . . *Most often, an opinion of value is reported as a single dollar amount*, i.e., a point value at a particular point in time.

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[94] THE APPRAISAL OF REAL ESTATE, *supra,* at 376-377 [Emphasis added].
[95] THE APPRAISAL OF REAL ESTATE, *supra,* at 368 [Emphasis added].

> Because of legal or other requirements, most clients require a point estimate of value.[96]

The treatise materials above make clear that the Assessor's lack of bracketing in its sales comparison approach for Parcel 306 in 2019, and choosing a single value for Parcels 100 and 306 in 2019 by applying her appraisal judgment after final reconciliation of her sales comparison and income approaches, are both consistent with RCW 84.40.040(3) and WAC 458-07-030(2), and is entitled to the presumption of correctness under RCW 84.40.0301. But because the Assessor substantially reduced its value of Parcel 102 for 2018 and 2019 based entirely upon appraisal judgment, under *Weyerhaeuser* the burden of proof has been lowered to a preponderance of the evidence.

Therefore, as to Parcel 102, for both 2018 and 2019, the Owner must show by a preponderance of the evidence, that it is more probably true than not true, that the Assessor's contended values for Parcel 102 are erroneous. But for Parcels 100 and 306, the Owner must show by clear, cogent, and convincing evidence that the Assessor's contended values of Parcels 100 and 306 are erroneous. Under either standard of proof, the evidence before the Board does not meet the applicable standard. The Board concludes, therefore, that the Owner has not met its burden and shown it is more probably true than not true that the Assessor overvalued Parcel 102 for 2018 or 2019, or met its burden and shown that it is highly probable the Assessor overvalued Parcels 100 and 306 for 2019.

The main differences between the Owner's and Assessor's income approaches to value for the parcels in question and the assessment years at issue, lies exclusively in the Owner's use of lower rental rates than the Assessor in calculating PGI, and the Owner's use of higher capitalization rates than the Assessor. But generally the rent comparables that the Owner provides bracket the rental rates that the Assessor uses. The one exception is the $14 rental rate the Assessor uses for the Marysville property (Parcel 306) which is not bracketed by the Owner's rent comparables ($6 to $11.50 per square foot). Nevertheless, for the Everett property (Parcel 100), which is not distant geographically from the Marysville property, the Owner's rental comparables (ranging from $6 to $18 per square foot) support the $14 rental rate the Assessor uses in her income approach to value for Parcel 306. And the data the Owner supplies to support the capitalization rates it uses in its income approach to value for each of the subject

[96] THE APPRAISAL OF REAL ESTATE, *supra,* at 599-600, and 602.

parcels also supports the capitalization rates the Assessor uses. That said, the Owner has not shown that the Assessor made an error in its income approaches to value for the parcels in question.

The Owner, in its sales comparison approaches to value for the various parcels and assessment years at issue, and in order to arrive at its final adjusted value for some of its comparable sales, makes large downward adjustments to the price per square foot of those sales to account for what the Owner perceives as the superior nature of those comparable sales compared to the subject properties, because they included existing significant long-term leases. In particular, the Owner makes a 35 percent downward adjustment to the time-trended price per square foot of Owner's Sale Nos. 5, 12, 19, and 26 (all involving the identical sale of property in Mount Vernon), the highest price sale of each set of its comparable sales, to account for tenancy (i.e., the existence of significant long-term leases in place at the time of sale). Given the large percentage of these adjustments for tenancy, this has the overall effect of the Owner lessening the numerical values in its overall range of comparable sales and decreasing its overall value conclusions by the sales comparison approach. In fact, if these single adjustments for tenancy were not made to Owner's Sale Nos. 5, 12, 19, and 26, the adjusted sale prices of Owner's Sale Nos. 1 through 7 would range from \$70 to \$168 per square foot and bracket the Assessor's contended value of Parcel 102 for 2018 (\$130 per square foot); the adjusted sale prices of Owner's Sale Nos. 8 through 14 would range from \$68 to \$173 per square foot and bracket the Assessor's contended value of Parcel 102 for 2019 (\$133 per square foot); the adjusted sale prices of Owner's Sale Nos. 15 through 21 would range from \$72 to \$183 per square foot and bracket the Assessor's contended value of Parcel 306 for 2019 (\$126 per square foot); and the adjusted sale prices of Owner's Sale Nos. 22 through 28 would range from \$66 to \$159 per square foot and bracket the Assessor's contended value of Parcel 100 for 2019 (\$138 per square foot). It's also worth noting that the Owner does not adjust upward the time-trended sale prices of Owner's Sale Nos. 5, 12, and 19 for inferior location, but does make a 5 percent upward adjustment to the time-trended sale price of Owner's Sale No. 26 for inferior location. The 5 percent upward adjustment pales in comparison to the 20 percent upward adjustment for location the Owner makes to the time-trended sale price of a comparable sale located in Bellingham, and the 25 percent upward adjustment the Owner makes to the time-trended sale prices of comparable sales located in Chehalis and Bremerton. Leaving aside the virtual non-existence of necessary upward adjustments to the time-trended sale prices of Owner's Sale Nos. 5, 12, 19, and 26, to account for location, the massive downward adjustments for tenancy for each of those sales is not supported by either the evidence in these cases or any Owner-provided appraisal methodology.

Although economic characteristics, including lease provisions and tenant mix, are valid elements of comparison when appraisers adjust the sale prices of comparable sales,[97] the nuances of whether positive or negative adjustments are appropriate, and the size of such adjustments, does not necessarily turn simply on whether existing leases are in place at the time of sale. A leading treatise concludes that support for such adjustments requires significant research or diligence, which may be provided by a well-developed market analysis:

> Income-producing real estate is often subject to an existing lease or leases encumbering the title. Leases may either increase or decrease the market value of the full bundle of rights, depending on how the contract rent rates and terms compare with market rent and terms. If the sale of a leased property (i.e., the leased fee) is to be used as a comparable sale in the valuation of another interest in real property, the comparable sale can only be used if reasonable and supportable market adjustments for the differences in real property rights can be made. For example, consider the appraisal of the fee simple estate in a property that is improved with a multitenant office building. A similar improved property was fully leased at the time of sale, the leases were long-term, and the credit ratings of the tenants were good. *To compare the value of the leased fee of the comparable property to the value of the fee simple estate of the subject property, an appraiser must determine if the contract rent of the comparable property was above, below, or equal to market rent. The appraiser must also determine whether contract rent represents income attributable to increases in rent under existing leases resulting from stated escalations in the leases or tenant reimbursement of expenses*.
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> In a comparison of properties that are encumbered by long-term leases or are essentially fully leased with quality tenants, *appraisers must recognize that these leased properties may have significantly less risk than competitive property that has shorter-term tenants at market rental rates. On the other hand, the reverse may be true in expanding markets. The ability to demand higher rental rates and the ready availability of tenants may favor the shorter-term lease strategy*. The market position of a fully leased position is clearly different from that of a building with no leases at all. The buyer of a multitenant property that has good cash flow in place may not be the same buyer who is interested in a property that is only one-third occupied. In the case of the property with two-thirds vacancy,

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97 THE APPRAISAL OF REAL ESTATE, *supra,* at 363, 393-394.

> the buyer may need a higher down payment and another portion of the purchase price to cover the shortfalls created by the lease-up period. It is quite common for buyers of nearly empty buildings to have to invest capital form many years until the properties reach stabilized occupancy. The period over which the property leases up to a stabilized level is easily reflected in the income capitalization approach, but often needs to be adjusted for in the sales comparison approach. *The adjustment applied to sale of a partially leased building would be different if users favor unleased buildings over those encumbered by leases*.
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> Calculations of appropriate adjustments for differences in property rights may be difficult to develop and support. *Properly developed adjustments require significant research and diligence, which may be provided by a well-developed market analysis*. Ideally, the comparable transactions selected for analysis include the same types of property rights as the subject property so that adjustments are not needed or minimized.[98]

The same treatise adds that sometimes a comparable sale with a lease in place, where the subject property does not have such a lease, warrants a positive adjustment to its sales price, rather than exclusively negative adjustments the Owner makes to a portion of its comparable sales, especially in a market with increasing rents, stating:

> *In some situations, a property can be worth more, or can sell for more, when it is empty than when it is full. For example, in a market with rapidly rising rents, a building with empty space maybe better able to take advantage of rent appreciation than a building with long-term leases in place*, requiring an upward adjustment for the value of the leasehold estate.[99] [Emphasis added.]

An example from the same leading treatise demonstrates that comparable sales involving long-term leases may be subject to either an upward adjustment or downward adjustment, depending on whether the lease in place is below-market or above-market: "Sales C and E were sold subject to long-term leases, so both require an adjustment for property rights conveyed. Sale C was *adjusted upward* for the below-market lease, and Sale E was *adjusted down* for the above-market lease."[100]

The evidence that the Owner provides the Board does not indicate that the solely negative adjustments for tenancy that it made to the time-trended sale prices of select comparable sales

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[98] THE APPRAISAL OF REAL ESTATE, *supra,* at 379-380 [Emphasis added.]
[99] THE APPRAISAL OF REAL ESTATE, *supra,* at 542. [Emphasis added.]
[100] THE APPRAISAL OF REAL ESTATE, *supra,* at 407 [Emphasis added.]

(notably Owner's Sale Nos. 5, 12, 19, and 26) in arriving at final adjusted values for those sales involved contract rents at, below, or above, market rent rates, or whether contract rents therein represented income attributable to increases in rent under existing leases resulting from stated escalations in the leases or tenant reimbursement of expenses. Not to mention that in expanding markets the ability to demand higher rental rates and the ready availability of tenants may favor the shorter-term lease strategy. To reiterate, the adjustment applied to sale of a partially-leased building would be different if users favor unleased buildings over those encumbered by leases. Because the Owner has failed to address any of these factors in concluding that solely negative adjustments to comparable sales for tenancy is appropriate, the Owner has not put forth a well-developed market analysis to support such adjustments or properly developed such adjustments through significant research and diligence.

In summary, the Board concludes the Owner has not met its burden to show by a preponderance of the evidence that the Assessor overvalued Parcel 102 in 2018 or 2019. Furthermore, the Owner has not provided clear, cogent, and convincing evidence the Assessor overvalued Parcels 100 or 306 in 2019, and without such evidence, the Assessor is presumed to be correct.

FINDINGS OF FACT

1. Parcel 102 is located at 9601 Market Place in Lake Stevens, Washington.
2. Parcel 102 is improved with a 2001-built, retail space occupied by Target, CVS Pharmacy, and a Starbucks retail shop. The property has 125,324 square feet of NRA.
3. Parcel 306 is located at 16818 Twin Lakes Avenue in Marysville, Washington.
4. Parcel 306 is improved with a 2006-built, retail space occupied by Target. The property has 126,905 square feet of NRA.
5. Parcel 100 is located at 405 Southwest Everett Mall Way in Everett, Washington.
6. Parcel 100 is improved with a 1988-built, retail space occupied by Target. The property has 107,895 square feet of NRA.
7. The Assessor concedes that presumption of correctness under RCW 84.40.0301 is inapplicable to her substantially reduced assessed values of appeal of Parcel 102 for 2018 and 2019, because they were the product of appraisal judgment.

8. The Owner asserts that the Assessor's values of Parcels 100 and 306 for 2019 are also not entitled to the presumption of correctness because the Assessor does not explain how she determined those values.
9. RCW 84.40.0301 codifies the presumption of correctness as the determination of valuation of property for purposes of taxation. The Owner couples this statute with another statute, RCW 84.48.150, which it states guarantees a taxpayer the right to receive a determination of the value of its property, which is not merely the assessed value itself, but requires that the factors the assessor uses in making the determination of value should demonstrate how the assessor actually arrived at the assessed value.
10. To support her valuation of each of the subject parcels for the assessment-years in question, the Assessor provides both a sales comparison approach and income approach to value.
11. The sales comparison approach the Assessor uses in determining the 2019 value for Parcel 306 is the only instance where her contended value is not bracketed by the adjusted sale prices of her comparable sales (Assessor's Sale Nos. 14 through 21).
12. To support its valuation of each of the subject parcels for the assessment-years in question, the Owner provides both a sales comparison approach and income approach to value.
13. The main differences between the Owner's and Assessor's income approaches to value for the parcels in question and the assessment-years at issue, lies exclusively in the Owner's use of lower rental rates than the Assessor in calculating PGI, and the Owner's use of higher capitalization rates than the Assessor.
14. Generally, the rent comparables that the Owner provides bracket the rental rates that the Assessor uses. The one exception is the $14 annual rental the Assessor uses for the Marysville property (Parcel 306) which is not bracketed by the Owner's rent comparables ($6 to $11.50 per square foot). Nevertheless, for the Everett property (Parcel 100), which is not distant geographically from the Marysville property, the Owner's rent comparables (ranging from $6 to $18 per square foot) support the $14 rental rate the Assessor uses in her income approach to value for Parcel 306.

15. The data the Owner supplies to support the capitalization rates it uses in its income approach to value for each of the subject parcels also supports the capitalization rates the Assessor uses.
16. The Owner, in its sales comparison approach to value for the various parcels and assessment years at issue, and in order to arrive at its final adjusted value for some of its comparable sales, makes large downward adjustments to the price per square foot of those sales to account for what the Owner perceives as the superior nature of those comparable sales compared to the subject properties, because they included existing significant long-term leases.
17. In particular, the Owner makes a 35 percent downward adjustment to the time-trended price per square of Owner's Sale Nos. 5, 12, 19, and 26 (all involving the identical sale of property in Mount Vernon), the highest price sale of each set of its comparable sales, to account for tenancy (i.e., the existence of significant long-term leases in place at the time of sale.)
18. Given the large percentage of these adjustments for tenancy, this has the overall effect of the Owner lessening the numerical values in its overall range of comparable sales and decreasing its overall value conclusions by the sales comparison approach. Setting aside any reservations the Assessor has with the Owner's comparable sales and their comparability to the subject properties, if these single adjustments for tenancy were not made to Owner's Sale Nos. 5, 12, 19, and 26, the adjusted sale prices of Owner's Sale Nos. 1 through 7 would range from $70 to $168 per square foot and bracket the Assessor's contended value of Parcel 102 for 2018 ($130 per square foot); the adjusted sale prices of Owner's Sale Nos. 8 through 14 would range from $68 to $173 per square foot and bracket the Assessor's contended value of Parcel 102 for 2019 ($133 per square foot); the adjusted sale prices of Owner's Sale Nos. 15 through 21 would range from $72 to $183 per square foot and bracket the Assessor's contended value of Parcel 306 for 2019 ($126 per square foot); and the adjusted sale prices of Owner's Sale Nos. 22 through 28 would range from $66 to $159 per square foot and bracket the Assessor's contended value of Parcel 100 for 2019 ($138 per square foot).

19. The Owner does not adjust upward the time-trended sale prices of Owner's Sale Nos. 5, 12, and 19 for inferior location, but does make a 5 percent upward adjustment to the time-trended sale prices of Owner's Sale No. 26 for inferior location. But the 5 percent upward adjustment pales in comparison to the 20 percent upward adjustment for location the Owner makes to the time-trended sales prices of comparable sales located in Chehalis and Bremerton.
20. The record supports a market value for Parcel 102 for assessment-years 2018 and 2019, of $16,306,500 and $16,683,000, respectively.
21. The record supports a market value for Parcels 100 and 306 for assessment-year 2019, of $14,852,000 and $15,960,000, respectively.

Any Finding of Fact that should be deemed a Conclusion of Law is hereby adopted as such.

From these findings, this Board comes to these:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this appeal (RCW 82.03.130).

2. Contrary to what the Owner asserts, RCW 84.48.150 does not clarify what is meant by the determination of value by a public official such as the Assessor or change the fact that the public official's determination of value is what is presumed correct. RCW 84.48.150 is located in an entirely different statutory chapter than RCW 84.40.0301, and deals solely with proceedings before county boards of equalization.

3. On the other hand, RCW 84.40.030(3), located in the same chapter as RCW 84.40.0301, is the provision that clarifies how a public official determines value. RCW 84.40.030(3) explains how the true and fair value of real property for purposes of taxation is to be determined, namely through the sales comparison approach, or the income and cost approaches where applicable. As RCW 84.40.040(3) permits, the Assessor uses both sales comparison and income approaches to value each of the subject parcels for the years in question.

4. As to the Assessor's lack of bracketing of her contended value for 2019 as to Parcel 306 in her sales comparison approach, a leading treatise directly addresses the opinion of value flowing from that approach, and the presence of absence of

bracketing of a contended value, and whether that is necessary, and states in part: "It is unrealistic to expect that the value indication will always be supported by at least one sale at a price above and one a price below."[101] The same treatise explains that the sales comparison approach is not formulaic and "does not lend itself to detailed mathematical precision. Rather it is based on judgment and experience as much as quantitative analysis."[102]

5. As for the final opinion of value of real estate that is the subject of an appraisal, which frequently flows from various approaches to value (e.g., sales comparison approach and income approaches herein), a leading treatise introduces us to the concept of reconciliation, which states:

> Resolving the differences among various value indications is called reconciliation. . . . The final value opinion is not the average of the different value indications derived. No mechanical formula is used to select one indication of value over the others. The strengths and weaknesses of each of the approaches used, and the quantity and quality of the data analyzed, must be considered and addressed in an appraisal report, and an appraiser must explain why one approach may have relied upon more than in a particular assignment. Final reconciliation relies on the property application of appraisal techniques and the appraiser's judgment.
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> In an appraisal report, the final opinion of value may be stated as a single figure, as a range of values, or in relation to a benchmark amount (e.g., "not more than" or "not less than" a certain amount). . . . Most often, an opinion of value is reported as a single dollar amount, i.e., a point value at a particular point in time. Because of legal or other requirements, most clients require a point estimate of value.[103]

6. The treatise materials above make clear that the Assessor's lack of bracketing in its sales comparison approach for Parcel 306 in 2019, and choosing a single value for Parcels 100 and 306 by applying her appraisal judgment after final reconciliation of her sales comparison and income approaches, are both consistent with RCW 84.40.040(3) and WAC 458-07-030(2), and are entitled to the presumption of correctness under RCW 84.40.0301.

[101] THE APPRAISAL OF REAL ESTATE, *supra,* at 376.
[102] THE APPRAISAL OF REAL ESTATE, *supra,* at 368.
[103] THE APPRAISAL OF REAL ESTATE, *supra,* at 599-600, and 602.

7. But because the Assessor substantially reduced its value of Parcel 102 for 2018 and 2019 based entirely upon appraisal judgment, under *Weyerhaeuser* the presumption of correctness is inapplicable, and the burden of proof has been lowered to a preponderance of the evidence.
8. Therefore, as to Parcel 102, for both 2018 and 2019, the Owner must show by a preponderance of the evidence, that it is more probably true than not true, that the Assessor's contended values for Parcel 102 are erroneous. But for Parcels 100 and 306, the Owner must show by clear, cogent, and convincing evidence that the Assessor's contended values for Parcels 100 and 306 are erroneous. Under either standard of proof, the evidence before the Board does not meet the applicable standard.
9. The Owner has not shown that the Assessor made an error in its income approaches to value for the parcels in question.
10. The apparent impetus for an absence of, or only small upward, adjustments for location, and large downward adjustments for tenancy as to Owner's Sale Nos. 5, 12, 19, and 26 is clearly to depress the price per square foot of the Owner's highest-priced comparable sale in each instance, and to lower the range of prices per square foot of the comparable sales in each instance.
11. Leaving aside the virtual non-existence of necessary upward adjustments to the time-trended sale prices of Owner's Sale Nos. 5, 12, 19, and 26, to account for location, the massive downward adjustments for tenancy for each of those sales is not supported by either the evidence in these cases or appraisal methodology.
12. Although economic characteristics, including lease provisions and tenant mix, are valid elements of comparison when appraisers adjust the sale prices of comparable sales,[104] the nuances of whether positive or negative adjustments are appropriate, and the size of such adjustments, does not turn necessarily simply on whether existing leases are in place at the time of sale. A leading treatise concludes that support for such adjustments requires significant research or diligence, which may be provided by a well-developed market analysis, and states in part:

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[104] THE APPRAISAL OF REAL ESTATE, *supra,* at 363, and 393-394.

> To compare the value of the leased fee of the comparable property to the value of the fee simple estate of the subject property, an appraiser must determine if the contract rent of the comparable property was above, below, or equal to market rent. The appraiser must also determine whether contract rent represents income attributable to increases in rent under existing leases resulting from stated escalations in the leases or tenant reimbursement of expenses.
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> In a comparison of properties that are encumbered by long-term leases or are partially fully leased with quality tenants, appraisers must recognize that these leased properties may have significantly less risk than competitive property that has shorter-term tenants at market rental rates. On the other hand, the reverse may be true in expanding markets. The ability to demand higher rental rates and the ready availability of tenants may favor the shorter-term lease strategy.
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> The adjustment applies to sale of a partially leased building would be different if users favor unleashed buildings over those encumbered by leases.
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> Calculations of appropriate adjustments for differences in property rights may be difficult to develop and support. Properly developed adjustments require significant research and diligence, which may be provided by a well-developed market analysis.[105]

13. The same treatise adds that sometime a comparable sale with a lease in place, where the subject property does not have such a lease, warrants a *positive* adjustment to its sales price, rather than exclusively *negative* adjustments the Owner makes to a portion of its comparable sales, especially in a market with increasing rents, stating:

> In some situations, a property can be worth more, or can sell form more, when it is empty than when it is full. For example, in market with rapidly rising rents, a building with empty space maybe better able to take advantage of rent appreciation than a building with long-term leases in place, requiring an upward adjustment for the value of the leasehold estate.[106]

14. An example from the same treatise demonstrates that comparable sales involving long-term leases may be subject to either an upward adjustment or downward

[105] The Appraisal of Real Estate, *supra,* at 379-380.
[106] The Appraisal of Real Estate, *supra,* at 542.

adjustment, depending on whether the lease in place is below-market or above-market: "Sales C and E were sold subject to long-term leases, so both require an adjustment for property rights conveyed. Sale C was adjusted upward for the below-market lease, and Sale E was adjusted down for the above-market lease."[107]

15. The evidence that the Owner provides the Board does not indicate that the solely negative adjustments for tenancy that it made to the time-trended sale prices of select comparable sales (notably Owner's Sale Nos. 5, 12, 19, and 26) in arriving at final adjusted values for those sales involved contract rents at, below, or above, market rent rates, or whether contract rents therein represented income attributable to increases in rent under existing leases resulting from stated escalations in the leases or tenant reimbursement of expenses. Not to mention that in expanding markets the ability to demand higher rental rates and the ready availability of tenants may favor the shorter-term lease strategy. To reiterate, the adjustment applied to sale of a partially-leased building would be different if users favor unleased buildings over those encumbered by leases. Because the Owner has failed to address any of these factors in concluding that solely negative adjustments to comparable sales for tenancy is appropriate, the Owner has not put forth a well-developed market analysis to support such adjustments or properly developed such adjustments through significant research and diligence.
16. In summary, the Board concludes the Owner has not met its burden to show by a preponderance of the evidence that the Assessor overvalued Parcel 102 in 2018 or 2019. Furthermore, the Owner has not provided clear, cogent, and convincing evidence the Assessor overvalued Parcels 100 or 306 in 2019, and without such evidence, the Assessor is presumed to be correct.
17. RCW 84.08.130(1) authorizes the Board to make "such order as in its judgment is just and proper."

Any Conclusion of Law that should be deemed a Finding of Fact is hereby adopted as such.

From these facts and conclusions, the Board enters this

[107] The Appraisal of Real Estate, *supra,* at 407.

DECISION

In accordance with RCW 84.08.130, this Board sets aside the determinations of the Snohomish County Board of Equalization as to Parcel 102 for assessment-years 2018 and 2019, and sustains the determinations of the Snohomish County Board of Equalization as to Parcels 100 and 306 for assessment-year 2019, and orders the values as shown on pages two and three of this decision.

The Snohomish County Assessor and Snohomish County 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 12th day of May, 2022.

BOARD OF TAX APPEALS

BILL G. PARDEE, Tax Referee

Right of Review of this Initial Decision

Pursuant to WAC 456-09-930, you may file a petition for review of this Initial Decision. You must file an original and one copy of the petition for review with the Board of Tax Appeals within twenty calendar days of the date the Initial Decision is issued, by electronic or U.S. mail. You must also serve a copy on all other parties or their representatives. The petition for review must specify the portions of the Initial Decision to which exception is taken and must refer to the evidence of record which is relied upon to support the petition. The other parties may submit one original and one copy of a reply to the petition with the Board of Tax Appeals within ten business days of the date of service of the petition. Copies of the reply must be served on all other parties. The Board will then consider the matter and issue a Final Decision. If a petition for review is not filed, the Initial Decision becomes the Board's Final Decision 20 calendar days after the date of mailing of the Initial Decision.

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Please be advised that a party petitioning for judicial review of a Final Decision is responsible for the reasonable costs incurred by this agency in preparing the necessary copies of the record for transmittal to the superior court. Charges for the transcript are payable separately to the court reporter.