COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

JANE YURTIS,	)	**No. 29493-5-III**
	)	
Appellant,	)	
	)	
v.	)	**ORDER GRANTING**
	)	**MOTION FOR**
JANET WALKER, PEND OREILLE COUNTY ASSESSOR,	)	**RECONSIDERATION**
	)	
	)	
Respondent.	)	

The court has considered appellant's motion for reconsideration and is of the opinion the motion should be granted. Therefore,

IT IS ORDERED the motion reconsideration of this court's decision of March 3, 2011, is hereby granted and the opinion shall be amended as follows:

On page 2 under "FACTS," the third sentence of the first paragraph which reads, "Ms. Yurtis's home fronts onto Chippewa Avenue, while Lot 80 has no direct access to Chippewa Avenue" shall be deleted.

DATED:

PANEL: Judges Kulik, Brown, and Korsmo

FOR THE COURT:

_____

TERESA C. KULIK
CHIEF JUDGE

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

JANE YURTIS,	)	**No. 29493-5-III**
Appellant,	)	
	)	**Division Three**
v.	)	
	)	
JANET WALKER, PEND OREILLE COUNTY ASSESSOR,	)	**UNPUBLISHED OPINION**
	)	
Respondent.	)	

Kulik, C.J. — Jane Yurtis owns a vacant lot next to her home in Pend Oreille County (hereinafter Lot 80). The assessor valued Lot 80 at $11,108, but Ms. Yurtis contends the lot is worth $4,500. She challenged the assessor's valuation before the Board of Equalization (BE) and the Board of Tax Appeals (BTA). Both boards rejected her claim. The superior court affirmed the BTA's ruling that Ms. Yurtis failed to submit any competent or credible evidence that the assessor's valuation was wrong. We agree. Accordingly, we affirm the BTA's valuation of the property at $11,108.

FACTS

Jane Yurtis owns Lot 80, a vacant lot next to her home in Ione, Pend Oreille County. Ms. Yurtis's home has water and sewer service but, currently, Lot 80 does not.

In 2005, an assessor valued Lot 80 at $11,108.[1] This figure was based on the sales

of comparable property. Ms. Yurtis argues that Lot 80 is worth $4,500, which is less than the price she purchased the lot for 20 years earlier. She maintains that Lot 80 is worth only $4,500 because it lacks services and does not front onto Chippewa Avenue.

Ms. Yurtis challenged the assessment before the BE. The BE affirmed the assessment. Ms. Yurtis then had a formal hearing before the BTA. The BTA determined that Ms. Yurtis failed to offer any documentation or evidentiary material to support her valuation. The BTA entered a finding stating that: "The Owner provides no evidence of value for the subject property." Clerk's Papers (CP) at 31.

Ms. Yurtis appealed to superior court. The superior court also found that Ms. Yurtis had not submitted any evidence of fair market value. In addition, the court found the $4,500 figure was not credible because it was less than the amount Ms. Yurtis paid for the lot 20 years ago. The court upheld the assessor's valuation of $11,108 and dismissed Ms. Yurtis's petition for judicial review. Ms. Yurtis then unsuccessfully sought direct review before the Washington Supreme Court. This appeal followed.

ANALYSIS

Judicial review of an agency is governed by Washington's Administrative

[1] The BE order refers to the vacant lot as "Lot 81." Clerk's Papers at 55-56. However, all other documents refer to the vacant lot as Lot 80. Ms. Yurtis refers to her residential lot as "lot 81." Appellant's Br. at 5. Ms. Yurtis and the BTA agree the valuation dispute relates to vacant Lot 80.

Procedure Act (APA), chapter 34.05 RCW. This court shall grant relief from an agency order in an adjudicative proceeding only if it determines:

> (a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;
>
> . . . .
>
> (c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;
>
> (d) The agency has erroneously interpreted or applied the law;
>
> (e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;
>
> (f) The agency has not decided all issues requiring resolution by the agency.

RCW 34.05.570(3).

When reviewing the decision of an administrative board, the appellate court stands in the same shoes as the superior court. *Farm Supply Distribs., Inc. v. Wash. Utils. & Transp. Comm'n*, 83 Wn.2d 446, 448, 518 P.2d 1237 (1974). Accordingly, we review the BTA's decision, not the decision of the superior court. *See Energy Nw. v. Hartje*, 148 Wn. App. 454, 463, 199 P.3d 1043 (2009). Generally, this court's review is limited to the record before the administrative board. RCW 34.05.558. Ms. Yurtis bears the burden of showing the BTA's decision was invalid. RCW 34.05.570(1)(a).

Ms. Yurtis challenges the assessor's determination of value. The value of the property for purposes of ad valorem taxation is market value. RCW 84.40.030(1); *see Welch Foods, Inc. v. Benton County*, 136 Wn. App. 314, 325-26, 148 P.3d 1092 (2006). The assessor's valuation is presumed to be correct unless Ms. Yurtis presents "clear,

cogent and convincing evidence" to the contrary. RCW 84.40.0301.

Initially, Ms. Yurtis contends the superior court erred by limiting the record submitted by the BTA. She asserts the superior court erred by failing to admit other evidence of the contents of the "inaudible" portions of the hearing transcript. Appellant's Br. at 2. Generally, the APA precludes appellate review of issues not raised before the agency. RCW 34.05.554. Ms. Yurtis fails to meet the standards that would allow her to raise the admissibility of the "inaudible" portions on review.

Ms. Yurtis's primary argument that Lot 80's value is $4,500 is that Lot 80 does not have water and sewer services and does not front onto Chippewa Avenue. But Ms. Yurtis provides no competent evidence to support her valuation. At the August 1, 2006 hearing before the BTA, the following exchange took place:

> HEARING OFFICER GARDENER: . . . Is that the value you wish to use?
> MS. YURTIS: Yes.
> HEARING OFFICER GARDENER: Okay. Thank you.
> I have no evidence from Ms. Yurtis at all in the county board information, nor do I have—the only evidence I have from you, Ms. Yurtis, is a map.
> MS. YURTIS: Yes.
> HEARING OFFICER GARDENER: So you're providing no other evidence?
> MS. YURTIS: That's correct.

CP at 83-84.

The assessor provided evidence of four sales for comparison with Lot 80, each of the sale properties lacked sewer connections and each of the sale properties sold in excess

of the assessor's valuation for Lot 80. Ms. Yurtis provided no evidence to contradict the assessor's determination that the highest and best use of Lot 80 was as a residential property.

Ms. Yurtis challenges the BTA's finding of fact 4, which reads: "An easement owned by the Chippewa Water District exists through *Lot 84*." CP at 31 (emphasis added). An appellate court will uphold challenged findings of fact and treat them as verities on appeal if the findings are supported by substantial evidence. *In re Estate of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004). Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of the premise asserted. *State v. Halstien*, 122 Wn.2d 109, 129, 857 P.2d 270 (1993).

The BTA transcript does not contain any clear statements indicating that the Chippewa Water District owned an easement through Lot 84, a neighboring lot. James McCroskey, a former Pend Oreille County assessor, explains, "That's usually the way it works. I'm not sure about the Chippewa Water District." CP at 94. However, even if we assume that finding of fact 4 is not supported by sufficient evidence, the remaining findings are sufficient to support the BTA's conclusion.

The valuation prepared by the assessor valued Lot 80 at $11,108 and stated:

> This decision is based on our finding that: *Based on comparables presented by the Appraiser for like size land without water or sewer, but having water available* and those parcels one to three years ago for from $12,000 to $15,000, *and the fact that the subject property,[Lot 80], would have water and sewer if an easement were given* for such, thus making those utilities available.

CP at 55 (emphasis added).

Moreover, the BTA's finding of fact 3 states: "Because of the street vacation, water and sewer connections for the subject parcel would require an easement through the Owner's Lot 81 or neighboring Lot 84." CP at 31. This finding supports the valuation given by the assessor. The assessor provided comparable values for land the same size as Lot 80 and without water or sewer. In his explanation, the assessor names the lot that could supply the easement, Lot 81. Significantly, Lot 81 is Ms. Yurtis's home. Without more evidence, the fact that the Chippewa Water District does or does not have an easement through Lot 84 is irrelevant.

In her brief, Ms. Yurtis contends that several other findings of fact constitute error. We treat these findings as verities on appeal because Ms. Yurtis has failed to include each of these findings as separate assignments of error in her brief. RAP 10.3(g). Pro se litigants are held to the same standard and same rules of procedures as attorneys. *Westberg v. All-Purpose Structures, Inc.*, 86 Wn. App. 405, 411, 936 P.2d 1175 (1997).

Ms. Yurtis also contends that the assessor's valuation of Lot 80 was incorrect because it presumes that water is available for an easement. The assessor's valuation was based on comparable properties. Ms. Yurtis presented no competent evidence showing by clear, cogent, and convincing evidence that the assessor's valuation was incorrect.

Accordingly, we affirm the BTA's valuation of the lot at $11,108.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

_____
Kulik, C.J.

WE CONCUR:

_____ _____
Brown, J. Korsmo, J.