

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF) MASTIO FAMILY 2004 TRUST) FROM A DECISION BY THE ALBANY) COUNTY BOARD OF EQUALIZATION) (2015 Property Tax Assessment))	Docket No. 2015-51
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DECISION AND ORDER

APPEARANCES

Richard and Susan Mastio filed a brief on behalf of the Mastio Family 2004 Trust (Petitioner or Trust). Mr. Mastio presented oral argument.

Peggy A. Trent, Albany County and Prosecuting Attorney, filed a brief on behalf of Grant Showacre, Albany County Assessor (Respondent or Assessor). Ms. Trent presented oral argument.

DIGEST

Petitioner appealed the decision of the Albany County Board of Equalization (County Board) to the Wyoming State Board of Equalization (State Board). The County Board decision affirmed the Assessor's 2015 valuation of the Trust property.

The State Board¹, Chairman Martin L. Hardsocg and Vice Chairman E. Jayne Mockler, reviewed the County Board Record, Notice of Appeal, Opening Brief, Response Brief, and heard the parties' oral arguments. The State Board concludes the County Board decision was supported by substantial evidence, was not arbitrary or capricious, and was not an abuse of discretion. The decision of the County Board is affirmed.

¹ Robin Sessions Cooley was a member of the State Board when oral arguments were presented. She subsequently resigned to take a position with the Public Service Commission. David Gruver was appointed effective April 3, 2017, to replace Ms. Cooley. Mr. Gruver did not participate in this decision.

ISSUES

In its Notice of Appeal, Petitioner characterizes the issue on appeal as:

Whether the Albany County Board of Equalization's decision was arbitrary, capricious, and an abuse of discretion, not in accordance with law, unsupported by substantial evidence, and lacking statutory authority.

(Pet'r's Notice of Appeal, 5-6). In addition, Petitioner raised several concerns regarding the procedures utilized during the County Board proceedings. (Pet'r's Opening Br. 1).

The Assessor states the issue as:

Whether the Albany County Board of Equalization's finding that the assessment as established by Albany County Assessor for the 2015 value of the Mastios' [Trust] property is a fair market value of \$673,139[,] is supported by substantial evidence and is not arbitrary and capricious and in accordance with law.

(Resp't's Resp. Br. 12).

Because the factual findings and the ultimate decision of the County Board are being challenged by Petitioner, the State Board restates the issues as follows:

Was the County Board decision supported by substantial evidence?

Were there procedural errors or due process violations which rendered the County Board decision arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law?

PROCEEDINGS BEFORE THE COUNTY BOARD

The County Board held a contested case hearing on July 28, 2015. (R. at 22, 102). Mr. Mastio testified on behalf of the Trust. He argued the house and materials used in its construction did not rise to Assessor's "very good" quality rating, and, therefore, the value of the residential improvements should be lowered. Mr. Mastio also compared the Trust property to several property sales. Assessor argued the valuation was correct because he used a valuation methodology approved by law and the best information available to him. The County Board issued its Findings of Fact and Conclusions of Law on September 15, 2015, affirming Assessor's 2015 value of Petitioner's property. (R. at 193-97).

FACTS PRESENTED TO THE COUNTY BOARD

1. The Mastio Family 2004 Trust (Trust) is the owner of property at 270 Katie Canyon Loop, Laramie, Albany County, Wyoming, consisting of 35.1 acres of land and a residence. (Ex. 3, R. at 38). Richard C. and Susan G. Mastio are trustees. (Ex. 3, R. at 38; R. at 135).
2. On April 8, 2015 the Assessor mailed the 2015 Notice of Assessment to the Trust and Richard and Susan Mastio as trustees. The assessment valued the Trust property and improvements at \$673,139: \$118,000 for the land and \$555,139 for the residential improvements. (Ex. 3, R. at 38). The Trust appealed the assessment. (Ex. 5, R. at 42-43).
3. Mr. Mastio testified on behalf of the Trust. It was his opinion that, except for the interior woodwork, the quality of the house was “not very good.” (R. at 112).
4. In support of his opinion, he showed an exterior door panel filled with a low grade Styrofoam, which failed within a year. He showed the County Board a container of seven hundred seven (707) nails, razor blades, sharp objects, and metal cuttings from his yard which the builder left behind. (R. at 113). He described contacting the furnace installer and learning that a portion of the attic was not insulated. (R. at 113). He also described a roof leak that occurred within the first six months of moving in because the drywall installers displaced the insulation. (R. at 112-13, 125-26).
5. Mr. Mastio further stated the KitchenAid appliances in the home, costing \$2,500, were not upper end appliances. (R. at 111, 117). Mr. Mastio explained he could list another one hundred and fifty (150) problems he had to replace or fix in the house. (R. at 113, 121). He did not provide the cost of repairs. (R. at 119-22, 126). Mr. Mastio did not provide the County Board with the cost to build the house, but agreed it was over \$500,000. (R. at 123).
6. In addition to his testimony, Mr. Mastio offered a written statement and five “MLS Client View Residential” (MLS) printouts showing information related to sales of houses he believed were comparable. (Ex. A, R. at 23-29). The written statement described the properties and provided information comparing each of the properties to the Trust property. Using the sales information, Mr. Mastio calculated a price per square foot for each of the properties by dividing the reported sales price by the total above and below ground square footage shown on the MLS printouts. Mr. Mastio suggested the calculated square foot price from the house at 344 Katie Loop (\$116.28 per sq. ft.), the average price per square foot of that house and three others (\$109.43 per sq. ft.), or the average of the five houses he identified (\$112.00 per sq. ft.) be used to value his land and house. (Ex. A, R. at 23-24; R. at 123-24). Mr. Mastio also related a realtor’s opinion that the Trust property was worth \$550,000. (R. at 124-25). The realtor did not testify.

7. Mr. Mastio emphasized the similarities between the Trust's house and the house at 344 Katie Canyon Loop. (R. at 23-25; Ex. 11, R. at 66-69). He stated the floorplans were basically identical, except for the additional half bath and a hallway of the Trust's house. (Ex. A, R. at 23, 25, 158). He argued the sale of this house should be used as a comparable in valuing the Trust's house. (R. at 23-24). As an alternative, he suggested using the average per square foot cost, including lot, of all five houses he identified to value the Trust house. (Ex. A, R. at 24).

8. Assessor, Grant Showacre, permanently certified by the Wyoming Department of Revenue (Department) as a Property Tax Appraiser, has fifteen (15) years' experience as an assessor. (Ex 2, R. at 35-36; R. at 128-29).

9. He testified the Computer Assisted Mass Appraisal (CAMA) system authorized by the Department was used to value Petitioner's residence. (R. at 131). Mr. Showacre stated his field inspectors looked at the quality and condition of the house, and then entered the information into the CAMA system. (R. at 149). He listed the house's quality as "very good" and its condition as "good." (Ex. 6, R. at 46, 48; R. at 142).

10. Mr. Showacre explained he used a cost-based market adjusted value for the Trust's residential improvements. In calculating the cost categories, including main living area, basement, and garages, each was assigned a value reflecting the costs of construction. The values are then added to determine the total cost of the house prior to depreciation. (R. at 131).

11. The Assessor's staff inspected the Trust property on December 13, 2012, when the house's interior was 80% complete. (Ex. 7, R. at 53; R. at 140). When Mr. Mastio subsequently contacted Assessor about the Trust property's value, Assessor informed Mr. Mastio that an interior inspection of the completed house was needed to ensure the information was correct. (R. at 136-37). The Mastios did not consent to another interior inspection, citing Assessor's opportunity to inspect the house between the house's completion and their occupancy, and privacy concerns. (R. at 117, 122-23, 136; *see* Ex. A, R.. at 23).

12. Assessor looked at the quality of the materials used, the structure of the home, the number of roof peaks, the number of windows, the quality of the windows, and the overall design of the exterior to determine the quality of construction. (R. at 137). The field inspectors determined the quality grade of "very good" was appropriate for the house due to the materials used. (R. at 142). The Assessor determined the house's condition was good because no depreciation was warranted during the first five years after construction. (Ex. 6, R. at 45, 48; R. at 142).

13. Assessor also discussed the use of the five properties identified by Mr. Mastio as comparables. (R. at 143-149, 157; Exs. 11-15, 18, R. at 66-91, 97; Ex. A, R. at 23-28).

He testified to the differences in the quality and condition of the houses. He also discussed the differences in the square footage between Assessor's information and the Trust's MLS information. (*Compare* Ex. A, R. at 23-28 with Exs. 11-15, 18, R. at 66-91, 97; R. at 156-61). He could not explain why the measurements his office used and those in the MLS printouts were different. (R. at 160-61).

14. The County Board concluded that Assessor employed the CAMA system to value Petitioner's property and that Petitioner did not offer credible evidence to establish the method was not a rational method of appraisal, equally applied to all like property. The County Board further concluded "Petitioner's evidence was not credible, notes the lack of expert testimony on the proposed alternate valuation on the subject property, and declines to accept the Petitioner's position as he did not meet the burden of rebutting the presumption in favor of the Assessor's valuation." (R. at 195-96).

REVIEW OF COUNTY BOARD'S DECISION

A. Standard of Review

15. When the State Board hears appeals from a county board, it sits as an intermediate level of appellate review. *Town of Thermopolis v. Deromedi*, 2002 WY 70, ¶ 11, 45 P.3d 1155, 1159 (Wyo. 2002) (quoting *Laramie Cty. Bd. of Equalization v. Wyo. State Bd. of Equalization*, 915 P.2d 1184, 1188 (Wyo. 1996); *Union Pac. R.R. Co. v. Wyo. State Bd. of Equalization*, 802 P.2d 856, 859 (Wyo. 1990)). In its appellate capacity, the State Board treats a county board as the finder of fact. *Id.*

16. The State Board's standard of review of a county board decision is, by rule, nearly identical to the Wyoming Administrative Procedure Act standard which a district court must apply in reviewing agency action, findings of fact, and conclusions of law. Wyo. Stat. Ann. § 16-3-114(c)(ii) (2015). The State Board's review is limited to a determination of whether a county board's 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, Wyo. State Bd. of Equalization, ch. 3 § 9(a)-(d) (2006).

17. Since the State Board Rules are patterned on the judicial review provisions of the Wyoming Administrative Procedure Act, judicial rulings interpreting Wyoming Statutes

section 16-3-114(c) (2015) offer guidance. For example, where both parties submit evidence at a contested case hearing, we apply the substantial evidence standard:

We review an administrative agency's findings of fact pursuant to the substantial evidence test. *Dale v. S & S Builders, LLC*, 2008 WY 84, ¶ 22, 188 P.3d 554, 561 (Wyo. 2008). Substantial evidence is relevant evidence which a reasonable mind might accept in support of the agency's conclusions. *Id.*, ¶ 11, 188 P.3d at 558. Findings of fact are supported by substantial evidence if, from the evidence in the record, this Court can discern a rational premise for the agency's findings. *Middlemass v. State ex rel. Wyo. Workers' Safety & Comp. Div.*, 2011 WY 118, ¶ 11, 259 P.3d 1161, 1164 (Wyo. 2011). When the hearing examiner determines that the burdened party failed to meet his burden of proof, we will decide whether there is substantial evidence to support the agency's decision to reject the evidence offered by the burdened party by considering whether that conclusion was contrary to the overwhelming weight of the evidence in the record as a whole. *Dale*, ¶ 22, 188 P.3d at 561.

Jacobs v. State, ex rel., Wyo. Workers' Safety & Comp. Div., 2013 WY 62, ¶ 8, 301 P.3d 137, 141 (Wyo. 2013).

18. In conjunction with the substantial evidence standard, the State Board applies the "arbitrary and capricious" standard:

The arbitrary and capricious standard of review is used as a "safety net" to catch agency action that prejudices a party's substantial rights or is contrary to the other review standards, but is not easily categorized to a particular standard. *Jacobs*, ¶ 9, 301 P.3d at 141. "The arbitrary and capricious standard applies if the agency failed to admit testimony or other evidence that was clearly admissible, or failed to provide appropriate findings of fact or conclusions of law." *Id.*

Gonzales v. Reiman Corp., 2015 WY 134, ¶ 16, 357 P.3d 1157, 1162 (Wyo. 2015).

19. The State Board reviews conclusions of law de novo:

Questions of law are reviewed *de novo*, and " '[c]onclusions of law made by an administrative agency are affirmed only if they are in accord with the law. We do not afford any deference to the agency's determination, and we will correct any error made by the agency in either interpreting or applying the law.' " *Bowen v. State, Dep't of Transp.*, 2011 WY 1, ¶ 7, 245 P.3d 827, 829 (Wyo. 2011) (quoting *State ex rel. Workers' Safety & Comp. Div. v. Garl*, 2001 WY 59, ¶ 9, 26 P.3d 1029, 1032 (Wyo. 2001)).

Maverick Motorsports Grp., LLC v. Dep't of Revenue, 2011 WY 76, ¶ 12, 253 P.3d 125, 128 (Wyo. 2011).

20. Likewise, we review a county board's findings of ultimate fact 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 Coop., Inc. v. Dep't of Revenue, State of Wyo., 970 P.2d 841, 850-51 (Wyo. 1998) (quoted in *Chevron U.S.A., Inc. v. Dep't of Revenue*, 2007 WY 79, ¶ 10, 158 P.3d 131, 134 (Wyo. 2007)).

B. Applicable Law

21. The Wyoming Constitution, article 15, section 11(a), requires that all property "shall be uniformly valued at its full value as defined by the legislature. The Legislature shall prescribe such regulations as shall secure a just valuation of taxation of all property, real and personal." Wyo. Const. art. 15, § 11(d).

22. Broken into its component parts, the Wyoming Constitution requires that property valuation consists of: (1) a rational method of valuation; (2) that is equally applied to all property; and (3) which provides 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 Elec. Power Coop. v. Dep't of Revenue*, 970 P.2d 841, 852 (Wyo. 1998).

23. The Wyoming Legislature requires all property in Wyoming be valued annually at fair market value. Wyo. Stat. Ann. § 39-13-103(b)(ii)(2013). Fair market value is defined as:

[T]he amount in cash, or terms reasonably 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 property has been offered in the open market for a reasonable time.

Wyo. Stat. Ann. § 39-11-101(a)(vi) (2015). 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)(A) (2015).

24. In annually valuing residential real property, a county assessor is required to “faithfully and diligently follow and apply the orders, procedures and formula 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) (2013).

25. 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. 24, 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.”

Holly Sugar Corp. v. State Bd. of Equalization, 839 P.2d 959, 964 (Wyo. 1992), quoted in *Basin Elec. Power Coop.*, 970 P.2d at 857.

26. The Department is required by law to confer with, advise, and give necessary instructions and directions to the county assessors regarding 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) (2013). 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) (2013).

27. The Department has promulgated rules to provide appraisal methodologies for county assessors, including the sales comparison approach, cost approach, and income approach to value properties. Rules, Wyo. Dep’t of Revenue, ch. 9 § 5 (2011). Those rules also specifically provide for the use of a computer assisted mass appraisal (CAMA) system. Rules, Wyo. Dep’t of Revenue, ch. 9 § 6(a)-(d) (2011). A CAMA system “automates the comparable sales and replacement cost methods.” *Britt v. Fremont Cty. Assessor*, 2006 WY 10, ¶ 39, 126 P.3d 117, 128 (Wyo. 2006). The Wyoming Supreme Court has recognized the validity of valuations derived from a CAMA system. *Id.*

28. An assessor’s valuation is presumed valid, accurate, and correct. This presumption survives until overturned by credible evidence. *Britt*, 2006 WY 10, ¶ 34, 126 P.3d at 127; *Teton Valley Ranch v. State Bd. of Equalization*, 735 P.2d 107, 113 (Wyo. 1987). This presumption is 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. Rule, Wyo. Dep't of Revenue, ch. 9 § 7 (2011).

29. “The burden is on the Taxpayer to establish any overvaluation.” *Hillard v. Big Horn Coal Co.*, 549 P.2d 293, 294 (Wyo. 1976). A mere difference of opinion as to value is not sufficient to overcome the presumption in favor of an assessor’s valuation. *Britt*, 2006 WY 10, ¶ 34, 126 P.3d at 127; *J. Ray McDermott & Co. v. Hudson*, 370 P.2d 364, 370 (Wyo. 1962).

30. The Wyoming Supreme Court aptly described the burden of proof for a taxpayer challenging a county assessor’s valuation as follows:

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

C. Legal Analysis

1. Was the County Board Decision Supported by Substantial Evidence?

31. Petitioner argues either Assessor’s quality of construction rating of “very good” was wrong, or Assessor’s failure to accept Petitioner’s calculated valuation based on its identified comparable property sales was wrong. Petitioner argues either was sufficient to overcome the presumption in favor of the Assessor’s valuation. *See* Pet’r’s Notice of Appeal, 4, ¶ 6. In evaluating these arguments the State Board reviews the record to determine whether the County Board decision was supported by substantial evidence. *Supra* ¶¶ 16-17; *see Dale v. S & S Builders, LLC*, 2008 WY 84, ¶ 22, 188 P.3d 554, 561

(Wyo. 2008); *Newman v. State ex rel. Wyo. Workers' Safety & Comp. Div.*, 2002 WY 91, ¶¶ 8-25, 49 P.3d 163, 166-73 (Wyo. 2002).

32. The Wyoming Constitution requires a rational method of valuation, equally applied to all property, which provides essential fairness. *Supra* ¶¶ 21-22. When a property valuation is challenged the burden is on the party challenging the valuation to prove through a preponderance of evidence that one of the three elements is missing. *Supra* ¶¶ 28, 30. There is a presumption in favor of Assessor's valuation when an assessor uses the CAMA system. *Supra* ¶ 28. Furthermore, a mere difference in opinion is not enough to overcome the presumption in favor of an assessor. *Supra* ¶ 29.

33. Mr. Mastio's use of five other property sales suggests an alternate valuation methodology, the sales comparison approach, be applied to value the Trust property. The Department Rules authorize the use of a comparable sales approach as follows:

The comparable sales approach is an appropriate method of valuation when there are 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:

- (A.) The availability of comparable sales data;
- (B.) The verification of the sales data;
- (C.) The degree of comparability of extent of adjustment necessary for time differences; and
- (D.) The absence of non-typical conditions affecting the sales price.

Rules, Wyo. Dep't of Revenue, ch. 9 § 5(i.) (2011) (emphasis added); *see also Property Assessment Valuation*, ch. 8, 203-225 (Garth E. Thimgan, CAE ed., Int'l Ass'n of Assessing Officers, 3rd ed, 2010) (discussing the application of the sales comparison approach).

34. To successfully challenge a valuation derived using a Department authorized method, Petitioner must apply an authorized approach. From an examination of the characteristics of the property at 344 Katie Canyon Loop, offered as a comparable sale, it is apparent value adjustments to account for differences would be required in utilizing the comparable sales approach. *Supra* ¶ 33.

35. Mr. Mastio failed to account for the significant differences between the two properties in his calculations. The record reflects that the first floor ceiling height of the Trust's property was ten feet and the basement ceiling height was 9 feet, rather than the eight foot ceiling height of the 344 Katie Canyon Loop property. In addition there were

other readily apparent differences, including no second dormer, no half bath, a smaller garage, a deck rather than a concrete patio, and no arched windows throughout the first floor. Each of these differences would require adjustments to the selling price of the house at 344 Katie Road before it could be used as a comparable. Rules, Wyo. Dep't of Revenue, ch. 9 § 5(i.) (2011), *supra* ¶ 33. Similar adjustments would be required for each of the other four properties selected as comparable by Mr. Mastio. Because no evidence was offered with respect to the adjustments necessary for the application of the sales comparison approach, the County Board was justified in rejecting the proposed comparable sales approach as unsupported by credible evidence. The proffered comparable sales approach did not satisfy the Department's established criteria for application of the sales comparison approach. *See* Rules, Wyo. Dep't of Revenue, ch. 9 § (5.)(i.) (2011), *supra* ¶ 33.

36. Substantial evidence demonstrated Assessor used the CAMA system, authorized by the Department, to value the Petitioner's house. *Supra* ¶ 9. The County Board determined that the evidence presented on behalf of the Trust, through Mr. Mastio's testimony and written evidence, was insufficient to rebut the presumption in favor of Assessor or to establish Assessor's valuation was not "a rational method of appraisal, equally applied to all like property which resulted in essential fairness." *Supra* ¶ 30.

37. Among the factors considered in evaluating construction quality, Assessor looks at the quality of the materials used, the structure of the home, whether there are multiple roof peaks, the number of windows, the arched windows, and the overall design of the exterior. *Supra* ¶ 10. Assessor's field inspectors determined the quality of the home was "very good." *Supra* ¶ 9. Further the Assessor explained in detail the manner in which he determined the quality and condition of the Mastio house. He explained that the same process is used in valuing all property in the County, including the use of the best information available and the CAMA system. *Supra* ¶¶ 9-12.

38. Mr. Mastio did not directly challenge the factors identified by Assessor as important in determining the quality of construction and used in classifying the quality as "very good." Rather, Mr. Mastio offered his opinion that the house was not "very good" quality. In support of his opinion, he showed a portion of an exterior door, discussed various construction problems, including construction debris left behind, and noted the quality of the appliances. *Supra* ¶¶ 4-5.

39. Mr. Mastio contended that the materials and construction of the house were not deserving of such a grade. His opinion regarding the quality of the appliances, the quality of the exterior doors, and the contractor's errors, *supra* ¶¶ 4-5, were insufficient to overcome the presumption in favor of the Assessor's valuation. While Mr. Mastio was not satisfied with the quality of the builder's work, that testimony was not sufficient to overcome the presumption in favor of Assessor's valuation. Absent independent authority

challenging Assessor's determination, a mere difference in opinion was insufficient to overcome the presumption in favor of Assessor's valuation. *Supra* ¶¶ 25, 28-30.

40. The State Board notes Petitioner did not allow Assessor to inspect the house after its completion. *See* Wyo. Stat. Ann. §§ 39-13-103(b)(v) (2013) (Assessor may examine any property.), 18-3-205(a) (2013) (Misdemeanor to refuse to allow assessor to examine property). By not allowing Assessor access, Assessor was unable to verify Petitioner's claims, thereby undercutting the Trust's quality argument.

41. Assessor used the Department's authorized CAMA system to value Petitioner's house, a valuation methodology recognized by the Wyoming Supreme Court. *Supra* ¶¶ 9, 27. When the CAMA system is used there is a presumption in favor of the Assessor's valuation. The County Board correctly placed the burden of persuasion on Petitioner to show the Assessor's valuation was not derived in accordance with the required constitutional and statutory requirements. *Supra* ¶ 28-29. The State Board finds substantial evidence supporting the County Board decision.

2. Were there procedural errors or due process violations which rendered the County Board decision arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law?

42. Mr. Mastio raised several issues regarding the procedures used during and after the County Board hearing. The complaints included the nature of his cross-examination by Assessor's attorney, the hearing officer's control over the proceeding (cross examination and commissioner comments), an error in mailing of exhibits, and the acceptance of the Assessor's proposed findings of fact and conclusions of law filed one day late. Pet'r's Notice of Appeal; Pet'r's Opening Br.

43. Because Petitioner did not raise specific objections at the time of the alleged errors, the right to challenge the alleged errors on appeal was waived. *Dale v. S & S Builders, LLC*, 2008 WY 84, ¶ 33, 188 P.3d 554, 562-63 (Wyo. 2008); *Amoco Prod. Co. v. Wyo. State Bd. of Equalization*, 7 P.3d 900, 905-6 (Wyo. 2000); *State ex rel. Wyo. Workers' Safety & Comp Div. v. Wright*, 983 P.2d 1227, 1231 (Wyo. 1999).

44. The State Board will, however, review the claimed errors to determine if the County Board or hearing officer actions were "arbitrary and capricious" or an abuse of discretion. *Gonzales v. Reiman Corp.*, ¶ 16, 357 P.3d at 1162, *supra* ¶ 18; *see Sunderman v. State Farm Fire & Casualty Co.*, 978 P.2d 1167, 1169 (Wyo. 1999) (Decision on manner of witness questioning will not be overturned in the absence of clear abuse of discretion.); *Seaton v. State of Wyo. Highway Comm'n*, 784 P.2d 197, 202 (Wyo. 1989) (Flagrant abuse of discretion required to reverse procedural decisions.).

45. While Mr. Mastio may have felt his cross examination was overly vigorous or that a county commissioner should have been allowed to discuss his personal experience with the real estate market in Albany County, Mr. Mastio did not contemporaneously object. The State Board finds the hearing officer did not abuse her discretion or act arbitrarily or capriciously in allowing the Assessor's attorney to conduct the cross examination in the manner that she did. The questions asked of Mr. Mastio were relevant to the proceedings. The hearing officer properly limited the commissioner's comments because they were not evidence.

46. Finally, the State Board finds that neither the mailing exhibits to an incorrect address nor the County Board's decision to allow Assessor to file proposed findings of fact and conclusions of law one day late was arbitrary or capricious. Mr. Mastio did not object or present any argument suggesting either action was prejudicial to his case or in any meaningful way affected the County Board's ultimate decision.

CONCLUSION

47. In conclusion, Petitioner did not provide sufficient credible evidence to overcome the presumption in favor of Assessor's property valuation. While Mr. Mastio presented information and his personal opinion regarding the quality of construction, the evidence was insufficient to establish that Assessor's method of valuation was not a rational method, equally applied to all property, resulting in essential fairness. *Supra* ¶ 25. Because the evidence Mr. Mastio presented to the County Board represented his opinion, the County Board was well within its discretion to reject it in favor of the Assessor's valuation. *See supra* ¶ 29. The State Board's review of the record did not disclose any procedural errors or due process violations that rendered the County Board decision arbitrary, capricious, or constituted an abuse of discretion. *Supra* ¶ 18.

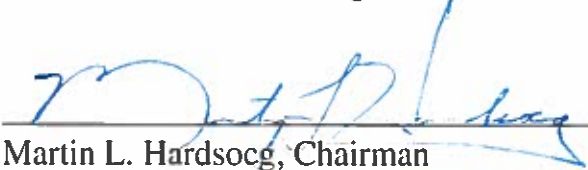
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ORDER

IT IS HEREBY ORDERED the decision of the Albany County Board of Equalization, affirming Assessor's 2015 determination of fair market value for Petitioner's property located at 270 Katie Canyon Loop, Laramie, Albany County, Wyoming, of \$673,139, \$118,000 for the land and \$555,139 for the residential improvements, is **affirmed**.

DATED this 1st day of May, 2017.

STATE BOARD OF EQUALIZATION



Martin L. Hardsocg, Chairman



E. Jayne Mockler, Vice-Chairman

ATTEST:



Nadia Broome, Executive Assistant

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day May, 2017, 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:

Richard & Susan Mastio
270 Katie Canyon Loop
Laramie, WY 82070

Grant C. Showacre
Albany County Assessor
525 Grand Avenue, Suite 206
Laramie, WY 82070

Peggy Trent
Albany County & Prosecuting Attorney
525 Grand Avenue, Suite 100
Laramie, WY 82070



Nadia Broome, Executive Assistant
State Board of Equalization
P.O. Box 448
Cheyenne, WY 82003
Phone: (307) 777-6989
Fax: (307) 777-6363

cc: State Board of Equalization
Dan Noble, Director, Dept. of Revenue
Brenda Arnold, Administrator, Property Tax Div., Dept. of Revenue
Commissioners/Treasurer/Clerk - Albany County
CCH
ABA State and Local Tax Reporter
State Library
File