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March 19, 2010

TO: Betsy Sawyers, Director
Pierce County Human Resources Department

FROM: Deborah Diamond

Subject: Whistleblower Complaint Investigation (Ugas)

Following is a report of my fact-finding Investigation re: Pierce County Deputy Assessor-Treasurer Alberto Ugas' Whistleblower Complaint.

I. Background of the Investigation

On 11/30/2009, Pierce County Deputy-Assessor Alberto Ugas filed a Complaint of Improper Governmental Action under Pierce County Code Chapter 3.14: Whistleblower Protection. In his Complaint, Mr. Ugas named Assessor-Treasurer Administrative Officer Sally Barnes as the Alleged Violator of several Washington State laws for her alleged role in reporting physical inspections of Pierce County properties to various authorities from 2001-2008.

On 12/10/2009, I was contacted by Pierce County Human Resources about my availability to conduct an investigation. Contract 77385 was executed 12/21/2009, authorizing me to conduct a fact-finding investigation of Mr. Ugas' Whistleblower Complaint.

II. Investigative Process

I reviewed the Complaint, Washington State laws, and Pierce County policies related to the Complaint. I also reviewed the extensive background information on the Pierce County Assessor-Treasurer's website.

Based on the Pierce County Performance Audit Special Study of Assessor-Treasurer Issues dated 03/30/2009, I proceeded on the premise that "It is clear that physical inspections did not take place once every six years for a large number of residential and commercial parcels in Pierce County... Pierce County's 2008 annual 'progress report' [to the Washington Department of Revenue] reported incorrectly that the scheduled physical inspections were accomplished." I determined that the exact number of missed physical inspections was not crucial to the investigation.

Based on the 01/26/2009 legal opinion issued by the Pierce County Prosecuting Attorney's Office, I determined that any impact from the missed physical inspections was moot at this point: "...assessors do not have legal authority to go back and change prior assessments entered on the tax rolls by their predecessors, even if the underlying values were determined without physical inspections. Moreover, even if assessors did have such authority it would be impractical and virtually impossible to change those values with any degree of accuracy."

Based on the allegations in Mr. Ugas' complaint, I proceeded to investigate the following questions:

1. Was Ms. Barnes the person who made the decision to enter and count statistical updates to property values as physical inspections?
2. If so, did Ms. Barnes violate Washington State laws in giving directions, submitting reports, and/or providing statements to this effect?
3. If not Ms. Barnes, who made the decision to enter and count statistical updates to property values as physical inspections?
4. Did the decision-maker violate Washington State laws in giving directions, submitting reports, and/or providing statements to this effect?

Note: I did not pursue issues already under investigation in other whistleblower, harassment, and/or retaliation complaints in the Assessor-Treasurer's office.

After appropriate confidentiality, non-retaliation, and Weingarten rights were issued, I proceeded to interview the following Assessor-Treasurer employees (position held relevant to the Complaint is indicated): Sally Barnes (Assessor Administrative Officer), Debbie Brammer (Accounting Assistant), Gary Dill (Information Technology Specialist), Gary Foreman (Commercial/Industrial Appraiser), James Hall (Commercial Supervisor), Mike Johnson (Information Technology Specialist), Tami Johnson (Public Records Officer), Billie O'Brien (Treasurer Administrative Officer), Shellie Pollitt (Statistical Supervisor), and Mark Williams (Residential Supervisor).

I reviewed the 10-page Declaration and supporting documentation Mr. Ugas submitted in lieu of an interview.

I submitted a Public Records Request to the Washington Department of Revenue (DOR) and received 560 pages of documents.

Based on my review of the documents, I interviewed Kathy Fewins (former Pierce County Deputy Assessor-Treasurer), and the following DOR employees: Brad Flaherty (Assistant Director of the Property Tax Division), Sandy Guilfoil (former Assistant Director of the Property Tax Division), Shawn Kyes (former

County Review Program Manager), and Peri Maxey (former Assistant Director of the Property Tax Division).

Based on analysis of the interview statements and documentation, I reached my findings.

III. Investigation

A. Chronology

January 2001: Ken Madsen takes office as Assessor-Treasurer; Kathy Fewins is appointed Deputy Assessor Treasurer.

July 2001: 6-year-cycle physical inspections of residential properties are curtailed.

March 2003: New software for assessing properties (RealWare) goes live and conversion to the new system begins.

February 2005: Dale Washam (current Assessor-Treasurer) and others file a petition to recall Mr. Madsen re: the physical-inspection issue.

April 2005: Pierce County Superior Court finds the Recall charges "legally insufficient".

August 2007: Ms. Fewins returns to private-sector work.

August 2008: With computer conversion complete, 6-year-cycle physical inspections resume.

January 2009: Mr. Washam takes office as Assessor-Treasurer. Mr. Washam is handed a document which includes the statement, "We have been cooking the books with appraiser initials and not completing the 6 year residential physical inspection cycle".

March 2009: Mr. Washam alerts the Pierce County Council to the physical-inspection issue. The Pierce County Performance Audit staff prepares a Special Study of the Assessor-Treasurer Issues and recommends moving forward.

September 2009: Mr. Washam issues his Assessor-Treasurer Investigative Report.

November 2009: Mr. Ugas files a Whistleblower Complaint.

B. Interviews

1. Assessor-Treasurer Employees

Summarized below are statements made by Assessor-Treasurer employees in interviews, organized by topic.

A. Context

- Pierce is an annual revaluation County on a six-year inspection cycle. According to State law, every property must be revalued based on a physical inspection every six years. In the years between physical inspections, properties are revalued based on statistical data.
- Geographically-based physical inspection (PI) areas, covering one-sixth of the County's properties, are identified in the six-year Revaluation Plan.

B. Computer Assisted Mass Appraisal (CAMA) System Conversion

Summarized below are statements made by Assessor-Treasurer employees:

- When Mr. Madsen took office as Assessor-Treasurer in 2001, the appraisers were still using the IBM mainframe programs which Mr. Madsen had helped procure when he was Pierce County Deputy Assessor-Treasurer from 1970-1976.
- Mr. Madsen and Ms. Fewins came to office with a stated goal of replacing the legacy computer system. In consultation with outside experts, Mr. Madsen and Ms. Fewins selected RealWare; the Pierce County Council approved the \$2.7 million dollar procurement.
- Mr. Madsen and Ms. Fewins decided to start using a statistical model for updating property values using market sales data. The statistical modeling process was applied to properties slated for a six-year physical inspection and to intervening-year revaluations.
- Six-year properties that fit within the norm were statistically updated; properties outside the statistical norm were targeted for physical inspection. The built-in safeguard was the taxpayers' right to appeal an assessment (whether physically or statistically determined).
- The new computer system required gathering and entering many more property characteristics than the legacy system. Working with the new software was much more labor-intensive during the conversion phase.
- Mr. Madsen and Ms. Fewins "sold" the investment in the new computer system to the Pierce County Council on the promise that it would reduce the number of staff hours/positions. In fact, the conversion consumed the vast majority of resources from 2001-2007. To avoid requesting additional staffing during the conversion period, Mr. Madsen and Ms. Fewins devised an interim process, statistical updates in lieu of physical inspections, which they said was approved by Department of Revenue.

C. KMP Procedures

Summarized below are statements made by Assessor-Treasurer employees:

- Physical inspection of new construction and physical inspection of one-sixth of the County's parcels are both mandated by law for each assessment year. Mr. Madsen and Ms. Fewins decided to use the resources they had on the computer conversion

and on physically inspecting new construction, plus those properties falling outside the statistical model.

- In 2001, Mr. Madsen and Ms. Fewins asked the management team for input on what would be the most expeditious way to get new construction on the tax rolls without an appraiser visit. One part of the solution was to restrict physical inspections to construction of new properties (buildings, homes). For additions to existing properties (decks, sheds, garages), a notice would be sent to the taxpayer asking for the square footage and completion date; based on the taxpayer's response (or the permit information if no response), the addition was placed on the tax rolls for the next assessment year.
- In 2001, the commercial appraisers were asked to put their initials in the six-year-cycle physical inspection field on thousands of properties on the basis of statistical updates, without physical inspections.
- The management team told Mr. Madsen and Ms. Fewins that no appraiser would put his/her initials on a statistically estimated update.
- Mr. Madsen and Ms. Fewins decided to use KM, plus P for Physical Inspection Cycle, on statistically updated properties.
- Ms. Fewins would not approve the Commercial Team's work plan until physical inspections were deleted.
- The Commercial Supervisor (Mr. Hall) made the following contemporaneous entry in his log for 02/17/2005: "Ken is insistent on correcting values in Downtown Tacoma without collecting good data first. During the meeting I reiterated over and over that there is not a way to update values short of doing physical inspection. He just kept saying that he was not arguing with me, but we have to find a way to use the computer to update these values without doing a physical inspection... [Ken said] he is going to kick Kathy... to find a way to do this in the computer."
- Computer updates were done in batches. Once all appraiser physical inspections in a PI area were completed, the KMP update for that area would be run. KMP entries were back-dated to the date of the final appraiser physical inspection in each area.
- Appraisers entered Certification Codes to indicate the method of inspection. Certification Codes were locally defined for internal management use. Certification Code 6 denoted an in-office change to property characteristics without a field inspection; Certification Code 7 denoted a street observation.
- Group updates to Certification Codes were not done in conjunction with the KMP updates for 2001-2003. Group updates to Certification Codes were run for 2004-2008 in conjunction with the KMP updates.
- No summary of data by Certification Code was requested by internal management from 2001-2008. Data by Certification Code is not reported to Pierce County Budget & Finance, the Pierce County Council, or the Department of Revenue.
- From 2002 to mid-2008, one-sixth of the property values were updated each year, many statistically and others by physical inspection.
- It took seven years of computer conversion activities to get all Pierce County property converted to the new system. With new construction down and conversion nearly complete, a full physical inspection cycle (one-sixth) was scheduled and partially completed in 2008.

- The Washington State Auditor did audit samples several times from 2001-2008 and never asked about the KMP initials.
- From 2001-2008, Mr. Madsen was quoted in the newspaper and talked openly at public meetings and Pierce County Council meetings about using statistical modeling for most properties and physically inspecting properties outside the normal range. Mr. Madsen used a map with dots showing the properties targeted for physical inspection as a visual aid at these meetings.

D. Reporting Procedures

Summarized below are statements made by Assessor-Treasurer employees:

- The number of appraisals, parcels, and physical inspections were used to prepare the Workload Service Data Reports (WSD) for Pierce County Budget & Finance. The WSD reports were used in determining the budget allocation for the Assessor-Treasurer's office.
- The number of appraisals, parcels, and physical inspections were used to prepare Revaluation and Progress Reports for the Washington Department of Revenue.
- The DOR reports were the responsibility of the Chief Appraiser, until Ms. Fewins personally took over the reports in 2001. Beginning in 2002, Ms. Brammer would gather the numbers from the individual supervisors. Ms. Fewins finalized the reports, Mr. Madsen signed, and the reports were sent to DOR. The supervisors never saw the DOR reports.
- In April 2004 (RequestIT #79), Ms. Fewins asked Mr. Dill to design a management report (RASCAL), which would pull the number of appraisals, parcels, and physical inspections from the CAMA system and display the results in the format of the DOR reports.
- Mr. Dill consulted Ms. Fewins, Ms. Barnes, and the supervisors regarding the data sources. Ms. Fewins ultimately determined the criteria for pulling data fields to create the DOR reports. The criteria used to generate the report evolved over time.
- The 05/20/2004 Request-IT #100 prepared by Ms. Barnes was approved by Ms. Fewins during a managerial meeting on 06/01/2004. Mr. Dill said he knew that the inspection dates were used in counting physical inspection totals and percentages. Mr. Dill said the existence of a date in the appraiser field (not the initials) determined whether the parcels rolled up to the DOR Report. Mr. Dill said he was uncomfortable doing an update he perceived would skew those percentages. Mr. Dill said he told Ms. Barnes he was not comfortable doing the update but was not explicit about why.
- Each year, Ms. Brammer would present the RASCAL-generated data to Ms. Fewins in the DOR report format. On the spot, Ms. Fewins would say various numbers were wrong, cross them out with a purple pen, and insert other numbers. Ms. Brammer did not observe Ms. Fewins consulting other documents to determine the altered numbers.
- Ms. Brammer said in 2005 Tami Johnson told her Ms. Fewins had assigned this report to Ms. Brammer because of her lack of knowledge in the appraisal field. Ms. Brammer said Ms. Fewins misjudged her level of intelligence. Ms. Brammer said

she was so uncomfortable with this process that she saved the pages with Ms. Fewins alterations in case there were future questions.

- Ms. Barnes' requests for updates and reports came to Mr. Johnson through Ms. Fewins, his direct supervisor. Mr. Johnson said he did not write the programming for the RASCAL report; he just wrote the queries and ran the bulk updates. Mr. Johnson said he thought the bulk updates clearly distinguished the statistically updated KMP records from the records of properties physically inspected by an appraiser. Mr. Johnson said he did not know that Certification Code 7 meant physically observed, did not know which numbers were rolled up into the DOR report, and was not aware of Mr. Dill's refusal to run the updates until the 01/22/2009 Assessor-Treasurer staff meeting.

E. Madsen/Fewins Management

Summarized below are statements made by Assessor-Treasurer employees:

- Ms. Fewins' management style was described by subordinates as extremely tough, very hands-on, and controlling. Managers and supervisors were not allowed to make business decisions, make programming changes, or create/send forms/letters without her direct consent. No decision of the magnitude of the KMP entries would have been made by anyone but Ms. Fewins. Ms. Fewins held daily meetings with the appraiser supervisors.
- Direct reports were expected to keep Ms. Fewins fully briefed. Ms. Fewins made most of the business decisions. Ms. Fewins would consult Mr. Madsen on major issues and then provide directions to her subordinates.
- Mr. Madsen and Ms. Fewins told the supervisors that they had discussed the proposed methodology with DOR and had been given approval to include statistically updated properties as part of the physical inspection cycle. The supervisors had no reason to question it.
- Mr. Madsen and Ms. Fewins had contact with DOR through telephone conferences and meetings.
- Ms. Fewins told the supervisors they were no longer permitted to contact DOR re: Appeals or any other matter. Ms. Fewins handled all DOR contacts.

F. 2005 Recall

Summarized below are statements made by Assessor-Treasurer employees:

- The recall action against Mr. Madsen was mentioned in passing at a staff meeting in 2005. Some read about it in the newspaper; Ms. Barnes and Tami Johnson signed Declarations; others said they just ignored it.
- The Judge would have done something if he thought the handling of the KMP issue was wrong. He did not, so it must have been OK.
- Per others, Ms. Barnes' Declaration for the Recall hearing was very carefully written to be both loyal (to her superiors) and truthful.

G. New Administration

Summarized below are statements made by Assessor-Treasurer employees:

- In April 2009, Mr. Washam called the supervisors in and said he wanted to ask four questions:
 - Question: When did the KMP process first start? Answer: 2001.
 - Question: Who gave the direction? Answer: Mr. Madsen and Ms. Fewins.
 - Question: Did Sally Barnes ever tell you to use the KMP initials? Answer: No.
- When the supervisors answered no, Mr. Washam seemed frustrated and ended the interview without asking the fourth question.

2. Alberto Ugas, Deputy Assessor-Treasurer

On 11/30/2009, Mr. Ugas filed a Complaint of Improper Governmental Action, Whistleblower Complaint (Attachment #1).

On 01/21/2010, Mr. Ugas submitted a 10-page Declaration with supporting documentation, in lieu of an interview. The complete Declaration and supporting documentation are attached (Attachment #2). I have excerpted portions which summarize Mr. Ugas' statements and included them in the body of this report. I have used Mr. Ugas' numbered allegations and lettered exhibits as an outline.

A. Allegations 1, 2, 5, and 6 (consolidated): It is alleged that Sally Barnes by email dated November 26, 2001 (Allegation 1), through the Assessor's office Request-IT software application dated May 20, 2004 (Allegation 2), by email dated February 5, 2008 (Allegation 5), and by email dated May 20, 2008 (Allegation 6), unlawfully directed false real property physical inspection information to be entered into the Pierce County Assessor-Treasurer's official assessment records by having thousands of falsified appraiser initials 'KMP' entered; by having thousands of falsified 'Certification Codes' entered; and by having these entries be back-dated [and future-dated for Allegation 1].

- Exhibit A: Ms. Barnes' 02/10/2003 Supplemental Questionnaire describing her qualifications for the Administrative Officer position
 - Question 1: "As the supervisor of the Residential and Statistical teams...my responsibility... includes allocation of staff resources...and identification of physical inspections. I work with team supervisors to coordinate and review current workflow to ensure we meet our statutory requirements...I am actively involved with the Assessor-Treasurer's Management Team. The Management Team meets weekly to discuss and identify current issues and problems."
 - Question 3: "The Assessor-Treasurer's office is required by law to conduct a physical inspection of 1/6th of the real property in Pierce County every year... I have organized and facilitated annual staff training prior to starting the Physical Inspection Cycle."

- Question 5: "I have been responsible for complying with the laws and rules that govern the assessment function... The major ones include...Physical Inspection...When questions arise on the application of these laws, I review the RCWs, WACs, and Office Policies for guidance in making the appropriate determinations...As a result of budget reductions, it is my responsibility as the supervisor to utilize our staff in a more efficient manner. Laws and rules have been reviewed and procedures have been modified as a result. One example of this is Physical Inspections. This has been a giant time consumer of the appraisal staff. Since the laws for conducting physical inspections are not specific and are open to interpretation, we have been able to modify our process. This reduced the amount of time and the cost to complete the physical inspection cycle. At the same time, we still achieved our goals and the requirements as mandated by state laws."
- Exhibit B: Declaration of Lee Allan Dorn dated 10/07/2004
 - "That on or about July 2, 2001 at approximately 7:30AM, I attended the normal Monday morning briefing done by Sally Barnes at the Pierce County Assessor-Treasurer's office for all Pierce County real property appraisers. At that briefing...Kathy Fewins, the deputy to Ken Madsen the Pierce County Assessor-Treasurer, stated that she needed to have Pierce County appraisers sign off on thousands of parcels of real property in Pierce County as having had a physical inspection as required by law. Kathy Fewins wanted the Pierce County appraisers to unlawfully and fraudulently sign off on the above Pierce County real property parcels without actually doing any physical inspections...Kathy Fewins illegal request was overwhelmingly rejected by the Pierce County appraisers attending the above briefing. A few weeks after the above briefing I started seeing numerous parcels of real property in Pierce County showing up with the same appraisal date on each one as having had a physical inspection by an appraiser with the initials KM."
 - Mr. Ugas stated that he was present at the 07/02/2001 meeting and confirmed the statements made by Mr. Dorn.
- Exhibit C: Appraiser Initials and Certification Codes
 - Code P indicates Physical Inspection.
 - Investigator Note: Mr. Ugas' exhibit appears to come from Mr. Washam's Investigative Report dated 09/02/2009 (page 13) but excludes the word "Cycle" after Physical Inspection. Mr. Washam's exhibit shows Code P as "Physical Inspection Cycle". The Code P included the word Cycle on page 39 of the Residential Appraisal Policy Manual (Red Book), in effect until eliminated in the policy change effective 07/09/2009.
- Exhibit D: Ms. Barnes email to Ms. O'Brien dated 11/26/2001
 - In her capacity as supervisor of the Statistical Team, Ms. Barnes informs Residential Team supervisor Ms. O'Brien that batches are being run to update all PI Appraisal Area 10, 11, and 12 records with the initials KMP.

- The date for Area 10 is back-dated; the dates for Areas 11 and 12 are future-dated.
- Ms. Barnes tells Ms. O'Brien, "This is being done prior to scanning the field appraiser's work". The field appraisers' A-2's override the KMP records.
- Exhibit E: Ms. Pollitt email to Ms. Barnes dated 11/01/2002
 - In her subordinate capacity reporting directly to Ms. Barnes, Ms. Pollitt informs Ms. Barnes that Appraisal Areas 1, 2, and 5 have been group updated with KMP and October 2002 dates.
- Exhibit F: Tables #32 and #33 of the Official Assessment Records
 - These tables appear as Appendix No. 2 in Mr. Washam's 09/02/2009 Investigative Report, titled "Chart of dates the false appraiser initials KMP were entered into the Assessor-Treasurer office records with multiple made-up Certification Codes during the years 2001-2008."
- Exhibit G: Ms. Barnes' RequestIT printout dated 05/20/2004
 - The Requestor is Ms. Barnes; the Assignee is Mr. Johnson.
 - "In order to complete the 2004 physical inspection cycle, we need to update all the residential accounts with inspection dates and initials."
 - Ms. Barnes asks Mr. Johnson to update the land screen with the Appraiser initials KMP, the Appraisal date 02/02/2004, and the Certification Code 7 (Observed).
- Exhibit H: Table #2A and #34 of Official Assessment Records
 - Table #2A shows subsequently ordered Inspection Date changes.
 - Table #34 shows the Certification Codes and Counts for the Table #2A changes.
- Exhibit I: Ms. Barnes email to Mr. Johnson dated 02/05/2008
 - Ms. Barnes tells Mr. Johnson, "Shellie feels the most efficient way to make this update is for you to do this like it has been done in the past. Please let me know as soon as this process has been completed. Debbie Brammer is waiting on this information."
 - Mr. Ugas infers that Ms. Brammer was waiting on the KMP update to complete the DOR Progress Reports, indicating Ms. Barnes knew these numbers would be rolled up to the DOR reports.
- Exhibit JJ: Ms. Barnes email to Mr. Johnson dated 05/20/2008
 - Ms. Barnes tells Mr. Johnson, "Please use the following criteria to identify accounts that need to be updated as a result of a statistical model application."
- Exhibit KK: Table #36 of Official Assessment Records
 - Table #36 shows the Certification Codes and Counts for the updates from the 05/20/2008 email.

B. Allegation #3: It is alleged that Sally Barnes, through her own actions, violated her sworn oath as a Pierce County appraiser to "...support the Constitution and the Laws of the State of Washington."

- Exhibit I: Copy of Appraiser Oath of Office
 - I, Albert Ugas, do solemnly swear that I am a resident of the State of Washington; that I will support the Constitution and Laws of the State of Washington, and will to the best of my judgement [sic], skill and ability, truly, faithfully, diligently and impartially perform the duties as an Appraiser and member of the Staff of the Assessor-Treasurer's Office in and for Pierce County, Washington, as such duties are prescribed by law, so help me God".
 - Mr. Ugas' Oath to Perform Appraiser Responsibilities is dated 01/24/2002, signed by Mr. Ugas, and signed under "Subscribed and Sworn before me" by Mr. Madsen.
 - Mr. Ugas said that all appraisers, including Ms. Barnes, were required to sign this Oath.
 - Mr. Ugas states, "It is equally important to note that Barnes is not just another employee, but an officer and a member of the offices' core management team...All such officers owe the public duties of good faith, and are vested with an inherent fiduciary responsibility."
- Exhibits J through V: RCWs, WACs, and Article VII of the State Constitution
 - Exhibits J, K, L, and M allege, "That Sally Barnes committed perjury in her sworn statement dated March 4, 2005 (Exhibit W) and in her sworn deposition dated October 28, 2008 (Exhibit MM).
 - Exhibit N and R allege, "That Sally Barnes made repeated false and misleading statements concerning the conduct of the appraisal processes at the Pierce-County Assessor-Treasurer office while under her management."
 - Exhibits O, P, Q, and S allege, "That Sally Barnes, through her management of the appraisal processes at the Assessor-Treasurer office, particularly as it involved the alleged premeditated, systematic, and continuous use of falsified entries so as to claim appraisals were being conducted in full accordance to the statutes...committed official misconduct (O)...performed unlawful false entries (P)...committed grievous injury to public records (Q)...upon hundreds of thousands of official assessment records, [which] represents willful neglect to perform her duties as mandated by law (S).
 - Exhibit T alleges Sally Barnes willfully violated the statute, "Each county assessor shall cause taxable property to be physically inspected and valued at least once every six years."
 - Exhibit U alleges Sally Barnes willfully violated the code, "For purposes of this chapter, 'physical inspection' means, at a minimum, an exterior observation of the property."
 - Exhibit V alleges, "...by devising a process whereby commercial properties were not lawfully appraised for several years, and where specific residential

properties were selectively identified to be omitted from their scheduled inspections”, Sally Barnes violated the State Constitution Article VII: “All taxes should be uniform upon the same class of property.”

C. Allegation #4: It is alleged that Sally Barnes committed perjury in her Declaration dated March 4, 2005 against the recall of Ken Madsen, wherein she made false material statements regarding the falsified appraiser initials ‘KMP’. In said Declaration, she further states “...that the recall charges are totally unfounded...” which she knew to be a false statement.

- Exhibit W: Barnes Sworn Declaration dated 03/04/2005
 - Mr. Ugas alleges statements from Ms. Barnes’ sworn Declaration “were intentionally designed to mislead the Court.”
- Exhibit X: Recall Hearing 03/21/2005 Official Transcript
 - Mr. Ugas alleges, “Page 17 lines 24 through the end of page 19 provides evidence that Barnes’ misleading statements from her 03/04/2005 sworn declaration were material in the Superior Court process by way of the [defense] attorney’s argument.”
- Exhibit Y: Ms. Barnes Memo to Mr. Washam dated 03/04/2009
 - Mr. Ugas alleges, “Barnes had full knowledge of these alleged falsified Department of Revenue reports and was instrumental in devising the criterion used on the internal custom report used for their preparation.”
- Exhibits Z through GG: 2001-2008 DOR Progress Reports
 - The reports claim 83%-144% of scheduled physical inspections were conducted from 2001-2008.
 - Mr. Ugas alleges, “Barnes was instrumental in the preparations of these reports, and fully aware significant numbers of the claimed appraisals had never been conducted.”
- Exhibit HH: Mr. Dill Memo dated 02/25/2009
 - Mr. Dill said, “It was at this point in time that I had concerns about performing this update. I had worked on Assessor-Treasurer reports that were used to provide statistics to the Department of Revenue and knew that these inspection dates were used in counting Physical Inspection totals and percentages. I was uncomfortable in what I perceived as skewing those percentages.”
 - Mr. Ugas said “This document provides further evidence of Barnes’ alleged intent to subvert the law and deceive the authorities.”

D. Allegation 7: It is alleged that Sally Barnes committed perjury in her sworn Declaration dated October 28, 2008 in King County Superior Court, in the case of Crystal Chalets vs. Pierce County, Cause No. 07-2-21673-1. In said deposition, Sally Barnes made false material statements regarding the conduct of commercial physical inspections in the

A. Ms. Barnes' response to Allegations #1, 2, 5, and 6 re: the use of statistical updates (KMP) in lieu of physical inspections

Ms. Barnes said:

- Ms. Fewins ran the weekly Leadership Team meetings, which included Ms. Barnes after she became the Statistical Team lead in July 2001.
- Ms. Fewins' direct reports would present an issue and an opinion, but Ms. Fewins had to make all the decisions. Ms. Fewins only told Mr. Madsen what he needed to hear. Mr. Madsen relied on Ms. Fewins for making business decisions.
- Everything was verbal; Mr. Madsen and Ms. Fewins made it apparent they did not want to leave a paper trail.
- Mr. Madsen did not think devoting resources to physical inspection was cost beneficial for taxpayers. Appraisers assigned to the physical inspection cycle were diverted to new construction appraisals.
- Mr. Madsen thought the law was vague enough to allow him to interpret it in a way that would allow him to use his limited resources and set priorities as he saw fit. Mr. Madsen made the decision to interpret the law to include statistical updating as a "physical inspection". Mr. Madsen was influenced by the outside experts who were selling statistical updating as a common practice in larger counties. Mr. Madsen wanted to believe it was OK.
- Ms. Fewins told Ms. Barnes she wanted the appraisers to put their initials on the statistical updates. Ms. Fewins thought she could just tell the appraisers to do it and they would comply. Ms. Barnes said she told Ms. Fewins that the appraisers would be very resistant to this plan and said Ms. Fewins needed to tell them herself. At the 07/02/2001 meeting, Ms. Fewins told them and got the reaction Ms. Barnes predicted; the appraisers were outraged and refused to do it. Ms. Barnes said she felt sick and resented being put in the middle of this by Ms. Fewins.
- Ms. Barnes said it was certainly not the way the physical inspection cycle had been done in the past. The supervisors looked at the RCW and WAC governing physical inspections and felt uncomfortable with Mr. Madsen's interpretation.
- Mr. Madsen and Ms. Fewins told Ms. Barnes they had talked with DOR about their plan for the physical inspection cycle and DOR was OK with it. Ms. Barnes told the supervisors; they felt relieved.
- Ms. Barnes said she was not happy about streamlining physical inspections, but the staff was struggling to keep up with the computer conversion and new construction.
- Ms. Barnes said she had to continuously push Mr. Madsen and Ms. Fewins to get permission for physical inspection of properties with conversion adjustments, views, and values outside the statistical norm.
- Mr. Madsen was generally part of any discussions Ms. Fewins had with Ms. Barnes re: the statistical updates. Mr. Madsen directed Ms. Barnes to use his initials and Code P for Physical Inspection Cycle.
- Regarding the 11/26/2001 e-mail requesting a KMP update: Ms. Fewins (or Ms. Barnes at the direction of Ms. Fewins) would have told the programmer to run the statistical update on all residential properties; the programmer would have told Ms. Barnes when he finished. Ms. Barnes (in the 11/26/2001 e-mail) told the Residential Supervisor (Ms.

county, as well as false material statements regarding her involvement as the person in charge of commercial appraisers in the year 2007.

- Exhibit LL: Mr. Hall Affidavit dated 08/06/2009
 - Mr. Hall indicates that as the Commercial supervisor, he reported directly to Ms. Fewins from 12/2002 to 01/08/2007 and directly to Ms. Barnes from 01/08/2007 to 05/14/2009.
- Exhibit MM: Ms. Barnes Deposition dated 10/28/2008
 - Mr. Ugas alleges, "Statements from Barnes' 10/28/2008 sworn depositions were intentionally designed to mislead the Court."
 - Mr. Ugas alleges Ms. Barnes sworn deposition contradicts prior statements in her 02/10/2003 Supplemental Questionnaire regarding her employment experience and subsequent statements in her 03/04/2009 memo (Exhibit Y) regarding physical inspections and in Mr. Hall's 08/06/2009 sworn affidavit (Exhibit LL) regarding her managerial role.

E. Excerpts of Mr. Ugas' Summary Statements from his 01/21/2010 Declaration:

- "...during the administration of Ms. Barnes, a significant number of appraisals rendered by the Pierce-County Assessor-Treasurer office did not conform to the laws of this state and they did not conform to any generally accepted appraisal methods or standards...it is alleged these appraisals were performed in direct violation of state laws and in direct violation of generally accepted appraisal methods and standards. It is further alleged that in order to conceal these violations, an elaborate scheme of fabricated appraisals was entered into the official Pierce County Assessment records."
- "...those responsible should be held accountable for their actions."

3. Sally Barnes, Administrative Officer

Ms. Barnes said she was familiar with the allegations in Mr. Ugas' 11/30/2009 Whistleblower Complaint, having been sent a copy by the Tacoma News Tribune.

Ms. Barnes said she held the following positions from 2001-2008:

January to June 2001: Residential Appraiser

July 2001 to June 2002: Property Analyst supervising the Statistical Team

July 2002 to January 2003: Supervisor of the Statistical and Residential Teams

February 2003 to December 2008: Administrative Officer

O'Brien) the statistical update had been done so Ms. O'Brien could have the actual physical inspections input to override the KMP initials.

- For 2001 and 2002, Ms. Barnes requested a group update with the KMP initials and designated appraisal dates. Since the Certification Codes were not updated, the prior Certification Code associated with the property remained unchanged. Therefore, the 2001 and 2002 KMP-updated records show residual Certification Codes #1-7 from prior entries.
- In 2003, only 11 property records were updated with KMP initials; Certification Codes were not updated.
- Regarding Request IT #100 dated 05/20/2004: Ms. Barnes told Ms. Fewins that Mr. Dill had declined to run the statistical update. Ms. Fewins told Ms. Barnes to have Mr. Johnson run it. When Ms. Barnes asked Mr. Johnson to do it, Mr. Johnson asked for something in writing.
- For 2004, Ms. Barnes requested a group update with the KMP initials, designated dates, and the Certification Code 7 (Observed). Ms. Barnes said she cannot remember why she would have requested Certification Code 7 for 2004, when Certification Code 6 (In-Office, No Site Inspection) was obviously more appropriate.
- For 2005-2008, Ms. Barnes requested a group update with the KMP initials, designated dates, and the Certification Code 6, correcting the mistake of using Certification Code 7 in 2004.
- Ms. Fewins asked Ms. Barnes questions about the DOR Annual Progress Reports as they were being prepared. Ms. Fewins told Ms. Barnes to work with Ms. Brammer to get the dates right. If the number did not look right, Ms. Fewins and Ms. Barnes would go back and look at the criteria for pulling the numbers.
- Ms. Barnes said she knew the numbers were rolling up to the DOR Annual Progress Reports and knew that Physical Inspections Completed included both physical inspections and statistical updates. Ms. Barnes said she thought DOR knew that both were being reported as Physical Inspections Completed, based on what Mr. Madsen and Ms. Fewins had told her.
- Mr. Madsen and Ms. Fewins made decisions that Ms. Barnes was not happy with, but she had learned that once they made up their minds no one could change the decision. The culture revolved around Mr. Madsen and Ms. Fewins' winning, not losing.
- Mr. Hall consistently got on Ms. Fewins' bad side for thinking differently from Ms. Fewins and Mr. Madsen and bringing up issues they did not want raised. Mr. Hall's challenging Ms. Fewins' decisions only inflamed her further.
- Ms. Fewins was very intimidating. Ms. Fewins' used a demeaning tone and body language, yelled at employees, and could be very cold and cutting. Ms. Fewins "put the fear of God in you. You didn't dare buck her". The only safe way was to go along. Ms. Barnes said she learned to pick her battles with Ms. Fewins.

B. Ms. Barnes' response to Allegation #3 re: Upholding the laws and Constitution of the State of Washington

Ms. Barnes said Ms. Fewins assured her that Mr. Madsen and Ms. Fewins had talked to the Department of Revenue about how they were conducting physical inspections. Ms.

Barnes contends that she did not violate any policies or laws, since she was following what she perceived to be the lawful order of her superiors.

C. Ms. Barnes' response to Allegation #4 re: Statements in Ms. Barnes' 03/04/2005 Declaration

Ms. Barnes said Mr. Madsen asked her to write a Declaration and she did so voluntarily. Ms. Barnes said she read the Recall Petition and noted some inaccuracies in the Petitioners' interpretation. Ms. Barnes said she felt she should respond and wrote her own Declaration. When asked if she was concerned about how Mr. Madsen or Ms. Fewins might view her Declaration, she said she probably "erred on the side of caution".

Ms. Barnes questioned why her statements were being singled out as misleading, when Tami Johnson's Declaration contained some of the same statements.

D. Ms. Barnes' response to Allegation #7 re: Statements in Ms. Barnes 10/28/2008 deposition

Ms. Barnes said she is an accredited appraiser for both commercial and residential properties but has only worked as a residential appraiser.

Ms. Barnes said that although the Commercial Team had been assigned to her on paper in January 2007, Ms. Fewins continued to exercise almost complete control of the Commercial Team until Ms. Fewins left in August 2007.

In her 10/28/2008 deposition in *Crystal Chalets vs. Pierce County*, Ms. Barnes was asked, "So are you able to testify at all regarding the administration of the [commercial] revaluation plan for Pierce County... prior to mid 2007?" Ms. Barnes answered "No." When asked, "Who would be knowledgeable regarding that?" Ms. Barnes answered, "That would be our former chief deputy, Kathy Fewins."

Ms. Barnes said that, in her deposition, she was describing the commercial physical inspection process in general and not being specific about what had been done before she actually managed the Commercial Team beginning in August 2007.

E. Summary Statements of Ms. Barnes

Ms. Barnes said she feels Mr. Ugas' 11/30/2009 Whistleblower Complaint is part of a continuing effort to retaliate against her for filing an EEO Complaint in January 2009.

4. Kathy Fewins, former Pierce County Deputy Assessor-Treasurer 2000-2007

Ms. Fewins said:

- She was in charge of day-to-day business operations. She was the liaison with the County Council members, the Department of Revenue, and other State agencies.

She was also responsible for labor negotiations, grievance responses, the six-year Revaluation Plan, the Annual Progress Reports, and the negotiation/procurement of and conversion to the new computer system.

- Mr. Madsen was in charge of major policy decisions and general oversight. Business decisions were made jointly (Mr. Madsen and Ms. Fewins), after collaborative consultation with the leadership team (Ms. Barnes, Ms. O'Brien, Mr. Hall, Ms. Pollitt, Mr. Williams, and Mr. Johnson).
- The managers were in charge of instructing the employees, dealing with the day-to-day details, and approving leave.
- She met with the leadership team daily; Mr. Madsen met with them weekly. Individual meetings were held with members of the team based on the issue.
- She and Mr. Madsen realized early on they could not do everything required with the staff and computer resources they had. They asked the Budget Director and the County Executive for more staffing and were told there was no more money to fund additional positions.
- The consultants hired to review current work processes recommended they procure a Computer Assisted Mass Appraisal (CAMA) system. She and Mr. Madsen made the case to the County Council that a CAMA system would make the office more efficient and effective. The initiative was funded in 2001.
- Nationally recognized experts were hired to train the statistical appraisers on using the new system (RealWare) to do statistical analysis and updates. Clearly, statistical modeling was the way of the future.
- With appraisers tied up in CAMA conversion, the required physical inspections could not be accomplished solely through on-site or drive-by observations. With the new CAMA tools available, she and Mr. Madsen interpreted the statute as being broad enough to encompass statistical inspection of the property as a physical inspection. A statistical inspection involved the use of the computer to come up with physical characteristics, building permits, sales data, and other factors driving value.
- The computer program was used to determine the number of properties in a physical inspection cycle, identify outliers for on-site or drive-by physical inspection, and mass update the properties within the normal range. Appraisers doing sales validations or new construction in the field would also identify outliers; oftentimes, the CAMA system would have identified the same property, which confirmed that the program worked.
- She and Mr. Madsen had lunch with Sandy Guilfoil, the Assistant Director of the DOR Property Tax Division, sometime in 2001, and had a broad, informal philosophical discussion about what constituted a physical inspection.
- Mr. Madsen gave Ms. Guilfoil a clear definition of his interpretation of what constituted a physical inspection. She and Mr. Madsen were open about considering statistical updates the wave of the future and superior to superficial drive-bys. They did not seek an official opinion or any guidance from Ms. Guilfoil at that meeting.
- Mr. Madsen never asked for approval from DOR for his interpretation of physical inspections. DOR never asked for his definition of physical inspections. DOR never questioned Pierce County Assessor-Treasurer reports.

- She and Mr. Madsen went to Assessors conferences and discussed the issue of physical inspections with other Assessors. The others agreed and said they were considering using statistical methods for physical inspections.
- Mr. Madsen shared his interpretation of physical inspections with the leadership team. The team discussed the pros and cons of on-site/drive-by observations vs. statistical inspections. The managers challenged Mr. Madsen's definition of physical inspection, citing the statute and appraisal standards. However, the managers knew there were not enough staff and that the new computer system would help. The team talked about how to make it work.
- She does not remember Ms. Barnes subsequently asking her what DOR thought about this interpretation. She would have told Ms. Barnes that she and Mr. Madsen had a conversation with Ms. Guilfoil at which his interpretation was openly discussed.
- The DOR Annual Progress Reports were not "a huge deal". She would revise the numbers in Ms. Brammer's draft report based on the full range of information she had at hand. If a number did not look right, she would ask for more details on where the numbers came from. She was the one who decided which numbers were ultimately reported as physical inspections and Mr. Madsen would sign the report. On-site, drive-by, and statistical inspections were reported as physical inspections.
- She told the leadership team to tell the appraisers not to contact DOR directly, because it was taking too much of DOR's time. Ms. Barnes, Mr. Hall, and Ms. Pollitt had contact with DOR at conferences and training sessions.
- She was aware of the Recall Petition but was not very involved. The Judge's decision confirmed that what they were doing with physical inspections was okay.
- She and Mr. Madsen were responsible for the interpretation and reporting of physical inspections. Ms. Barnes was just a member of the leadership team and had no more of an influential role than any of the others.
- Regarding Ms. Barnes 10/28/2008 deposition: She (Ms. Fewins) confirmed she was still very involved in the management of the Commercial Team after it was assigned on paper to Ms. Barnes in January 2007 until she (Ms. Fewins) left in August 2007.

5. Ken Madsen, former Pierce County Assessor-Treasurer 2000-2008

Mr. Madsen declined to be interviewed for this investigation.

6. Department of Revenue (DOR) Officials

A. Sandy Guilfoil, Assistant Director of the Property Tax Division 1997-2002

Ms. Guilfoil said:

- DOR had very little interaction with Mr. Madsen and Ms. Fewins. They ran their own show, asked no questions, and raised no issues.
- She vaguely remembered having lunch with Mr. Madsen and Ms. Fewins. The work-related conversation was along the lines of "we're new to this and just want to find out how things work".

- She does not remember discussing what constituted a physical inspection. Most Assessors are stressed for resources and consider a drive-by the minimal physical inspection. She guessed the fewer resources they have, the faster they drive by.
- Most counties were not even on-line at that point. The potential of CAMA for improving efficiency and effectiveness was just starting to be explored. She would have agreed that aerial, satellite, and computer technology are great tools and can provide better data than a drive-by.
- She does not remember being asked if CAMA data could be used to revalue property which required a physical inspection. If she had been asked, she would have answered, "At this time, there is nothing that would clarify this issue and I'm not going to give you an answer. I leave interpretation of the statute to the lawyers."
- Mr. Madsen and Ms. Fewins never explicitly asked DOR, either orally/informally or in writing/officially, whether Pierce County could do statistical updates in lieu of physical inspections. They should not have relied on a lunch conversation as official DOR policy.
- Mr. Madsen and Ms. Fewins appear to have taken a risk, made a business decision, and came up with their own interpretation of the statute. It was not prudent of them to interpret the statute without requesting a formal legal opinion through DOR.
- The Pierce County Assessor-Treasurer before Mr. Madsen (Barbara Gelman) had followed protocol and sent a letter to DOR asking for approval to use a different valuation table; DOR had approved the request in writing.
- Mr. Madsen and Ms. Fewins should have let DOR know they were having trouble completing the required physical inspections and requested formal approval for using statistical updates in lieu of physical inspections. DOR would have sought a legal opinion from the Attorney General.
- Other Assessors had the same difficulties and came in with very honest reports showing they were not in compliance. DOR would work with the County Council/Commissioners and try to get the resources funded. If Assessors do not report they can't get the job done with the resources they have, then they will never get more resources.
- DOR always tries to help the Assessors work through things. There was no reason to think Pierce was having any problems. If she had known what they were doing, she would have sent them a letter notifying them they were out of compliance and that statistical "inspections" did not adequately meet the definition of physical inspection in the statutes.

B. Peri Maxey, Assistant Director of the Property Tax Division 2003-2006

Ms. Maxey said:

- People make allegations all the time against Assessors. DOR does not have the resources to follow up on every one.
- If there had been an investigation that concluded Pierce County falsified the number of physical inspections done/reported, DOR would have followed up with the Assessor-Treasurer.

C. Shawn Kyes, County Review Program Manager 2000-2006

Mr. Kyes said:

- Pierce County Annual Progress Reports showed physical inspections were being accomplished. In late 2004 and early 2005, there were only rumors that there might be a problem.
- There are 39 counties and DOR focused its limited resources in counties that specifically told DOR they were not getting the work done.
- He thought DOR was told that Pierce County Internal Audit was doing something to investigate. Due to limited DOR resources, DOR let them conduct their own investigation.
- He does not remember ever being contacted by Mr. Madsen's attorney to provide background information for the 2005 Recall hearing [Ms. Maxey's 02/14/2005 e-mail indicated he might be].

D. Brad Flaherty, Assistant Director of the Property Tax Division 2006-present

Mr. Flaherty said:

- DOR is responsible for overall administration of the Washington State property tax program. DOR counts on local Assessors to do their job according to the statutes.
- DOR looks at the Annual Progress Reports to see if Assessors are in compliance. If the Assessor did not complete the physical inspection of scheduled properties, DOR would instruct the Assessor to do the missed properties first.
- If it looked like the Assessor did not have the resources to get/stay in compliance, DOR would have assisted the Assessor in approaching the County for more resources.
- If the Assessor cannot meet the Revaluation Plan goals, the Assessor is asked to submit an amended Revaluation Plan for DOR approval.
- DOR only has the authority to approve Plans and practices which are consistent with the statutes. Any mutual agreement would have been reduced to writing.
- Mr. Madsen signed Pierce County Annual Progress Reports showing that scheduled physical inspections were on-target. There was nothing in the Pierce County Annual Progress Reports that would have raised any questions.
- Mr. Madsen should have told DOR Pierce County was having a problem completing physical inspections. DOR cannot assist unless the Assessor tells DOR there is a problem.
- The definition of a physical inspection is clear and tight: physical inspection involves an exterior observation at a minimum.
- The State Auditor's Office primarily audits the Assessor's financial processes (revenues, budget, staffing, and expenditures); DOR audits levy calculations and mass appraisal processes. The only way to verify that physical inspections were actually being done would have been to follow appraisers in the field. Neither agency had the resources to do so.

- DOR was aware of the Recall petition/hearing. As a matter of policy, DOR stays out of any matter under litigation until the issue is resolved. The Petition was dismissed.
- A bill was introduced in the 2007-2008 Washington State Legislative Session (SHB 2609/HB 2609) permitting the use of digital imagery in lieu of physical inspection for revaluation purposes; the Bill did not pass.

C. Documentation

Attachment #1: Complaint of Improper Governmental Action (Whistleblower Complaint) filed by Mr. Ugas 11/30/2009.

Attachment #2: Declaration of Mr. Ugas dated 01/21/2010, submitted in lieu of an interview.

Attachment #3: Notice to Taxpayer re: new construction: "The Pierce County Assessor-Treasurer's office is requesting information pertaining to the above new construction permit issued by your local building department. We are asking for your assistance to ensure accuracy and increase office efficiency. Please indicate if the construction has been completed or estimate the date of completion along with any changes to the permitted construction. If we do not receive a response from you, we will assume the new construction is complete. Permitted construction that is complete will be placed on the tax rolls for the next assessment year. An appraiser may be visiting your area next year to verify this information."

Attachment #4: Documents related to the use of appraiser initials and certification codes:

- Memo from Don Duncan to All Appraisers/A-2 Preparers dated 08/13/1990 instructing appraisers/preparers to use first and last initials plus a function digit. The function code P stands for Physical Inspection cycle.
- Appraisal Policy Manual (Red Book): Two samples of three-letter codes (page 39) and an A-2 Entry Code document (page 40) are attached. The Manual was last revised in September 1999.
- Online policy manual, page 11: "All inspected properties should be coded Appraiser [indicating] a physical inspection of the property."
- Appraiser Initials, Cycles and Cert Codes (revised 07/07/2009 and 10/06/2009): The function code P stands for Physical Inspection (without the word "Cycle") effective 07/09/2009.

Attachment #5: E-mails from Ms. Barnes dated 11/26/2001, 11/01/2002, 12/12/2005, 06/12/2006, 02/05/2008, and 05/20/2008 re: updating the physical inspection field of specified property records with the initials KMP.

Attachment # 6: Ms. Barnes' minutes of the 01/03/2002 Supervisors Meeting: "During the CAMA conversion, it is Ken's intention to put everything on hold in order to concentrate our efforts on the conversion. Ken and Kathy will be meeting with DOR to discuss what statutory requirements can be put on hold or postponed during the conversion. If you have any work that is a Statutory Requirement by RCW, please let me know ASAP so that we can give that information to Kathy."

Attachment #7: Memo from Ms. Barnes to Mr. Washam dated 03/04/2009: "In a meeting in Ken Madsen's office, I was directed by Ken Madsen and Kathy Fewins on how they wanted the Physical Inspection done...Kathy Fewins disclosed to me during a conversation that she and Mr. Madsen had talked to the Department of Revenue about how they were conducting the Physical Inspection...Kathy Fewins left employment with Pierce County in August 2007. My direct supervisor was now Ken Madsen...At this point, Ken Madsen was still directing how Physical Inspection was to be done...I was following the direction of my supervisor, the Assessor-Treasurer. This was not my decision."

Attachment #8: RequestIT #79 from Ms. Fewins to Mr. Dill dated 04/27/2004 re: creating a Custom Report to produce the annual DOR Progress Report.

Attachment #9: RequestIT #100 from Ms. Barnes to Mr. Johnson dated 05/20/2004 re: updating the physical inspection field of specified property records with the initials KMP.

Attachment #10: Explanation of Counts and Dates for DOR Progress Reports (ATRDOR-1) dated 05/20/2004.

Attachment #11: Memo from Mr. Dill to Mr. Washam dated 02/25/2009: "...the [Request IT #100] was presented to and approved by Kathy Fewins on 06/01/2004 during the Managerial meeting. It was at this point in time that I had concerns about performing this update. I had worked on the ATR reports that were used to provide statistics to the Department of Revenue and knew that these inspection dates were used in reflecting Physical Inspection totals and percentages. I was uncomfortable in what I perceived as skewing those percentages and discussed it with my manager Carol Auping. She agreed with my assessment and allowed that I was within my rights to decline making the change. I subsequently met with Sally and respectfully declined to perform the update as requested. In later discussions with Mike Johnson I found that Mike had been requested to perform the update in my stead and that he did in fact perform the update. In subsequent years I learned that similar requests for mass updating of Appraiser Initials and Dates were made of Mike."

Attachment #12: Memo from Mr. Johnson to Mr. Washam (undated): "In 2001 and 2002, we were still using the IBM mainframe system. Those updates [of the KMP initials] were performed by a programmer from the IT department. In 2003, we converted to our current appraisal system – RealWare. No updates to initials or appraisal date were performed in 2003. The practice of updating initials was resumed in 2004. The initial request to update appraiser initials was placed into RequestIT on 05/20/2004 by Sally Barnes. It is my understanding that this request was placed at the request of the Chief Deputy, Kathy Fewins. Back in 2004, all requests that were placed into RequestIT had to be reviewed and approved by the Chief Deputy, as was the case with this request."

Attachment #13: Memo from Mr. Dill to Mr. Ugas dated 06/24/2009 re: the RASCAL DOR Progress Report: "The project was assigned to me to generate figures for the [DOR Report] was RequestIT #79 at the request of Kathy Fewins...The only specification involved handing me a copy of the previous DOR report and asking me to provide figures

to fill in the blanks. At different times during the 3 ½ months that I took to complete the project, I met with Kathy, Billie, Sally, Jim Hall, Rhonda and Kim Fleshman to discuss various categories of the report. I would produce reports with my best stab and ask any and all of the above players to check them for accuracy and reasonableness. At times we would discuss how I was arriving at the numbers and they would suggest adjustments accordingly. There were a few cases where Kathy Fewins was asked to make a decision regarding a specific criteria point but in general it involved the people above. Kathy was the final authorization for the report...The [physical inspection appraisals number complete] is the [number of] active parcels within the chosen Physical Inspection Area at the time of the 'Thru' date with EITHER a current Land or Improvement appraisal date within the date range specified on the RASCAL screen...On 05/17/2006 Kathy specified that this number should include ALL inspected accounts, regardless of PI Area. On 02/06/2008 Sally specified that the original code should be restored." Also attached is a bitmap showing the 05/17/2006 and 02/06/2008 changes.

Attachment #14: Workload Service Data reports (2001-2008), RASCAL reports (2003-2008), and draft DOR forms (2005) showing handwritten changes to numbers reported under physical inspections scheduled and completed. Notations indicate the handwritten changes were made by Ms. Fewins.

Attachment #15: Department of Revenue's 02/26/2010 response to a Public Records request for relevant documents. Following are pertinent excerpts from 560 pages of e-mails and documents (reordered chronologically for this report):

- 04/20/2001 letter to Shawn Kyes, DOR Property Tax Division County Review Program Manager, from James Mosier, Pierce County Chief Appraiser: "As I detailed in our [04/13/2001] meeting, increasing workloads here in Pierce County have dictated that we revise the way we do business. In order to accomplish our mandated tasks, we are exploring all avenues to increase assessment accuracy and appraisal productivity while still adhering to statutory deadlines." [Tab C]
- 05/08/2002 e-mail from Sandy Guilfoil, DOR Property Tax Division Assistant Director: "I have left a message for Ken [Madsen]. His deputy is Kathy Fewins. She handles most of the business. She is probably the one I will talk to". [Tab D]
- 12/05/2002 e-mail from Cindy Boswell, DOR Property Tax Division Revaluation Specialist, to Ms. Fewins: "Kathy, I have received the Pierce County Revaluation Progress Report [for 2001]. Thanks for gathering the information. Hope your conversion is going smoothly". [Tab B]
- 10/12/2004 e-mail from Mr. Kyes: "Since September 2002 the division has made available an electronic folder in Outlook titled 'DOR PT County Issues' [Complaint Tracking System]. A search of this folder reveals no report was submitted in reference to this individual [Mr. Dorn] or Assessor [Mr. Madsen]. Having also reviewed my own files, and those of Revaluation, I have not found nor recall a discussion with [Mr. Dorn]." [Tab A]
- 10/22/2004 e-mail from Mr. Kyes: "Dan Thigpen [Tacoma News Tribune reporter].called for additional clarification on physical inspection requirements, CAMA, self-reporting of progress, and our oversight role. He has also asked for

- Revaluation Plan... Called and talked with Sally Barnes & Kathy Fewins @ Pierce Co. Discussed what they believe has led to the story and what [led to] the line of questions that have been asked of us. They appreciated the heads-up." [Tab M]
- 02/14/2005 e-mail from Peri Maxey, DOR Property Tax Division Assistant Director: "Ken Madsen just called to tell me he was going to fight this [recall] claim tooth and nail. He has hired an attorney, Joe Quinn... He said Joe would be calling me to find out more about revaluation and the rules behind it. He is trying to get facts to build their defense. Shawn [Kyes] is our revaluation manager who will provide most of the information for Mr. Quinn's questions." [Tab E]
 - 03/03/2009 e-mail from Brad Flaherty, DOR Property Tax Division Assistant Director: "In annual counties, assessors are required to physically inspect at least once every 6 years by statute... So yes, they should be doing a physical inspection, however the thoroughness of the inspection can be dependent on the specific property. We would not have granted a waiver to this requirement [to Pierce County] and we are not aware of any complaints from Pierce County regarding physical inspections. We did have an assessor from another county where this became an issue and we informed the assessor that the physical inspection was required." [Tab L]
 - 03/03/2009 e-mail from Mike Gowrylow, DOR Communications Director, to Tacoma News Tribune reporter Dave Wickert: "The Department has not granted any waivers to Pierce County regarding its statutory requirement to physically inspect properties every six years, nor do we have the authority to do so. The assessor's office provides us with annual reports on its work, and we are not aware of any problems with physical inspections. If the Department became aware of some problem in this area, it does have the power to order the assessor to perform the necessary physical inspections. It has not done that." [Tab I]
 - 03/04/2009 e-mail from Mr. Gowrylow: "I told Wickert that the reports we get from the county show that the county sometimes does more inspections than its target and sometimes does less, over time it appeared to even out so based on the reports, we don't see a problem. But I noted that we only know what they tell us." [Tab J]
 - 03/05/2009 e-mail from Ms. Boswell: "I do notice that we expanded the instructions for Table 2 beginning with the 2006 report to make it more clear to counties how we expected them to report inspections." [Tab P]
 - 03/05/2009 e-mail from Mr. Gowrylow to Mr. Wickert: "To summarize, the 'Physical Inspections and Appraisals' numbers in table 2 refer to physical inspections that were conducted and the properties revalued, and should not include any properties updated statistically. Those belong in the Statistical Update section." [Tab Q]
 - 03/11/2009 e-mail from Mr. Gowrylow in response to questions from Mr. Wickert: "What is a physical inspection? Must it include a visit to the site? We define a physical inspection as having a sufficient observation of the property to tell whether any changes have occurred to it. This can include driving by the property if that provides a sufficient view of the property. They do not have to actually touch the property unless that is needed to ascertain if any changes have been made, i.e. possible out-of-sight additions (which assessors normally would pick up anyway through building permits – unless no permit was sought). We do not consider any

type of electronic or statistical analysis to qualify as a physical inspection, and the progress reports we sent you earlier clearly differentiate between physical inspections and statistical updates. Was DOR aware that Pierce County was not visiting every parcel? No. The Department was not aware of this, nor has it sanctioned it. Moreover, there is nothing in the Pierce Co revaluation plan progress reports that the assessor's office filed with DOR, (signed by the assessor or the assessor's representative) that would cause us to question the assessor's practices. The reports indicate the assessor's office physically inspected 312,205 parcels, the reval plan called for physical inspections of 281,267 between 2002 and 2007, so our records indicate the office inspected 30,000 more than required. This would not be unusual as some properties are inspected twice when sold or with new constructions and additional parcels are created through segregations". [Tab R]

- 03/11/2009 e-mail from Mr. Wickert to Mr. Gowrylow: "I just got off the phone with Ken Madsen, the former assessor. He's basically arguing that the office 'touched' every parcel in the county as required by state law. He said that whether they 'physically inspected' the properties depends on what you mean by physical inspection. I've seen the WAC, which requires at a minimum an 'exterior observation', which to me means a pair of eyes on site. He also said DOR was aware of Pierce County's definition of physical inspection (which included statistical updates that did not include 'boots on the ground' inspections) and raised no objections. He also offered the 'everyone is doing it' defense, specifically mentioning King, Snohomish and Clark counties." [Tab U]
- 03/11/2009 e-mail from Mr. Gowrylow: "One problem is we really can't know if someone, somewhere along the line in the Property Tax Division may have informally acquiesced to the Pierce County assessor's definition of a physical inspection. We also don't know what some of the other counties mentioned (King, Clark and Snohomish) are going to say about this." [Tab T]
- 03/11/2009 e-mail from Kathy Beith, DOR Property Tax Division County Review Program Manager: "I've spoken with folks in King & Snohomish Counties. Both have assured me that they are annually completing their physical inspection requirements and that they understand that a physical inspection means actually physically viewing the property. I've left a message for the Clark County Assessor but have not heard back yet." [Tab S]
- 03/13/2009 e-mail from Mr. Gowrylow submitted for a DOR Monday Alert article (audience: Governor's Office and DOR management): "The Department has been questioned about allegations and later an admission by former Pierce County Assessor Ken Madsen that his office failed to physically inspect all properties every six years as required by state law. The assessor had filed annual reports with the Department claiming to have met his physical inspection goals, but critics charged that Madsen had used a liberal interpretation of what constituted a physical inspection, which under state law and Department rules must at a minimum include a visual observation of the properties. Madsen had been counting statistical analyses and other techniques as physical inspection without the Department's knowledge." [Tab K]

- 04/03/2009 DOR Revenue Update (audience: State legislators on DOR-related committees): "The Department is working with new Pierce County Assessor Dale Washam to help his office deal with the failure of his predecessor to physically inspect all properties every six years as required by state law. The previous assessor had filed annual reports with the Department claiming to have met physical inspection goals, but recently admitted that his staff did not actually visit each property as required. The Department will provide technical advice on how the assessor can bring the county back into compliance." [Tab F]
- 04/22/2009: e-mail from Ms. Beith: "...we've recently discovered that the [Pierce County] assessor put on a class regarding physical inspections in late 2007. They sent us information so that we could approve the class for continuing education hours. So, at that point, they were at least teaching their staff about physical inspections". [Tab N]
- 04/22/2009 e-mail from Leslie Cushman, DOR Deputy Director: "It is hard to disprove the absence of a contact. But we have official files and official records and we don't have tons of turnover. Our records and our memory are in line with each other." [Tab O]
- 06/02/2009 DOR Revenue Update: "The Department has been involved in an ongoing story in the Tacoma *News Tribune* about former Pierce County Assessor Ken Madsen's admission that he failed to conduct physical inspections of properties every six years. His successor, Dale Washam, claims he filed a complaint with the Department about this practice several years ago, and the Department did not respond. The Department has no record of ever receiving the complaint, and Madsen had submitted annual reports to the Department stating his office had conducted all required physical inspections. The Department has offered to assist the current assessor in getting physical inspections done. The Department is unaware of any property owners who were adversely affected by Madsen's failure to conduct the inspections, which are designed to determine if any significant change to the condition of the property would affect values that are set primarily through market analysis." [Tab G]
- 09/08/2009 DOR Monday Alert: "Pierce County Assessor Dale Washam released an Investigative Report that states the former Pierce County Assessor Ken Madsen falsified...reports to the Department of Revenue during [2001-2008] to conceal the omitted inspections...The Department of Revenue is working with the State Auditor's Office on this issue." [Tab H]

Attachment #16: Correspondence related to Pierce County Revaluation Plans for 2002-2007 and 2008-2013 submitted to DOR (from documents provided by Mr. Ugas):

- Revaluation Plans signed by Mr. Madsen 06/14/2001 and 06/28/2007: "I affirm that all property will be placed on the assessment rolls at its fair and true value in accordance with RCW 84.40.030 and WAC 458-07-025."
- Letter from Mr. Madsen to DOR dated 06/15/2001: "The Assessor Treasurer's office is in the process of having a performance audit conducted by an independent external consultant...Additionally, we have an antiquated computer system in place at this time. We are in the process of submitting an RFP for the purchase of a new

Computer Assisted Mass Appraisal (CAMA) system. The performance audit will not be complete for several months and the CAMA system may not be in place for a year or more. The findings in the performance audit and the potential implementation of a new CAMA system may have an impact on future business processes. However, it is my intention that any changes implemented will remain in compliance with RCW 84.40.030 and WAC 458-07-025."

- The approval letter to Mr. Madsen from DOR dated 08/28/2001 states: "After careful review, your revaluation plan is approved for the 2002-2007 revaluation cycle. Approval of your revaluation plan is subject to the following conditions... Physical inspections shall meet the requirements of RCW 84.41.041, WAC 458-12-326, and WAC 458-12-339... 100 percent of the parcels must be inspected and reappraised by the end of the revaluation cycle. Furthermore, operating under an annual revaluation cycle requires that during the intervals between each physical inspection of real property, the valuation of such property shall be adjusted to its current true and fair value based upon appropriate statistical data... The Department of Revenue should be notified if problems arise which could substantively limit the implementation and successful completion of your plan."
- The approval letter to Mr. Madsen from DOR dated 04/23/2008 states: "I reviewed your revaluation Plan for the 2008 through 2013 assessment years. The plan is based on a six-year physical inspection cycle and annual updating of values for all properties each year. Approval of your revaluation plan is subject to the following conditions... Physical inspections shall meet the requirements of RCW 84.41.041, WAC 458-07-015(4)... one hundred percent of the parcels must be inspected and reappraised by the end of the revaluation cycle... The Department should be notified of any problems that could limit the implementation and successful completion of your plan."
- Letter to Mr. Washam from DOR dated 06/24/2009 re: Modifications to the Pierce County Revaluation Plan: "First, I'd like to express my appreciation to you and your staff for your work to ensure that physical inspections are conducted on all properties in Pierce County... As you discovered, the prior assessor did not complete physical inspections as set forth in the revaluation plan filed with and approved by the Department."

Attachment 17: Letter from Tami Johnson to Robert Henkel (a Recall Petitioner) dated 10/19/2004: "I have received your request for access to public records dated 10/12/2004. The requested records are identified as the name of the appraiser who signed the 'Account Summary' documents as 'KMP' [for specified parcels]... The initials assigned to these parcels at the time of the update in 2001, KMP, are generic initials used during a computer update. Therefore, no specific appraiser's name exists for these records."

Attachment #18: Tacoma News-Tribune article published on or about 10/29/2004 (during the Madsen/Washam campaign for Assessor-Treasurer): "Madsen said the initials 'KM' do not mean he is signing off on the appraisals. Rather, he said, it was an arbitrary decision on his part to use his initials when looking for a generic way to designate computer-assisted valuations. Madsen also said that without the technology, the office would not be

able to keep pace with the county's exponential growth and would have to substantially increase staff."

Attachment #19: Declaration of Recall petitioner and former Pierce County Appraiser Lee Dorn dated 02/07/2005 (similar to statements in Mr. Dorn's 10/07/2004 Declaration in Mr. Ugas' Exhibit B).

Attachment #20: Pierce County Superior Court Declaration by Ms. Barnes dated 03/04/2005.

Attachment #21: Tacoma News-Tribune article published on or about 02/11/2005 (when Mr. Washam filed a recall petition): "... a judge will decide whether the charges are sufficient for a recall election. The judge will not consider the truth of the charges, but only whether they are sufficient to merit a recall [election]."

Attachment #22: Pierce County Superior Court Order on Sufficiency signed by Judge William Thomas McPhee 04/22/2004: "The first charge is not factually sufficient because the petitioners have not shown how Mr. Madsen used the Account Summary documents [A-2's] to determine assessments. Factual sufficiency is also lacking because the petitioners have not demonstrated their knowledge of Madsen's alleged intent to commit an unlawful act... Charge #1 is also legally insufficient. As a matter of law, the petitioners' charge does not identify substantial conduct amounting to misfeasance, malfeasance or violation of the oath of office... Charge #2 does not contain any demonstration of knowledge of Madsen's intent to commit an unlawful act or a showing of a willful violation of the law... The Court further finds that there is a 'legally cognizable justification' for Mr. Madsen's actions and therefore Charge #2 is not legally sufficient."

Attachment #23: DOR Property Tax Review newsletter, June 2007, Volume 8, Issue 2, pages 2-4: "Maximizing Your Investment in PI", by Cindy Boswell, DOR Revaluation Specialist (article brought to Mr. Madsen's attention by Mr. Hall): "What are the minimum requirements for a physical inspection? According to WAC 458-070-020, 'physical inspection' means, at a minimum, an exterior observation of the property to determine whether there have been changes in the physical characteristics that affect value. The property improvement record must be appropriately documented in accordance with the findings of the physical inspection... Physical inspection is so costly; why must we systematically inspect property? Taxpayers have a right to expect accurate and equitable assessments. The most labor intensive and costly phase of a revaluation is the physical inspection process, but good records provide a foundation to achieve accurate and equitable assessments."

Attachment #24: King County Superior Court deposition by Ms. Barnes dated 10/28/2008. First page only attached. See Mr. Ugas' Exhibit MM (Attachment #2).

Attachment #25: Chris Case's minutes of the 01/22/2009 and 01/23/2009 Assessor-Treasurer staff meetings at which the KMP issue was initially discussed with Mr. Washam.

Attachment #26: Cindy O'Neill's minutes of the 01/22/2009 Assessor-Treasurer staff meetings at which the KMP issue was initially discussed with Mr. Washam.

Attachment #27: Mr. Hall's minutes of the 01/22/2009 and 01/23/2009 Assessor-Treasurer staff meetings at which the KMP issue was initially discussed with Mr. Washam.

Attachment #28: Excerpts from articles from the Tacoma News Tribune:

- 03/12/2009: "The missed inspections occurred during the tenure of Washam's predecessor, Ken Madsen. On Wednesday, Madsen said his office 'touched' every parcel in Pierce County. But he acknowledged it didn't conduct 'boots on the ground' inspections of every property. When asked if the county had conducted the inspections in compliance with state law, Madsen said, 'It depends on what you mean by physical inspection.' Madsen said the state Department of Revenue was aware of the county's practices. A spokesman said the agency was not aware and never granted Pierce County an exemption from a state law requiring physical inspections at least every six years... Several current and former employees told The News Tribune that Madsen and his chief deputy, Kathy Fewins, decided not to physically inspect all properties. [Mr. Madsen] said other Washington counties use the same methods for physical inspections. And he said state Department of Revenue officials 'have not argued against the way we define physical inspection'."
- 03/12/2009: "In a written statement last week, Mike Gowrylow, a spokesman for the state Department of Revenue, said the department 'has not granted any waivers to Pierce County regarding its statutory requirement to physically inspect properties every six years, nor do we have the authority to do so... The (county) assessor's office provides us with annual reports on its work, and we are not aware of any problems with physical inspections,' he said. 'If the department became aware of some problem in this area, it does have the power to order the assessor to perform the necessary physical inspections. It has not done that.' In a follow-up statement Wednesday, Gowrylow said the department is 'not aware of any other counties that are improperly classifying statistical or electronic verification as physical inspections'."
- 03/13/2009: "Pierce County Assessor-Treasurer's Office employees have come forward to confirm the office skipped physical inspections of properties. So I asked the state Department of Revenue what – if anything – it will do to ensure the physical inspections are done here. Department spokesman Mike Gowrylow responded with the following statement:

While the Department is dismayed to learn that the previous assessor was inaccurately reporting the number of physical inspections he conducted, we are pleased to see that the current assessor is taking steps to correct the problem. We stand by to provide technical assistance to the assessor's office to help it conduct the physical inspections as required by state law. The law requires physical inspections, and we will be consulting with the assessor's office to make sure they get done.

The very purpose of the annual progress reports we require of assessors is to alert us to any problems they may be having in meeting their obligations, so we can step in to render whatever assistance we can. We can't help an assessor who conceals deficiencies by filing false reports. We appreciate the fact that assessors in many counties are under severe budget constraints that make it difficult for them to comply with property valuation laws, but that is no excuse for taking a liberal interpretation of what constitutes a physical inspection. The visual observation requirement is very clear in state law. However, there are no statutory penalties for failing to meet physical inspections requirements. Rather, following the law is the obligation of the elected county official. We expect these officials to comply with state law, and to manage their staffs to that end. Again, it is disappointing to learn that this wasn't happening in Pierce County'."

Attachment #29: Letters from Mr. Washam to the Washington State Attorney General and the State Auditor dated 03/25/2009: "As the newly elected Pierce County Assessor-Treasurer, I here by, on the behalf of the Pierce County Citizens/Taxpayers request that the office of the Washington State Attorney General/State Auditor, commence a full investigation, as to any violations of state law...as it pertains to the former Pierce County Assessor Treasurer filing County Revaluation Progress Reports with the State Department of Revenue in 2001, 2002, 2003, 2004, 2005, 2006, 2007 and 2008. Stating those said 228,140 physical inspections had been done when in fact, they had not been done. There is also the issue of someone having directed that the initials KMP be enter into official records at the Pierce County Assessor-Treasurer's office indicating those said 228,140 physical inspections had been done, when in fact, they had not been done."

Attachment #30: Performance Audit Special Study of Assessor-Treasurer Issues dated 03/30/2009 (excerpted):

Page 3: In recent years, it is clear that physical inspections did not take place once every six years for a large number of residential and commercial parcels in Pierce County.

Page 4: We met with officials of the Department of Revenue to discuss this matter and related issues. Although concerned that physical inspections did not occur as scheduled under the current revaluation plan*, the Department is not considering legal or administrative action against Pierce County, such as requesting the County Council to provide additional funding to increase staff.

At the meeting we also learned that the Department of Revenue does not plan to require the Assessor-Treasurer to conduct in 2009 the physical inspections that were scheduled but not conducted in 2008.

Instead, we were told that the Department of Revenue would be receptive to a proposal for a new Pierce County six-year revaluation plan, especially if the properties that should have been but were not inspected in 2008 are proposed for inspection in the first year of the new plan. The new plan would cover the years 2010 to 2015.

* Department officials also noted that Pierce County's 2008 annual "progress report" reported incorrectly that the scheduled physical inspections were accomplished.

D. Analysis

1. DOR provided public records of interactions with Pierce County which occurred during Mr. Madsen's terms as Assessor-Treasurer. In the documents provided, there was no record of Pierce County asking of receiving approval for including statistically updated properties as physical inspections.

2. In 2003 and 2004, Mr. Madsen/Ms. Fewins answered Not Applicable (N/A) to DOR County Revaluation Progress Report Question 4: "If you did not complete your scheduled inspections and appraisals for 2003/2004, have you corrected for this in the remaining years of the revaluation cycle?" The question was not asked in subsequent years.

3. The Certification Codes on KMP records were not used to generate any internal or external reports. The error made in using Certification Code 7 (Observed) in 2004 was corrected to Certification Code 6 (In-Office) in 2005-2008.

4. I analyzed the Workload Service Data (WSD) reports, RASCAL reports, draft Progress Reports, and the final Progress Reports submitted to DOR. Ms. Brammer drafted the DOR Progress Reports from the RASCAL report; Ms. Fewins made handwritten alterations to numbers on the drafts; Ms. Brammer made Ms. Fewins' corrections; Mr. Madsen signed the reports, which were then submitted to DOR. There was no back up documentation presented to support the altered numbers. The following chart summarizes the various numbers in various reports:

Assess Year	RASCAL/ DOR Physical Inspections Scheduled	WSD Physical Inspections Completed	RASCAL Physical Inspections Completed	DOR Physical Inspections Completed	DOR Percent Completed	Notes
2001	47039	47077	47077	47077	100%	
2002	36049	44925	37109	39509	110%	Exactly 2400 more reported to DOR
2003	44788	56283	56283	56283	126%	
2004	65670	54327	54327	54327	83%	
2005	53896	53896	72078	68078	126%	Exactly 4000 less reported to DOR
2006	55133	55133	79583	79583	144%	
2007	44249	44176	44176	39806	90%	
2008	37174	36987	35591	36404	98%	

Notes:

- 2001 and 2002 data was collected from the supervisor of each area.
- The RASCAL report was implemented in 2004 to report 2003 data.
- For 2001-2004 assessment years, the WSD report shows **completed** physical inspections.
- For 2005-2008 assessment years, the WSD report was changed by Budget & Finance to show **scheduled** physical inspections.
- In the instructions for Section 2 Revaluation Progress/Status for 2006, DOR added: "Physical Inspections/Number Completed should reflect regularly scheduled revaluation inspections and not include additional inspections related only to sales confirmations, new construction or appeals."
- On 05/17/2006, Ms. Fewins directed Mr. Dill to continue to show the number of physical inspections **scheduled based upon PI areas** but change the number of physical inspections completed to include **all completed physical inspections regardless of PI area** in the RASCAL report. On 02/06/2008, Ms. Barnes told Mr. Dill to restore the original code.
- For 2008, the RASCAL report was revised to show completed physical inspections based on Land or Improvement Appraisal date within a date range.

E. Laws and Policies

Pierce County Code Chapter 3.40.040 Cause for Discipline (excerpted):

3. Willful or negligent disobedience of any law, ordinance, County rule, departmental policy of regulation, or a supervisor's lawful order.

10. Falsification of a relevant official statement or document.

RCW 84.41.041: Physical inspection and valuation of taxable property required — Adjustments during intervals based on statistical data.

Each county assessor shall cause taxable real property to be physically inspected and valued at least once every six years in accordance with RCW _____, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan shall provide that a reasonable portion of all taxable real property within a county shall be revalued and these newly determined values placed on the assessment rolls each year. Until January 1, 2014, the department may approve a plan that provides that all property in the county be revalued every two years. If the revaluation plan provides for physical inspection at least once each four years, during the intervals between each physical inspection of real property, the valuation of such property may be adjusted to its current true and fair value, such adjustments to be based upon appropriate statistical data. If the revaluation plan provides for physical inspection less frequently than once each four years, during the intervals between each physical inspection of real property, the valuation of such property shall be adjusted to its current true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data.

The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property.

WAC 458-07-015: Revaluation of real property — Annual counties. [excerpted]

(1) **Appropriate statistical data defined.** In any county where all real property is revalued each year, the assessor must revalue the property at its current true and fair value using appropriate statistical data. For purposes of this chapter, "appropriate statistical data" means the data required to accurately adjust real property values and includes, but is not limited to, data reflecting costs of new construction and real property market trends.

(3) **Appraisal processes.** Appropriate statistical data shall be applied to revalue real property to current true and fair value using one or more of the following processes:

- (a) Multiple or linear regression;
- (b) Sales ratios;
- (c) Physical inspection; or
- (d) Any other appropriate statistical method that is recognized and accepted with respect to the appraisal of real property for purposes of taxation.

(4) **Physical inspection cycles.**

(a) For purposes of this chapter, "physical inspection" means, at a minimum, an exterior observation of the property to determine whether there have been any changes in the physical characteristics that affect value. The property improvement record must be appropriately documented in accordance with the findings of the physical inspection. In a county where all real property is revalued at its current true and fair value each year, using appropriate statistical data, the assessor must physically inspect all real property at least once within a six-year time period.

(b) Physical inspection of all the property in the county shall be accomplished on a proportional basis in cycle, with approximately equal portions of taxable property of the county inspected each year. Physical inspections of properties outside of the areas scheduled for physical inspection under the plan filed with the department (see WAC 458-07-025) may be conducted for purposes of validating sales, reconciling inconsistent valuation results, calibrating statistical models, valuing unique or nonhomogeneous properties, administering appeals or taxpayer reviews, documenting digital images, or for other purposes as necessary to maintain accurate property characteristics and uniform assessment practices. All properties shall be placed on the assessment rolls at current true and fair value as of January 1st of the assessment year.

(c) In any year, when the area of the county being physically inspected is not completed in that year, the portion remaining must be completed before beginning the

physical inspection of another area in the succeeding year. All areas of the county must be physically inspected within the cycle established in the revaluation plan filed with the department.

RCW 84.41.120: Assessor to keep records — Orders of department of revenue, compliance enjoined, remedies.

Each county assessor shall keep such books and records as are required by the rules and regulations of the department of revenue and shall comply with any lawful order, rule or regulation of the department of revenue.

Whenever it appears to the department of revenue that any assessor has failed to comply with any of the provisions of this chapter relating to his duties or the rules of the department of revenue made in pursuance thereof, the department of revenue, after a hearing on the facts, may issue an order directing such assessor to comply with such provisions of this chapter or rules of the department of revenue. Such order shall be mailed by registered mail to the assessor at the county court house. If, upon the expiration of fifteen days from the date such order is mailed, the assessor has not complied therewith or has not taken measures that will insure compliance within a reasonable time, the department of revenue may apply to a judge of the superior court or court commissioner of the county in which such assessor holds office, for an order returnable within five days from the date thereof to compel him to comply with such provisions of law or of the order of the department of revenue or to show cause why he should not be compelled so to do. Any order issued by the judge pursuant to such order to show cause shall be final. The remedy herein provided shall be cumulative and shall not exclude the department of revenue from exercising any powers or rights otherwise granted.

RCW 84.41.130: Assessor's annual reports.

Each county assessor, before October 15th each year, shall prepare and submit to the department of revenue a detailed report of the progress made in the revaluation program in his or her county to the date of the report and be made a matter of public record. Such report shall be submitted upon forms supplied by the department of revenue and shall consist of such information as the department of revenue requires.

RCW 84.08.080 Department to decide questions of interpretation.

The department of revenue shall, with the advice of the attorney general, decide all questions that may arise in reference to the true construction or interpretation of this title, or any part thereof, with reference to the powers and duties of taxing district officers, and such decision shall have force and effect until modified or annulled by the judgment or decree of a court of competent jurisdiction.

DOR Reference Manual for County Assessors (11/2006)

State law requires the county assessor to reappraise the value of real property at least once every four years. However, at the assessor's discretion, all property can be reappraised more frequently in order to ease the impact of rapidly inflating real estate values or, conversely, to reduce assessed values when the values of real estate fall. This may be most effectively accomplished with annual revaluation. If adopted, this method allows considerable flexibility in the frequency of physical inspection of property, ranging from annual to up to once each six years while revaluation of properties not physically inspected is accomplished by means of statistical analysis. However, any deviation from the basic four-year revaluation / four-year inspection cycle must be approved by the Department of Revenue. Any taxpayer that disagrees with the value determined by the assessor has the right to appeal the valuation to the county board of equalization.

Washington State Attorney General Opinion AGLO 1969, No. 15

"...In considering the question of whether or not certain assessors, in their valuation of the plaintiffs' properties, had violated the various federal and state constitutional requirements of uniformity in taxation, the court said:

"The evidence indicates quite clearly that, to the best of their ability, and with their limited staffs, the assessors involved were honestly endeavoring to pursue a systematic nondiscriminatory cyclical approach to revaluation. In this vein it is to be borne in mind that the statute (RCW 84.41.040) requires a physical inspection of each of the parcels revalued and that King County had some 400,000 and Snohomish County some 250,000 parcels subject to revaluation. The sheer physical problem of annually inspecting the units of property involved, coupled with the staff and budgetary allocations required to accomplish such, lends wisdom to the legislative act authorizing and directing a cyclical approach..."

Washington State Attorney General Letter Opinion AGLO 1980, No. 25

"Under what circumstances is a physical inspection required as a part of a revaluation of a parcel of real property?"

We believe that the answer to this question is clear from the language of RCW 84.41.041, supra, and is essentially the same as that which we indicated in AGO 1969 No. 15, supra, under the statutory predecessor thereto. In general, no revaluation can take place without a physical inspection.

RCW 84.41.041 does, however, contain one exception to this general rule:

". . . During the intervals between each physical inspection of real property, the valuation of such property may be adjusted to its current true and fair value, such adjustments to be based upon appropriate statistical data."

We understand from the Department of Revenue that relatively few counties have programs utilizing the types of statistical adjustments contemplated by this exception and that those programs must in every case meet standards established by the department before they can be implemented as part of a revaluation plan. Accordingly, in the absence of a departmentally approved revaluation program which includes the use of statistical updating, a physical inspection is still required before any parcel of real property may be revalued.

IV. Findings and Summary

Based on my investigation, I reached the following conclusions:

1. Was Ms. Barnes the person who made the decision to enter and count statistical updates to property values as physical inspections?

Finding: No. Ms. Barnes was directed to enter and count statistical updates as physical inspections by Ms. Fewins. Ms. Barnes was told by Ms. Fewins that the Washington Department of Revenue was aware that Pierce County was counting statistical updates as physical inspections.

2. If so, did Ms. Barnes violate Washington State laws in giving directions, submitting reports, and/or providing statements to this effect?

Finding: Not applicable. Ms. Barnes was following what she perceived to be the lawful order of her superiors.

3. If not Ms. Barnes, who made the decision to enter and count statistical updates to property values as physical inspections?

Finding: Mr. Madsen and Ms. Fewins made the decision and directed their subordinates to enter and count statistical updates as physical inspections.

4. Did the decision-maker violate Washington State laws in giving directions, submitting reports, and/or providing statements to this effect?

Finding: Mr. Madsen did not request nor did the Department of Revenue approve counting statistical updates as physical inspections. Authority to interpret the statute rests with the Department of Revenue, not the Pierce County Assessor-Treasurer.

Following are my Findings restated in terms of the specific language (in quotation marks) used in Mr. Ugas' complaint and Declaration:

- From 2001-2008, required physical inspections were not "being conducted in full compliance to state laws".
- Reporting statistically updated and physically inspected properties as Physical Inspections without DOR's knowledge or approval "deceive[d] the authorities".
- There was no "administration of Ms. Barnes". Ms. Barnes was a subordinate manager in the administration of Mr. Madsen and Ms. Fewins.

- Ms. Barnes did not "unlawfully direct" the process of statistical updates in lieu of physical inspections. Ms. Barnes obeyed what she had been assured were the lawful orders of her superiors.
- No "falsified appraiser initials" were used. The statistically updated records were clearly indicated by the initials KMP in the appraiser field.
- No "Falsified Certification Codes" were used. Prior Certification codes were not updated for 2001-2003. The error made in using Certification Code 7 (Observed) in 2004 was corrected to Certification Code 6 (In-Office) in 2005-2008. Since the Certification Codes on KMP records were not used to generate any internal or external reports, no one was misled by the errors.
- The KMP initials and Certification Codes were official data but not "official assessment records".
- Statistical updates were "back-dated and future-dated" to coincide with the completion of actual physical inspections in a PI Area. Once all physical inspections were entered, the remaining properties were updated statistically.
- There was no "elaborate scheme of fabricated appraisals" to "conceal illicit actions". The statistically updated records with the initials KMP clearly indicated that no physical appraisal had been done.
- Ms. Barnes did not "violate her sworn oath" in obeying what she had been assured were the lawful orders of her superiors.
- Ms. Barnes did not make "false material statements" in her 03/04/2005 Declaration. Ms. Barnes Declaration responded narrowly (but not falsely) to the Petitioners' claims.
- Ms. Barnes did not make "false material statements" in her 10/28/2008 deposition. Ms. Barnes repeatedly indicated that Ms. Fewins made all the decisions regarding the commercial property appraisal process during the period in question and that Mr. Hall was the appropriate witness to respond to technical questions about commercial appraisals.

In summary, I concluded: Former Assessor-Treasurer Ken Madsen and Deputy Assessor-Treasurer Kathy Fewins directed Sally Barnes and the other Assessor-Treasurer employees to enter and count statistically updated property records (with the designated initials KMP) as physically inspected properties in reports submitted to Pierce County Budget & Finance and the Washington Department of Revenue from 2001-2008. Having been assured by Mr. Madsen and Ms. Fewins that the Washington Department of Revenue knew Pierce County was reporting statistical updates as physical inspections, Sally Barnes and the other Assessor-Treasurer employees thought they were carrying out their superiors' lawful orders in so doing. Mr. Madsen broadly interpreted the statute regarding physical inspections without the required approval from the Department of Revenue.

DISCLAIMER

The information in this Report is based on statements made by the Pierce County Assessor-Treasurer employees referenced and the documents made available to me in the course of this investigation from 12/21/2009 to 03/19/2010.

This Report concludes a full and complete investigation of the 2000-2008 Pierce County physical-inspection issue and the allegations in the 11/30/2009 Whistleblower Complaint.


Deborah Diamond

Attachments