

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
DAVID & AMBER PAGE FROM)
A DECISION OF THE WASHAKIE) Docket No. 2009-118
COUNTY BOARD OF EQUALIZATION)
- 2009 PROPERTY VALUATION)

DECISION AND ORDER

APPEARANCES

David Page and Amber Page (Taxpayers) appeared pro se.

Kathryn J. Treanor, Washakie County Assessor (Assessor), appeared pro se.

DIGEST

This is an appeal from a decision of the Washakie County Board of Equalization (County Board) affirming the Assessor's valuation of Taxpayers' residential property for 2009 tax purposes. Taxpayers sent a letter to the State Board of Equalization (State Board) filed effective August 28, 2009 appealing the County Board decision.

Taxpayers and the Assessor filed briefs as allowed by an October 9, 2009, State Board Briefing Order. Taxpayers requested oral argument in their Notice of Appeal, which the State Board heard on January 11, 2010.

The State Board, comprised of Chairman Thomas D. Roberts, Vice Chairman Steven D. Olmstead, and Board Member Deborah J. Smith, considered Taxpayers' letter appeal notice, briefs of the parties, County Board record, parties' oral arguments, and decision of the County Board.

We evaluate Taxpayers' appeal of the County Board decision against our standard of review, which is whether the decision was arbitrary, capricious, unsupported by substantial evidence, and/or contrary to law. *Rules, Wyoming State Board of Equalization, Chapter 3 § 9.*

We affirm the decision of the County Board.

ISSUES

Taxpayers assert the County Board erred in affirming the Assessor's valuation, arguing generally the County Board decision was not supported by substantial evidence and identifying four specific points:

- 1) The County Board of Equalization failed to recognize and act upon a preponderance of evidence that the CAMA [computer assisted mass appraisal] system was not equally applied to all property and that it did not achieve essential fairness.
- 2) The total valuation amounts shown on our assessment Notices are figured on the "Cost" approach (RCN), not the Market approach and use a cost guide (Marshall & Swift/Boeckh, LLC) that is unrealistic and that does not reflect a true "fair market value" as is required by Wyoming Statute Section 39-13-103(b)(ii).
- 3) We also feel that the State Board of Equalization has a responsibility to recognize that the Local Board of Equalization needs to be made up of individuals other than the County Commissioners so there will not be a conflict of interest. And
- 4) Specific explanations need to be provided and shown to us (by the assessor or someone else who can explain it) that what has been happening and what is happening in the case of the assessments on our property is fair and equitable and not arbitrary and capricious.

[*Taxpayers' Opening Brief*, p. 3]. Taxpayers also generally argue the County Board decision was in error because the valuation of their property and improvements was not adequately explained by the Assessor. [*Taxpayers' Opening Brief*; *Taxpayers' Reply Brief*].

The Assessor argues Taxpayers' property was valued in accordance with the Department of Revenue (Department) rules and regulations using the Computer Assisted Mass Appraisal (CAMA) system and cost guides provided by the Department which were applied uniformly and fairly to like properties. [*Assessor's Brief*].

Taxpayers, in order to prevail, must establish the County Board decision was not supported by substantial evidence and/or the County Board acted unlawfully, arbitrarily, or capriciously in affirming the Assessor's value for 2009 tax purposes.

PROCEEDINGS BEFORE THE COUNTY BOARD

The County Board conducted a hearing on July 17, 2009, at which Ms. Page and the Assessor each testified and presented exhibits. Taxpayers appeared pro se and the Assessor was represented by William Shelledy, Washakie County and Prosecuting Attorney. The County Board entered its Final Order on August 4, 2009, affirming the Assessor's 2009 fair market valuation for Taxpayers' property. [County Board Record, pp. 9, 125–127].

JURISDICTION

The State Board is required to “hear appeals from county boards of equalization.” *Wyo. Stat. Ann. § 39-11-102.1(c)*. Taxpayers' letter notice of appeal from the County Board's Final Order dated August 4, 2009, was filed timely with the State Board effective August 28, 2009. *Rules, Wyoming State Board of Equalization, Chapter 3 § 2(a)*.

STANDARD OF REVIEW

When the State Board hears appeals from a County Board, it acts as an intermediate level of appellate review. *Laramie County Board of Equalization v. Wyoming State Board of Equalization*, 915 P.2d 1184, 1188 (Wyo. 1996); *Union Pacific Railroad Company v. Wyoming State Board of Equalization*, 802 P.2d 856, 859 (Wyo. 1990). In its appellate capacity, the State Board treats the County Board as the finder of fact. *Id.* In contrast, the State Board acts as the finder of fact when it hears contested cases on appeal from final decisions of the Department of Revenue (Department). *Wyo. Stat. Ann. § 39-11-102.1(c)*. This sharp distinction in roles is reflected in the State Board Rules governing the two different types of proceedings. *Compare Rules, Wyoming State Board of Equalization, Chapter 2 with Rules, Wyoming State Board of Equalization, Chapter 3*. Statutory language first adopted in 1995, when the State Board and the Department were reorganized into separate entities, does not express the distinction between the State Board's appellate and de novo capacities with the same clarity as our long-standing Rules. *1995 Wyo. Sess. Laws, Chapter 209, § 1; Wyo. Stat. Ann. § 39-1-304(a), (currently Wyo. Stat. Ann. § 39-11-102.1(c))*.

By Rule, the State Board standards for review of a County Board decision are nearly identical to the Wyoming Administrative Procedure Act standards which a district court must apply to hold unlawful and set aside agency action, findings of fact, and conclusions of law. *Wyo. Stat. Ann. § 16-3-114(c)(ii)*. However, unlike a district court, the State Board will not rule on claims a County Board has acted “[c]ontrary to constitutional right, power, privilege or immunity.” *Wyo. Stat. Ann. § 16-3-114(c)(ii)(B)*. The State Board’s review is limited to a determination of whether the County Board action is:

- (a) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
- (b) In excess of statutory jurisdiction, authority or limitations or lacking statutory right;
- (c) Without observance of procedure required by law; or
- (d) Unsupported by substantial evidence.

Rules, Wyoming State Board of Equalization, Chapter 3 § 9.

Since the State Board Rules are patterned on the judicial review provision of the Wyoming Administrative Procedure Act, we look to precedent under *Wyo. Stat. Ann. § 16-3-114(c)* for guidance. For example, we must apply this substantial evidence standard:

When [a person] challenges a [county board]’s findings of fact and both parties submitted evidence at the contested case hearing, we examine the entire record to determine if the [county board]’s findings are supported by substantial evidence. *Colorado Interstate Gas Co. v. Wyoming Department of Revenue*, 2001 WY 34, ¶ 8, 20 P.3d 528, 530 (Wyo.2001); *RT Commc’s, Inc. v. State Bd. of Equalization*, 11 P.3d 915, 920 (Wyo.2000). If the [county board]’s findings of fact are supported by substantial evidence, we will not substitute our judgment for that of the [county board] and will uphold the factual findings on appeal. “Substantial evidence is more than a scintilla of evidence; it is evidence that a reasonable mind might accept in support of the conclusions of the agency.” *Id.*

Chevron U.S.A., Inc. v. Department of Revenue, 2007 WY 79, ¶ 9, 158 P.3d 131, 134 (Wyo. 2007).

We review the findings of ultimate fact of a county board of equalization de novo:

“When an agency’s determinations contain elements of law and fact, we do not treat them with the deference we reserve for findings of basic fact. When reviewing an ‘ultimate fact,’ we separate the factual and legal aspects of the finding to determine whether the correct rule of law has been properly applied to the facts. We do not defer to the agency’s ultimate factual finding if there is an error in either stating or applying the law.” *Basin Elec. Power Co-op., Inc. v. Dep’t of Revenue, State of Wyo.*, 970 P.2d 841, 850-51 (Wyo. 1998)(citations omitted).

Britt v. Fremont County Assessor, 2006 WY 10, ¶ 17, 126 P.3d 117, 123 (Wyo. 2006).

We must also apply this “arbitrary and capricious” standard:

Even if sufficient evidence is found to support the agency’s decision under the substantial evidence test, this [Board] is also required to apply the arbitrary-and-capricious standard as a “safety net” to catch other agency action which might have violated the Wyoming Administrative Procedures Act. *Decker v. Wyoming Medical Comm’n*, 2005 WY 160, ¶ 24, 124 P.3d 686, 694 (Wyo. 2005). “Under the umbrella of arbitrary and capricious actions would fall potential mistakes such as inconsistent or incomplete findings of fact or any violation of due process.” *Id.* (quoting *Padilla v. State ex rel. Wyoming Workers’ Safety and Comp. Div.*, 2004 WY 10, ¶ 6, 84 P.3d 960, 962 (Wyo. 2004)).

State ex rel. Wyoming Workers’ Safety and Comp. Div. v. Madeley, 2006 WY 63, ¶ 8, 134 P.3d 281, 284 (Wyo. 2006).

FACTS PRESENTED TO THE COUNTY BOARD

1. Taxpayers own residential land and improvements located at 1658 Sesame Street, Block 1, Lot 11, Riverview Subdivision, Washakie County, Wyoming. [County Board Record, pp. 19, 76]. The property consists of 1.65 acres of land, and a five bedroom, three bathroom, brick ranch style house with an attached three-car garage. [County Board Record, pp. 18, 108-111]. The Assessor, for 2009, ultimately valued the land at \$43,390 and the house at \$253,262, for a total 2009 fair market value of \$296,652. [County Board Record, pp. 19, 76, 108–111].

2. Prior to Taxpayers' purchase of the property in 2008, the Assessor valued the land and residential improvements at \$268,405. [County Board Record, pp. 19, 21, 76; Hearing Recording]. From 2008 to 2009 the fair market value of the residential land and improvements increased \$28,247, or 11%, and the property taxes increased \$179. [County Board Record, pp. 18, 76, by calculation]. From 2008 to 2009, the value of the residential land increased from \$34,417 to \$43,390, or 26%. [County Board Record, p. 19, 70, 76, 108, by calculation]. The value of the improvements increased from \$233,988 in 2008 to \$253,262 in 2009, or 8%. [County Board Record, pp. 19, 21, 76, 108, 110; by calculation].
3. During the assessment process, the Assessor sent three separate assessment notices to Taxpayers. [County Board Record, pp. 16, 17, 19].
4. The first assessment notice, mailed on March 20, 2009, valued Taxpayers' property at \$343,778. [County Board Record, p. 16]. Taxpayers' land was valued at \$43,390 and their residence was valued at \$300,338. [County Board Record, p. 16]. The first notice valued Taxpayers' property \$75,373, or 28% higher, than the 2008 value. [County Board Record, p. 16, by calculation; Hearing Recording].
5. After receiving the first assessment notice, Ms. Page contacted the Assessor and asked for an explanation for the 28% market value increase. She felt there were no significant structural or other improvement changes subsequent to their 2008 purchase of the property justifying the increase in fair market value. [County Board Record, Hearing Recording].
6. In response to Taxpayers' request, the Assessor's staff performed an on-site inspection of Taxpayers' property and prepared a 2009 Property Review dated March 26, 2009. The Property Review noted the following discrepancies in the Assessor's data: A. The finished basement square footage was 1546 square feet rather than 1748 square feet; B. A range hood was removed and a built-in microwave was added; and C. A four (4) fixture bath was actually a five (5) fixture bath. [County Board Record, p. 112; Hearing Recording].
7. Ms. Page agreed with the results of the on-site review and the changes to the property characteristics made as a result of the review. She felt the review was thorough. [County Board Record, Hearing Recording].
8. The Assessor mailed a revised assessment notice to Taxpayers on March 27, 2009, reflecting a revised fair market value for Taxpayers' property of \$342,851, \$43,390 for the land and \$299,461 for the residential improvements. [County Board Record, p. 17; Hearing Recording].

9. After receiving the second assessment notice, Ms. Page requested the Assessor further explain the valuation as the second assessment only reduced the fair market value of Taxpayers' property by \$927, and the estimated taxes by six dollars (\$6). [County Board Record, pp. 16-17; Hearing Recording].

10. The Assessor sent Taxpayers a third assessment notice dated April 9, 2009, reducing the fair market value of Taxpayers' property to \$296,652, reflecting a land value of \$43,390 and a residential improvement value of \$253,262. [County Board Record, pp. 19, 76]. The revised value was the result of the application of a local cost multiplier as part of the Computer Assisted Mass Appraisal (CAMA) system used by the Assessor, and affected the value of over 3,000 properties in Washakie County. [County Board Record, p. 72; Hearing Recording].

11. On May 2, 2009, Taxpayers filed a Statement to Contest Property Tax Assessment identifying three issues:

- #1. The starting assessment based on the "national cost guide" adjusted for Wyoming was \$100,000 more than the assessed value last year, i.e. \$369,134 vs. \$268,405 – after adjustment property still valued \$30,000 more than previous year.
- #2. Other homes in similar neighborhoods/areas and price ranges have significantly decreased in assessed value – including homes that have all brick exteriors.
- #3. We don't believe that the value of this property has increased that dramatically based on the current market and no significant structural or other improvements having been made to the property since the previous assessment.

[County Board Record, pp. 1, 77].

12. Taxpayers presented information at the County Board hearing regarding 22 properties, including their own property. Eighteen properties were located on Sesame Street where Taxpayers' property was located. Five properties were located elsewhere in Washakie County. Taxpayers' evidence included assessment notices, photographs, hand written information and calculations. [County Board Record, pp. 18–68].

13. The quality assigned by the Assessor to the 22 properties selected by Taxpayers ranged from "Fair Plus" to "Very Good." [County Board Record, pp. 18–68]. Of the 22 properties, only Taxpayers' property quality was increased from "Average Plus" for 2008 to "Good" for 2009. [County Board Record, pp. 19, 109; Hearing Recording]. One other

property selected by Taxpayers had its quality decreased from “Good” in 2008 to “Average Plus” in 2009. [County Board Record, p.22; Hearing Recording]. *Infra*, ¶ 17.

14. Ms. Page identified the levels of quality as follows: “Excellent”, “Very Good Plus”, “Very Good”, “Good Plus”, “Good”, “Average Plus”, “Average”, “Fair Plus”, “Fair”, “Low Plus”, and “Low.” Ms. Page was unable to ascertain if a change in quality directly related to a 14% decrease in the fair market value of a neighboring house. [County Board Record, pp. 20-22; Hearing Recording]. *Infra*, ¶ 17, # 1.

15. The year of construction for six properties ranged from 1984 to 1998. [County Board Record, pp. 18–68]. *Infra*, ¶ 17.

16. The 2009 fair market values for the properties selected by Taxpayers ranged from a low of \$106,366 to a high of \$624,481. The fair market value for 19 of the selected properties decreased between 1% and 17% from 2008 to 2009. The fair market value for three properties, including Taxpayers’ property, increased between 1% and 11% from 2008 to 2009. [County Board Record, pp. 18–68]. *Infra*, ¶ 17.

17. The fair market value and property quality and condition ratings for the properties from which Taxpayers asked the County Board to draw conclusions with respect to the value of their property are summarized on the following chart:

		2008 fmv ¹	2009 fmv ¹	% change	2008 q/c ²	2009 q/c ²	built
Page	1658 Sesame	\$268,405	\$296,652	+ 11%	Av+/Good	Good/Good	1996
#1	1660 Sesame	\$267,053	\$228,553	- 14%	Good/Good	Av+/Good	1994
#2	1664 Sesame	\$378,004	\$353,619	- 6%	Good/Av.	Good/Av.	1997
#3	1668 Sesame	\$676,245	\$624,481	- 8%	VGood/ VGood	VGood/ VGood	1994
#4	1654 Sesame	\$284,503	\$276,768	- 3%		Good/ VGood	1998
#5	1635 Sesame	\$262,498	\$247,737	- 6%		Av/Av	1984
#6	1636 Sesame	\$116,638	\$106,366	- 9%		Av/Fair	
#7	1638 Sesame	\$315,780	\$298,396	- 6%		Av/VGood	
#8	1640 Sesame	\$301,852	\$284,124	- 6%		Good/Good	
#9	1648 Sesame	\$248,853	\$237,433	- 5%		Av/VGood	
#10	1650 Sesame	\$135,937	\$131,880	- 3%		Fair+/Av	
#11	1662 Sesame	\$163,141	\$158,284	- 3%		Av/Av	

#12	1666 Sesame	\$280,852	\$266,898	- 5%			
#13	1670 Sesame	\$167,128	\$161,460	- 3%			
#14	1646 Sesame	\$154,379	\$145,618	- 6%			
#15	1642 Sesame	\$191,624	\$193,485	+ 1%		Av+/Good	
#16	1652 Sesame	\$199,380	\$209,744	+ 5%		Av+/Av	
#17	1269 Lane 14	\$448,823	\$445,819	- 1%	Good+/Good	Good+/Good	
#18	400 S Rd 11	\$524,092	\$476,868	- 9%		VGood/VGood	
#19	2314 Peggy	\$453,689	\$412,915	- 9%			
#20	1919 Cardinal	\$126,194	\$108,535	- 14%		Av/Av	
#21	514 Teton Pl.	\$253,447	\$209,626	- 17%	Good/Good	Good/Good	

¹ "fmv" means fair market value. ² "q/c" means quality and condition.

[County Board Record, pp. 18–68; Hearing Recording]. We have not included Taxpayers' information regarding property taxes since the taxes are based on fair market value. We did not include information related to 2010 because it was not available on January 1, 2009. *Infra*, ¶ 44.

18. Two of the three properties with the greatest change in fair market value were properties for which the quality had been changed from the previous year. [County Board Record, pp. 19, 22]. *Supra*, ¶ 17. Taxpayers' property quality was increased from "Average Plus" in 2008 to "Good" in 2009. [County Board Record, p. 19]. *Supra*, ¶ 17, Page. Another property's quality was decreased from "Good" in 2008 to "Average Plus" in 2009. [County Board Record, p. 22]. *Supra*, ¶ 17, #1.

19. Ms. Page questioned the change in quality of construction for Taxpayers' improvements from "Average Plus" in 2008 to "Good" in 2009. She stated nothing had changed structurally. She had merely painted a few walls. [County Board Record, p. 19; Hearing Recording].

20. Ms. Page stated their appeal was not a tax issue, but a means to evaluate Taxpayers' assessment. She believed similar properties were being assessed differently because her neighbors' property values decreased on average 6%, while Taxpayers' property value increased 11%. [County Board Record, Hearing Recording]. Ms. Page's research and calculations led her to conclude "it was not correct, fair or equitable in her favor at all, as her property increased 11%, while other properties in her subdivision decreased an average of 6%." [County Board Record, Hearing Recording].

21. Ms. Page asserted she was well versed on the exterior of all the properties along Sesame Street, as she walked by them on a daily basis and knew whether there had been any major structural changes. She acknowledged she had limited knowledge of the interiors of the properties. [County Board Record, Hearing Recording].

22. Ms. Page understood, through conversations with the Assessor and Assessor's staff, quality and condition were extremely significant, and one of the few judgment calls the Assessor has which affects the fair market value of a property. Ms. Page stated: "that makes a big difference in the fair market value and what a home would sell for on the open market." [County Board Record, Hearing Recording].

23. Ms. Page understood, from the Assessor, another significant factor affecting value was the exterior construction material. Masonry brick homes cost much more to replace than homes using other exterior construction materials. Ms. Page provided information on the fair market values of three neighboring houses with brick exteriors: 1664 Sesame, 1668 Sesame and 1648 Sesame, and found their fair market values had decreased from 2008 to 2009. [County Board Record, 1664 Sesame (-6%), pp. 23-25; 1668 Sesame (-8%), pp. 26-28; 1648 Sesame (-5%), pp. 42-43; Hearing Recording]. *Supra*, ¶ 17, #2, #3, #5.

24. Ms. Page claimed year built plays a significant role in the replacement cost new method of determining value, as the age of the property determines the depreciation tables used in calculating the Replacement Cost New Less Deprecation, (RCNLD) which is the starting point for all property appraisals utilizing the CAMA system. [County Board Record, Hearing Recording]. Ms. Page included information on the year built for six (6) of the properties she discussed. *Supra*, ¶ 17. Because the houses in her subdivision were built about the same time, she did not believe year built was a significant factor. [County Board Record, Hearing Recording].

25. Taxpayers agreed with the Assessor's valuation of their land. Ms. Page stated the land along her street was valued at approximately \$40,000 per parcel whether they were 1 acre, 1½ acres or 2 ½ acres. [County Board Record, Hearing Recording].

26. Ms. Page discussed the change in fair market value and estimated taxes from 2008 to 2009 for numerous properties, and compared the changes for each property with the increase in Taxpayers' fair market value and estimated taxes. She repeatedly questioned whether the differences in fair market value and estimated taxes was fair and equitable to Taxpayers. Taxpayers requested at the hearing that their property value be reduced by six percent (6%), the average value change for properties on Sesame Street, excluding Taxpayers' property, another property which sold in 2008, and a property with structural improvements. [County Board Record, p. 15; Hearing Recording].

27. Taxpayers' evidence also included two documents: An April 2, 2009, editorial from the Star Valley Independent criticizing the CAMA system, and a first quarter 2009 report from the Economic Analysis Division of the State of Wyoming indicating building permits and existing home sales decreased over 20 percent in 2008 from the previous year level and prices contracted five percent (5%) between the fourth quarter of 2008 and the first quarter of 2009. [County Board Record, pp. 71, 73–75].

28. Ms. Treanor, the Washakie County Assessor, is permanently certified by the Department as a Property Tax Appraiser. She testified concerning the valuation of Taxpayers' property for 2009 and submitted exhibits including the property profile sheet for that property generated by the CAMA system. [County Board Record, pp. 105, 108–111; Hearing Recording].

29. Ms. Treanor explained the Department requires all assessors use the three recognized valuation methods to arrive at fair market value: the cost approach, the income approach and the sales comparison approach. [County Board Record, Hearing Recording].

30. Ms. Treanor testified the CAMA system, using the cost approach adjusted to market, was used to determine the fair market value for residential improvements in Washakie County. She explained the characteristics of each property were collected and each property assigned a quality and condition rating using the Marshall and Swift guide, which considers fixtures and baths. The Assessor explained judgment must be used to assign a quality rating. The Assessor testified the quality of Taxpayers' property was reevaluated during one of the previous two summers and a change from "Average Plus" to "Good" was made to comply with the Marshall & Swift cost guide. The CAMA system uses the characteristics and quality and condition ratings in conjunction with the nationally recognized Marshall and Swift cost tables, adjusted for local costs to build, to calculate a RCNLD value for each property. The calculated RCNLD for Taxpayers' improvements calculated using the CAMA system was then adjusted by the Assessor to reflect market conditions and other factors affecting fair market value. [County Board Record, Hearing Recording].

31. The Department, for 2009, provided cost tables reflecting a cost to build in Wyoming at 95% of the national cost. The correct application of Department's cost table adjustment required the Assessor to send out revised assessment notices, including the third assessment notice to Taxpayers. [County Board Record, p. 72; Hearing Recording]. *Supra*, ¶ 10.

32. The Assessor reduced the calculated replacement cost new (RCN) value of homes with brick exteriors, including Taxpayers home, by 10% to reflect her determination the increased cost to build brick exteriors was not reflected in sales prices. The Assessor used

recent sales information to calculate a negative eight percent (-8%) market adjustment factor which she applied to the RCNLD of each property in Taxpayers' neighborhood. [County Board Record, Hearing Recording].

33. The Assessor established land values by evaluating vacant land sales in a given Land Economic Area (LEA) separate from the value of improvements. [County Board Record, Hearing Recording].

34. Ms. Treanor valued Taxpayers' land using the same method as she used for all other land in the LEA where Taxpayers' land was located. Land values were based on vacant land sales which resulted in a \$8,973 increase in Taxpayers' land value from 2008 to 2009. Ms. Page acknowledged the increase in land value was part of the total increase of 2009. Ms. Page further acknowledged the value of their land was consistent with her neighbors' land values. [County Board Record, Hearing Recording].

35. The Assessor applied a market value cost adjustment to the improvement value calculated by the CAMA system. The Assessor then added the market value of the real property and the improvements together for a total fair market value for assessment purposes. [County Board Record, Hearing Recording].

36. Ms. Treanor stated she does not have the ability nor statutory authority to fee appraise each property. She is obligated to mass appraise all residential properties utilizing the CAMA system provided by the Department. The CAMA system provides each assessor with a suite of computer tools to mass appraise all properties in each of the 23 counties to ensure equality in application and methodology state wide. [County Board Record, Hearing Recording].

37. Ms. Treanor testified she groups like properties into neighborhoods, compares sales to assessed values in each neighborhood and then adjusts improvement values to reflect the market conditions reflected by sales in each neighborhood. [County Board Record, Hearing Recording].

38. Ms. Treanor submitted the Residential Improved Parcels - Sales Ratio Actual Values for 2009 containing information related to 18 sales used in valuing Taxpayers' neighborhood. She testified the sales to assessment ratio analysis confirmed the neighborhood adjustment for Taxpayers' neighborhood complied with the standard for sales to assessment ratios, with a median ratio of .9274, and a mean ratio of .9365. [County Board Record, pp. 122-123; Hearing Recording].

39. Ms. Treanor testified she evaluated the 18 recent sales and found 4 properties were assessed higher than the sales price and the remaining properties were assessed at less than the sales price. [County Board Record, pp. 122-123; Hearing Recording]. She stated she was not permitted to adjust the assessed valuation to the actual sales price, a practice considered sales chasing and an inappropriate means to establish value. She explained that properties must be valued within the ratio of 95% to 105% of assessed value to sales price. [County Board Record, Hearing Recording].

40. Ms. Treanor stated the real estate market sales in Washakie County had slowed down, but was still good with sales prices higher than the Assessor's values. [County Board Record, Hearing Recording]. Ms. Treanor further stated sales received by her office for 2009 indicated values were up from last year's assessed values. While there are fewer properties on the market and sellers may have to wait a bit longer to sell their houses, the market is still strong in Washakie County. [County Board Record, Hearing Recording].

APPLICABLE LAW

41. The Wyoming Constitution, article 15, § 11(b), provides in pertinent part: “[a]ll taxable property shall be valued at its full value as defined by the legislature except agricultural and grazing lands which shall be valued according to the capability of the land to produce agricultural products under normal conditions.”

42. The Wyoming Constitution, article 15 § 11(d), requires “[a]ll taxation shall be equal and uniform within each class of property. The legislature shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal.”

43. Broken into its component parts, the constitutional standard requires: (1) a rational method; (2) equally applied to all property; and (3) essential fairness. It is the burden of one challenging an assessment to prove by a preponderance of the evidence that at least one of these elements has not been fulfilled. *Basin Electric Power Coop. v. Dept. of Revenue*, 970 P.2d 841, 852 (Wyo. 1998).

44. The Legislature has required all property in Wyoming to be valued annually at fair market value. *Wyo. Stat. Ann. § 39-13-103(b)(ii)*. The statutory valuation date is January 1 of each year; all taxable property must be valued and assessed for taxation in the name of the owner of the property on that date. *Wyo. Stat. Ann. § 39-13-103(b)(i)*.

45. Fair market value is defined as:

[T]he amount in cash, or terms reasonable equivalent to cash, a well informed buyer is justified in paying for a property and a well informed seller is justified in accepting, assuming neither party to the transaction is acting under undue compulsion, and assuming the property has been offered in the open market for a reasonable time.

Wyo. Stat. Ann. § 39-11-101(a)(vi).

46. Each county assessor annually determines the fair market value of residential real property within their county. *Wyo. Stat. Ann. § 18-3-204(a)(i), (ii), (vi); Wyo. Stat. Ann. § 39-13-103(b)(i).* In so doing, the assessor must “[f]aithfully and diligently follow and apply the orders, procedures and formulae of the department of revenue or orders of the state board of equalization for the appraisal and assessment of all taxable property.” *Wyo. Stat. Ann. § 18-3-204(a)(ix).*

47. The Department has a corresponding statutory obligation to confer with, advise and give necessary instructions and directions to the county assessors as to their duties, and to promulgate rules and regulations necessary for the enforcement of all tax measures. *Wyo. Stat. Ann. § 39-11-102(c)(xvi), (xix).* The Department is required to “[p]rescribe the system of establishing the fair market value of all property valued for property taxation to ensure that all property within a class is uniformly valued.” *Wyo. Stat. Ann. § 39-11-102(c)(xv).* In particular, the Department must “prescribe by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal standards.” *Wyo. Stat. Ann. § 39-13-103(b)(ii).*

48. The Department has promulgated rules¹ which establish appraisal techniques which may be used by an assessor. *Rules, Wyoming Department of Revenue, Chapter 9 § 6.* These techniques include the Sales Comparison Approach, the Cost Approach, and the Income or Capitalized Earnings Approach. *Rules, Wyoming Department of Revenue, Chapter 9 § 6 (a.), (b.), (c.).* Administrative rules have the force and effect of law. *Wyo. Dep’t of Revenue v Union Pacific Railroad Co.*, 2003 WY 54, ¶ 18, 67 P.3d 1176, 1184 (Wyo. 2003); *Painter v. Abels*, 998 P.2d 931, 939 (Wyo. 2000).

49. The Department also prescribes how the various valuation methods are to be evaluated and utilized by an assessor:

¹The Department adopted new rules effective December 7, 2009, revising Chapter 9. *Rules, Wyoming Department of Revenue.* The references in this decision are to the prior rules which were in effect as of January 1, 2009, the assessment date.

Section 6. Appraisal Methods.

The appraisal techniques which may be used by the County Assessor or the Ad Valorem Tax Division under written agreement with a county include the approaches described in this section. Each approach used shall be an appropriate method for the type of property being valued; that is, the property shall fit the assumptions inherent in the appraisal method in order to calculate or estimate the fair value of the property. Each approach used shall also consider the nature of the property or industry, and the regulatory and economic environment within which the property operates. ...

(a.) The Sales Comparison Approach. The comparable sales approach is an appropriate method of valuation when there is an adequate number of reliable arms-length sales and the properties subject to such sales are similar to the property being valued. Comparable sales shall be adjusted to reflect differences in time, location, size, physical attributes, financing terms or other differences which affect value. The use of this approach to value depends upon:

- (i.) The availability of comparable sales data;
- (ii.) The verification of the sales data;
- (iii.) The degree of comparability or extent of adjustment necessary for time differences; and
- (iv.) The absence of non-typical conditions affecting the sales price.

(b.) The Cost Approach. The cost approach is a method of estimating value by summing the land value, where applicable, with the depreciated value of improvements. The approach may also be used to establish value for personal property through the process of cost estimation. The cost approach relies on the principle of substitution in which an informed buyer will not pay more for a property than its comparable replacement. The approach requires:

- (i.) Accurate, current land values in the case of real property;
- (ii.) Accurate, pertinent physical data regarding the property to which cost data may be applied;
- (iii.) Current cost data which considers appreciation in the case of real and personal property;
 - (A.) Costs may be estimated on the basis of typical reproduction or replacement costs.
 - (B.) Typical reproduction and replacement costs may be estimated by the quantity survey method, the unit-in-place method, the comparative unit method, or the trended original cost method.

(C.) The appraiser may use cost manuals where available or may design his own. Such manuals shall be based on actual costs and shall indicate which indirect costs are included. Such manuals shall also provide normal depreciation and age-life information.

(iv.) Depreciation in the case of real and personal property.

* * *

(c.) The Income or Capitalized Earnings Approach. The income or capitalized earnings approach is a method of estimating the value of property by converting anticipated benefits to be derived from the ownership of the property into a value estimate as is reflected or accomplished by yield capitalization methodology. These benefits can be reflected through the net operating income or cash flow of a company.

* * *

Rules, Wyoming Department of Revenue, Chapter 9 § 6(a.)-(c.).

50. The Department's Rules specifically provide for use of a CAMA system.

(d.) Computer Assisted Mass Appraisal(CAMA). The following CAMA systems are the only automated systems adopted and approved to value taxable property assessed at the local level for ad valorem tax purposes:

* * *

(ii.) After January 1, 2007, the Colorado CustomerWare, Inc., RealWare "CCI" system for all real and personal property, except property for which narrative appraisals or other recognized supplemental appraisals are used as a substitute to the CAMA system. ...

Rules, Wyoming Department of Revenue, Chapter 9 § 6(d.)(ii). The CAMA system "automates the comparable sales and replacement cost methods." *Britt v. Fremont County Assessor*, 2006 WY 10, ¶ 39, 126 P.3d 117, 128 (Wyo. 2006).

51. The determination of fair market value inevitably involves a degree of discretion:

Early on, Justice Blume recognized a truth inherent in the area of property valuation: "There is no such thing as absolute value. A stone cannot be other than a stone, but one man may give a different valuation to a piece of land than another." *Bunten v. Rock Springs Grazing Ass'n*, 29 Wyo. 461, 475, 215 P. 244, 248 (1923). Accordingly, this court has consistently interpreted Wyo. Const. art. 15, § 11 to require "only a rational method [of appraisal], equally applied to all property which results in essential fairness."

Basin Electric Power Coop. v. Dept. of Revenue, 970 P.2d 841, 857 (Wyo. 1998) quoting *Holly Sugar Corp. v. State Board of Equalization*, 839 P.2d 959, 964 (Wyo. 1992). The Wyoming Supreme Court reiterated the “rational method” standard in *Britt v. Fremont County Assessor*, 2006 WY 10, ¶ 18, 126 P.3d 117, 123 (Wyo. 2006).

52. An assessor’s valuation is presumed valid, accurate, and correct. This presumption survives until overturned by credible evidence. *Britt v. Fremont County Assessor*, 2006 WY 10, ¶ 23, 126 P.3d 117, 125 (Wyo. 2006); *Thunder Basin Coal Company v. Campbell County, Wyoming Assessor*, 2006 WY 44, ¶ 13, 132 P.3d 801, 806 (Wyo. 2006); *Teton Valley Ranch v. State Board of Equalization*, 735 P.2d 107, 113 (Wyo. 1987).

53. A mere difference of opinion as to value is not sufficient to overcome the presumption in favor of an assessor’s valuation. *J Ray McDermott & Co. v. Hudson*, 370 P.2d 364, 370 (Wyo. 1962); *Thunder Basin Coal Company v. Campbell County, Wyoming Assessor*, 2006 WY 44, ¶¶ 13, 48, 132 P.3d 801, 806, 816 (Wyo. 2006). The presumption is especially valid where the Assessor valued the property according to the Department’s Rules and Regulations which provide for the use of the CAMA system in the assessment of real property. *Rules, Wyoming Department of Revenue, Chapter 9 § 6(b.), (d.)*. “The burden is on the taxpayer to establish any overvaluation.” *Hillard v. Big Horn Coal Co.*, 549 P.2d 293, 294 (Wyo. 1976).

54. The Wyoming Supreme Court has described the burden of proof for a taxpayer challenging a county assessor’s valuation:

A strong presumption favors the Assessor’s valuation. “In the absence of evidence to the contrary, we presume that the officials charged with establishing value exercised honest judgment in accordance with the applicable rules, regulations, and other directives that have passed public scrutiny, either through legislative enactment or agency rule-making, or both.” *Amoco Production Co. v. Dept. of Revenue*, 2004 WY 89, ¶ 7, 94 P.3d 430, 435 (Wyo. 2004). The Britts [i.e., the protesting taxpayers] had the initial burden of presenting evidence sufficient to overcome the presumption. *Id.*, ¶ 8. If the Britts successfully overcame the presumption, then the county board was “required to equally weigh the evidence of all parties and measure it against the appropriate burden of proof.” *CIG v. Wyoming Dept. of Revenue*, 2001 WY 34, ¶ 10, 20 P.3d 528, 531 (Wyo. 2001). The burden of going forward would then have shifted to the Assessor to defend her valuation. *Id.* Above all, the Britts bore “the ultimate burden of persuasion to prove by a preponderance of the evidence that the valuation was not derived in

accordance with the required constitutional and statutory requirements for valuing . . . property.” *Id.*

Britt, supra, 2006 WY 10, ¶ 23, 126 P.3d at 125.

55. The Wyoming Supreme Court has recognized the validity of valuations derived from the CAMA system. *Gray v. Wyoming State Board of Equalization*, 896 P.2d 1347 (Wyo. 1995), *Britt v. Fremont County Assessor*, 2006 WY 10, ¶ 17, 126 P.3d 117, 123 (Wyo. 2006). In fact, the Wyoming Supreme Court rejected the use of actual sales price for properties in favor of the value established by the CAMA system because of the equality and uniformity which result from its use. *Gray, supra*, at 1351.

56. “The board of county commissioners of each county constitutes the county board of equalization.” *Wyo. Stat. Ann. § 39-13-102(c)*. The legislature has specifically authorized the County Board to:

- (iv) Hear and determine the complaint of any person relative to any property assessment or value as returned by the county assessor subject to W.S. 39-13-109(b)(i);
- (v) Decide all protests heard and provide the protestant with a written decision no later than the first Monday in August.

Wyo. Stat. Ann. § 39-13-102(c)(iv) and (v).

57. A party asserting an administrative body is biased bears the following burden:

Finally, with respect to the appellants’ assertions of bias and conflict on the part of one of the county commissioners, the record shows that the appellants did not raise this objection before the Board considered the application. Although members of administrative bodies must be fair and impartial, *Board of Trustees, Laramie County School District No. 1 v. Spiegel*, Wyo., 549 P.2d 1161 (1976); *Fallon v. Wyoming State Board of Medical Examiners*, Wyo., 441 P.2d 322 (1968), the party claiming bias, prejudice or possible conflicting interest must raise these complaints prior to the agency’s consideration of the dispute. Thus, even though we held in *Lake De Smet Reservoir Company v. Kaufmann*, 75 Wyo. 87, 292 P.2d 482, 485 (1956), that an administrative official who finds himself interested either directly or indirectly in a dispute is under an obligation to remove himself, we qualify that by requiring the party who feels aggrieved to lodge his or her objection when knowledge of facts indicating bias, prejudice or conflict of interest arise. *See*: 3 Davis,

Administrative Law Treatise, § 19.10, p. 405 (2d ed. 1980). Such a requirement is no more restrictive than that which we require with respect to challenges of judges pursuant to Rule 40.1(b)(2), W.R.C.P. In addition, appellants have failed to show how the alleged bias or interest of the commissioner in any way affected the outcome of the dispute or denied them a right to a fair hearing. Absent such a showing, we will not reverse. *State Board of Education v. Barber, supra*, [649 P.2d 681 (Wyo. 1982)].

Gold v. Board of County Comm'rs of Teton County, 658 P.2d 690, 696 (Wyo. 1983).

58. Our evaluation of this appeal turns to a great degree on the question of whether there is substantial evidence in the record which reasonably supports the County Board's decision. In determining whether the required substantial evidence is present, the State Board will not substitute its judgement for findings reasonably supported by evidence in the County Board record. *Laramie County Board of Equalization v. State Board of Equalization*, 915 P.2d 1184, 1188-1189 (Wyo. 1996); *Holly Sugar Corp. v. Wyoming State Board of Equalization*, 839 P.2d 959 (Wyo. 1992); *Sage Club, Inc. v. Employment Sec. Comm'n*, 601 P.2d 1306, 1310 (Wyo. 1979). While substantial evidence may be less than the weight of the evidence, it cannot be clearly contrary to the overwhelming weight of the evidence. The Wyoming Supreme Court has stated "[s]ubstantial evidence is a term of art best described as relevant evidence that a reasonable mind can accept as adequate support for an agency's conclusion." *Sidwell v. State Workers' Compensation Div.*, 977 P.2d 60, 63 (Wyo. 1999).

ANALYSIS AND CONCLUSIONS OF LAW

59. At the County Board hearing, Taxpayers' argued the Assessor's fair market value of their residence for 2009 was too high, based primarily on a comparison of the assessed value of their home to the assessed values of other homes on their street and elsewhere in Washakie County. *Supra*, ¶¶ 12-18, 23-24. Taxpayers asked the County Board whether it was fair and equitable to Taxpayers that the value of their property rose eleven percent (11%) over its 2008 value while the values of the other properties selected by Taxpayers fell by an average of six percent (6%) from 2008 to 2009. *Supra*, ¶ 20. Taxpayers also questioned the methodology employed by the Assessor to value their residence and, in particular, the use of the Marshall & Swift cost guide and the quality rating given to their property by the Assessor for 2009. Taxpayers did not offer an appraisal or other independent evidence of the fair market value of their property as of January 1, 2009.

60. The County Board ruled generally in favor of the Assessor, finding Taxpayers had failed to meet their burden to prove the CAMA system was not a rational or correct method,

was not equally applied to all property, or did not achieve essential fairness. The County Board concluded the Assessor's change in the quality rating of Taxpayers' residence from "Average Plus" to "Good" could reasonably explain the increase in the value of Taxpayers' property. [County Board Record, pp. 125–126].

61. At the County Board hearing, Taxpayers argued for a valuation based on the 2008 assessed value of their property reduced by six percent (6%), the average reduction in value for properties selected by taxpayers. [County Board Record, p. 15; Hearing Recording]. Taxpayers' brief to the State Board asked the assessed value of their property be rolled back to something close to its 2006 assessed value. [*Taxpayers' Opening Brief*, p. 3].

62. Taxpayers' evidence at the County Board hearing consisted primarily of comparisons of the 2008 and 2009 valuations of properties neighboring their property. From the comparisons of property values, Taxpayers argued their property was over assessed. Taxpayers' evidence, however, did not include information on the size of the buildings, percent of finish, or other characteristics for the other properties from which a comparison with the characteristics of Taxpayers' property could be made. For properties to be relevant as comparables, they must "be adjusted to reflect differences in time, location, size, physical attributes, financing terms or other differences which affect value." *Rules, Wyoming Department of Revenue, Chapter 9, § 6(a.)*; *supra*, ¶ 49. Without evidence of the characteristics of the properties Taxpayers chose for comparison purposes, no adjustments may be made and no conclusions with respect to the fair market value of Taxpayers' property may be drawn. Taxpayers' analysis, at best, was simply a recitation of the values of other properties Taxpayers selected which was not sufficient to overcome the presumption in favor of an assessor's valuation. *Supra*, ¶¶ 12–13, 15–18.

63. One factor identified by the Assessor, and accepted by the County Board, which differentiated Taxpayers' property from all but one of the properties selected by Taxpayers was the increase in quality of construction of Taxpayers' residence from "Average Plus" to "Good." The Assessor testified the change in quality occurred when Taxpayers' property was reevaluated during one of the previous two summers, and was done to comply with the Marshall & Swift cost guide. *Supra*, ¶ 30. The evidence presented at the County Board hearing established the quality rating was changed after the valuation of Taxpayers' property for 2008 when it was rated "Average Plus" and before its final valuation for 2009 when it was rated "Good." *Supra*, ¶ 19.

64. Taxpayers acknowledged the determination of quality was one of the areas within the discretion of the Assessor. *Supra*, ¶¶ 22, 30. Taxpayers, nonetheless, argue the quality change made by the Assessor was not justified because there was no structural change to their residence from 2008 to 2009. Taxpayers' argument is at most a difference of opinion

which does not call into question the Assessor's testimony that the quality change would have been made as part of the conversion to the new CAMA system. *Supra*, ¶ 30. Taxpayers' presented no evidence the Assessor's quality determination was not consistent with the Marshall & Swift cost guide. The Assessor's determination of quality, therefore, is entitled to the presumption of validity. *Supra*, ¶¶ 52–55.

65. Taxpayers argue there is something wrong with the Marshall & Swift national cost guide. Since their property value increased while neighboring property values decreased from 2008 to 2009, Taxpayers' argue the cost guide should not have been used to value their property. Taxpayers, however, failed to identify any specific problem with the Marshall & Swift national cost guide provided by the Department to the Assessor and, in fact, asked values derived using the same cost guide for the other properties be accepted as the basis for reducing the value of their property. The Marshall & Swift cost guide was provided by the Department to the Assessor as part of the CAMA system the Assessor was specifically authorized by Wyoming Statutes and the Department Rules to use to value Taxpayers' improvements. *Supra*, ¶¶ 30–31, 46–50. Taxpayers argument the national Marshall & Swift cost guide should not have been used was not supported by any evidence of errors in the guide, nor by any alternate cost guide, or any independent valuation calculation. Taxpayers have, therefore, failed to meet their initial burden of production and their ultimate burden of proof. *Supra*, ¶¶ 53–55.

66. Ms. Page and the Assessor both testified the Assessor's office conducted a field inspection of Taxpayers' property and corrected errors identified during the inspection prior to the final valuation of Taxpayers' property for 2009 tax purposes. *Supra*, ¶¶ 6, 30. Ms. Page confirmed the changes made by the Assessor were correct. *Supra*, ¶ 7. Taxpayers did not identify any other errors in the Assessor's information related to their property. The CAMA system used those characteristics to calculate the RCNLD for Taxpayers' property. The Assessor then applied a negative eight percent (8%) market adjustment and a negative ten percent (10%) adjustment for brick veneer to arrive at a fair market value for Taxpayers' improvements. To the adjusted RCNLD value derived using the CAMA system, the Assessor added the value of Taxpayers' residential land to arrive at the fair market value for Taxpayers' land and improvements. This same method was applied to determine the fair market value of all residential property in Washakie County. *Supra*, ¶¶ 30, 32, 34–35.

67. The appraisal process described by the Assessor and used in Washakie County was a systematic, logical method of collecting, analyzing, and processing data into intelligent, well-reasoned value estimates. It met the constitutional requirement of a uniform system of valuation, equally applied resulting in essential fairness. *Supra*, ¶¶ 43, 51, 55.

68. Taxpayers did not present evidence showing the CAMA system or its use by the Assessor was flawed. A taxpayer can not prevail by simply having an opinion contrary to that of the Assessor and the Department Rules on how property should be valued. A mere difference of opinion is not sufficient to overcome the presumption in favor of the Assessor's valuation. *Supra*, ¶¶ 51, 53.

69. Taxpayers provided two documents at the County Board hearing, a newspaper editorial critical of the CAMA system's cost approach and a publication by the Economic Analysis Division of the State of Wyoming indicating home prices contracted by five percent from the fourth quarter of 2008 to the first quarter of 2009. *Supra*, ¶ 27. The editorial, while critical of the use of the CAMA system, provides no information specific to the fair market value of Taxpayers' property from which the County Board could conclude the Assessor's valuation was in error. The Economic Analysis Division report, similarly, provides no information from which a conclusion as to the fair market value of any particular property, including Taxpayers' property, on January 1, 2009. It does lend support to the Assessor's decision to apply a negative market adjustment to properties in Taxpayers' neighborhood. *Supra*, ¶¶ 27, 30, 32, 35.

70. Taxpayers suggest the Assessor erred by not including value estimates for their property derived using the income approach and sales comparison approach. The income approach is not applicable to residential real estate which produces no income. *Rules, Department of Revenue, Chapter 9 § 6(c.)*; *supra*, ¶ 49. The Assessor discussed the difficulty with using the sales comparison approach when valuing a large number of properties. *Supra*, ¶ 36. Taxpayers' provided no evidence the sales comparison method would have provided a different value, nor was the use of the sales comparison method required. Without evidence that a different value would be derived using the sales comparison approach, Taxpayers' assertion was not sufficient to meet either their initial burden of production or their ultimate burden of proof. *Supra*, ¶¶ 51–54.

71. Taxpayers also pointed out the County Board comment on the transparency of the valuation system used by the Assessor. In our review of the record, we found the Assessor explained how she valued Taxpayers' property, in the same way as she valued all other residential property in Washakie County. The Assessor used the CAMA system and the characteristics of Taxpayers' property to arrive at a replacement cost new less depreciation for the property, and then made market and other appropriate adjustments to arrive at the fair market value of Taxpayers' property. *Supra*, ¶¶ 30–32, 35–36. The Assessor's testimony was not that she couldn't explain the increase in the value of Taxpayers' property but rather that she could find no errors in the valuation of Taxpayers' property using the CAMA system.

72. The use of the CAMA system ensures all residential real estate is valued using the same rational method. By its uniform application, the constitutional requirements of uniformity and essential fairness are met. *Supra*, ¶¶ 43, 51–53. The valuation of the Assessor derived using the CAMA system is presumed valid, accurate, and correct. *Supra*, ¶ 53. In this case, the Taxpayers failed to present sufficient substantial evidence to overcome the presumption of validity in favor of the Assessor’s quality determination or the ultimate value derived using the CAMA system. The CAMA system was a rational method, equally applied to all property, and achieved essential fairness. *Supra*, ¶ 51. The decision of the County Board was supported by substantial evidence, and therefore must be affirmed. The decision of the County Board was not unlawful, arbitrary or capricious.

73. Taxpayers raised an issue for the first time in their reply brief regarding a potential conflict of interest when a board of county commissioners acts as the county board of equalization. Taxpayers failed to raise any complaint at the time of the hearing before the County Board, and failed to support the complaint by evidence of bias or conflict of interest. Taxpayers also failed to show how any supposed bias or conflict of interest affected the outcome of the dispute or denied them a right to a fair hearing. *Supra*, ¶ 57. We, therefore, conclude Taxpayers’ assertion of bias or conflict of interest is without merit.

74. To the extent Taxpayers’ claim of conflict of interest was intended as support for their argument for an independent hearing body at the county level, we are not the proper authority to address the issue. The Wyoming legislature, not the State Board, has the authority to make changes with respect to appeals of local assessments.²

75. Taxpayers finally argue the double digit increases in the value of their property over time indicates something is wrong with the assessed value. Taxpayers ask the State Board to reduce the value to an amount closer to the 2006 assessed value their property. Their argument must be rejected for two reasons. First, there is no evidence in the County Board record, upon which we must rely, of the assessed value of Taxpayers’ property in 2006. The first reference to the 2006 assessed value of Taxpayers’ property comes from Taxpayers’ brief. We may not accept the information in a brief to us as evidence because it was not presented to the County Board. *See Rules, Wyoming State Board of Equalization, Chapter 3 § 8*. Second, the issue before the County Board was the value of Taxpayers’ real property and improvements as of January 1, 2009, not January 1, 2006. *Supra*, ¶ 44. Taxpayers presented no evidence of the value of their property as of January 1, 2009, which would support a conclusion that the value of their property remained at its 2006 valuation level.

² During the 2010 Budget Session a bill was introduced which would have allowed a board of county commissioners to appoint a board of review to hear tax appeals. H.B. 31, 60th Leg., Budget Sess. (Wyo. 2010). The bill failed to pass the Committee of the Whole.

76. The decision of the County Board affirming the Assessor's valuation was supported by substantial evidence. While Taxpayers' expressed their opinion that the value of their property was too high, they did not provide an alternate, independent valuation for their property. We conclude Taxpayers failed to prove by a preponderance of the evidence the Assessor's valuation was not derived in accordance with the constitutional and statutory requirements. We further conclude, based on our review of the County Board record, the County Board decision was neither unlawful, arbitrary, nor capricious.

THIS SPACE INTENTIONALLY LEFT BLANK

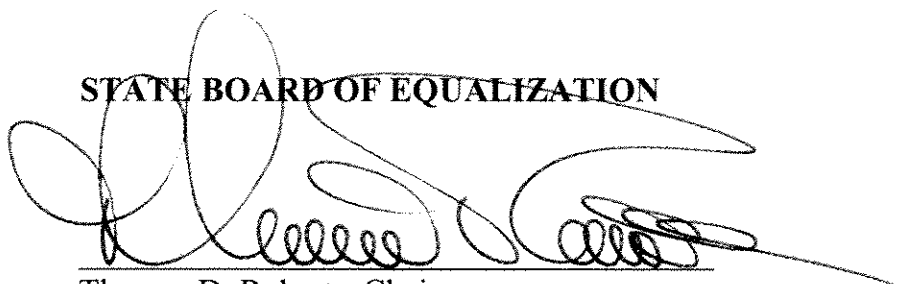
ORDER

IT IS THEREFORE HEREBY ORDERED the Washakie County Board of Equalization Order affirming the Assessor's 2009 valuation of Taxpayers' property is affirmed.

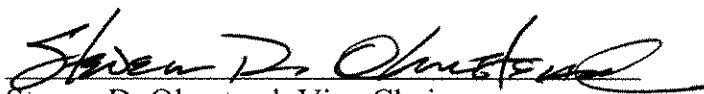
Pursuant to Wyo. Stat. Ann. §16-3-114 and Rule 12, Wyoming Rules of Appellate Procedure, any person aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days of the date of this decision.

DATED this 24th day of May, 2010.

STATE BOARD OF EQUALIZATION



Thomas D. Roberts, Chairman

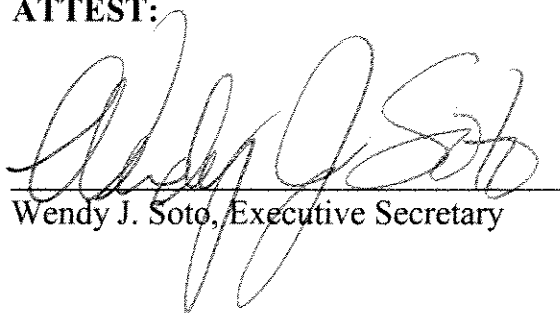


Steven D. Olmstead, Vice Chairman



Deborah J. Smith, Board Member

ATTEST:



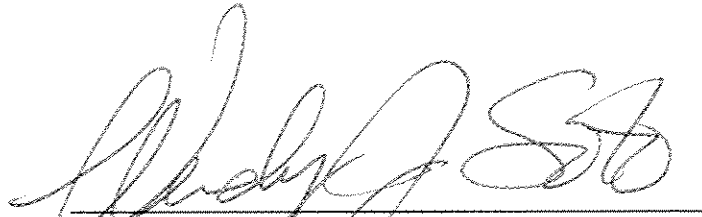
Wendy J. Soto, Executive Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of May, 2010, I served the foregoing **DECISION AND ORDER** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

David & Amber Page
1658 Sesame Street
Worland WY 82401

Kathy Treanor
Washakie County Assessor
1001 Big Horn, Suite 104
Worland WY 82401



Wendy J. Soto
Executive Secretary
State Board of Equalization
P.O. Box 448
Cheyenne, WY 82003
Phone: (307) 777-6986
Fax: (307) 777-6363

cc: SBOE
Edmund J. Schmidt, Director, Department of Revenue
Marvin Applequist, Administrator, Property Tax Division, Department of Revenue
Commission/Treasurer/Clerk - Washakie County
CCH
ABA State and Local Tax Reporter
State Library
File