
HOUSE BILL 2059

State of Washington

60th Legislature

2007 Regular Session

By Representatives Miloscia, Schindler, Kelley, Eddy, Quall, McCune, Simpson and Hurst

Read first time 02/06/2007. Referred to Committee on Housing.

1 AN ACT Relating to the property valuation of affordable multifamily
2 rental housing; amending RCW 84.40.030; creating a new section; and
3 declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 84.40.030 and 2001 c 187 s 17 are each amended to read
6 as follows:

7 All property shall be valued at one hundred percent of its true and
8 fair value in money and assessed on the same basis unless specifically
9 provided otherwise by law.

10 Taxable leasehold estates shall be valued at such price as they
11 would bring at a fair, voluntary sale for cash without any deductions
12 for any indebtedness owed including rentals to be paid.

13 The true and fair value of real property for taxation purposes
14 (including property upon which there is a coal or other mine, or stone
15 or other quarry) shall be based upon the following criteria:

16 (1) Any sales of the property being appraised or similar properties
17 with respect to sales made within the past five years. The appraisal
18 shall be consistent with the comprehensive land use plan, development
19 regulations under chapter 36.70A RCW, zoning, and any other

1 governmental policies or practices in effect at the time of appraisal
2 that affect the use of property, as well as physical and environmental
3 influences. An assessment may not be determined by a method that
4 assumes a land usage not permitted, for that property being appraised,
5 under existing zoning or land use planning ordinances or statutes. The
6 appraisal shall also take into account: (a) In the use of sales by
7 real estate contract as similar sales, the extent, if any, to which the
8 stated selling price has been increased by reason of the down payment,
9 interest rate, or other financing terms; and (b) the extent to which
10 the sale of a similar property actually represents the general
11 effective market demand for property of such type, in the geographical
12 area in which such property is located. Sales involving deed releases
13 or similar seller-developer financing arrangements shall not be used as
14 sales of similar property. Sales of affordable multifamily housing
15 involving nonprofits or housing authorities shall not be used as sales
16 of similar property, nor may any other transaction involving an
17 affordable multifamily rental housing project be used, when the price
18 paid does not reflect government restrictions on use, actual net
19 operating income, and typical investor motivations or financing. Sales
20 of conventional multifamily projects that have no affordable rent
21 restrictions shall not be used as sales of similar housing without
22 applying a cash equivalency and a net operating income adjustment. The
23 sales comparison approach shall be deemed secondary to the direct
24 capitalization of income approach.

25 (2) In addition to sales as defined in subsection (1) of this
26 section and except as otherwise provided, consideration may be given to
27 cost, cost less depreciation, reconstruction cost less depreciation, or
28 capitalization of income that would be derived from prudent use of the
29 property. In the case of property of a complex nature, or being used
30 under terms of a franchise from a public agency, or operating as a
31 public utility, or property not having a record of sale within five
32 years and not having a significant number of sales of similar property
33 in the general area, except as otherwise provided, the provisions of
34 this subsection shall be the dominant factors in valuation. When
35 provisions of this subsection are relied upon for establishing values
36 the property owner shall be advised upon request of the factors used in
37 arriving at such value.

1 (3) For the purposes of determining the true and fair value of
2 affordable multifamily rental housing:

3 (a) The cost approach shall not be utilized unless appropriate
4 adjustments are made to reflect economic obsolescence based upon the
5 project's actual net operating income in addition to any functional
6 obsolescence factors. The cost approach shall be deemed secondary to
7 the direct capitalization of income approach;

8 (b) Primary consideration shall be given to the direct
9 capitalization of income approach utilizing actual annual net operating
10 income after deduction of stabilized operating expenses. Both income
11 and expenses shall be based upon the actual operating history of the
12 property. A capitalization rate shall be set subject to the following:

13 (i) The risks associated with multiunit rental housing subject to
14 a government restriction on use, including but not limited to
15 diminished ownership control, income generating potential, and
16 liquidity shall be considered;

17 (ii) Tax credits and subsidized financing shall not be considered;
18 and

19 (iii) The capitalization rate that is set pursuant to this
20 subsection (3) must be equal to or greater than the capitalization rate
21 used for valuing multiunit rental housing that is not subject to
22 government restrictions on use;

23 (c) The taxable value of any personal property separately assessed
24 shall be deducted from the determination under the direct
25 capitalization approach to reach the true and fair value of the real
26 property;

27 (d) Within sixty days from the date of the expiration of the
28 government restrictions it shall be the obligation of the property
29 owner to notify the county assessor's office, in which the property is
30 located, that the property is no longer rent-restricted. After receipt
31 of such notice, the county assessor shall revalue such property for the
32 next assessment date as a conventional multifamily project;

33 (e) The property owner shall be subject to a penalty for failing to
34 notify the county assessor within sixty days from the date of the
35 expiration of the government restrictions, which shall be equal to
36 one-tenth of one percent of the true and fair value of the property as
37 redetermined by the county assessor for the county in which the
38 property is located; and

1 (f) The property owner shall provide the county assessor's office,
2 in the county in which the property is located, with any of the
3 following information, at the request of the county assessor:

4 (i) A minimum of two years of income and expense data preceding the
5 assessment year, which may include either audited or unaudited data;

6 (ii) A copy of a December rent roll preceding the assessment date
7 at issue;

8 (iii) A copy of the regulatory or loan agreement; or

9 (iv) Any other documentation demonstrating that the project meets
10 the definition of affordable multifamily rental housing as defined in
11 subsection (4) of this section.

12 (4) For the purposes of this section, "affordable multifamily
13 rental housing" means a project of four or more residential dwelling
14 units that is subject to government restrictions on use that limit the
15 rental of the units to qualified tenants in exchange for a government
16 incentive, including but not limited to the following:

17 (a) A low-income housing tax credit under 26 U.S.C. Sec. 142 of the
18 federal internal revenue code, as amended on January 1, 2007;

19 (b) Financing derived from exempt facility bonds for qualified
20 residential rental projects under 26 U.S.C. Sec. 142 of the federal
21 internal revenue code as amended on January 1, 2007, or financing
22 derived from nonhospital bonds under 26 U.S.C. Sec. 501(c)(3) of the
23 federal internal revenue code, as amended on January 1, 2007;

24 (c) A low interest loan under 12 U.S.C. 1715z or 1715z-1 of the
25 national housing act, as amended on January 1, 2007, or under 42 U.S.C.
26 1485 of the federal housing act of 1949, as amended on January 1, 2007;

27 (d) A government rent subsidy;

28 (e) A government guaranteed loan; or

29 (f) A rural development 515 low-interest multifamily loan.

30 (5) In valuing any tract or parcel of real property, the true and
31 fair value of the land, exclusive of structures thereon shall be
32 determined; also the true and fair value of structures thereon, but the
33 valuation shall not exceed the true and fair value of the total
34 property as it exists. In valuing agricultural land, growing crops
35 shall be excluded.

36 NEW SECTION. Sec. 2. This act applies to all affordable
37 multifamily rental housing existing on or after the effective date of

1 this act, as well as any affordable multifamily rental housing projects
2 with valuation appeals pending before any Washington county board,
3 Washington state appeals board, or any Washington state court as of the
4 effective date of this act.

5 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

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