

**BEFORE THE STATE BOARD OF EQUALIZATION**

**FOR THE STATE OF WYOMING**

IN THE MATTER OF THE APPEAL OF )  
**RR ENTERPRISES** ) Docket No. **2017-64**  
FROM A DECISION BY THE CROOK )  
COUNTY BOARD OF EQUALIZATION )  
(2017 Property Tax Assessment) )

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**DECISION AND ORDER**

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**APPEARANCES**

Steve Brinkman appeared on behalf of RR Enterprises.

Joseph M. Baron, Crook County and Prosecuting Attorney, appeared on behalf of the Crook County Assessor, Theresa Curren.

**DIGEST**

RR Enterprises (RR) appeals the Crook County Board of Equalization’s decision upholding the Crook County Assessor’s 2017 assessment of RR’s real property. The Wyoming State Board of Equalization, Chairman Martin L. Hardsocg, Vice-Chairman David Delicath, and Board Member E. Jayne Mockler, reviewed the record and the parties’ submissions, and heard oral argument. Because RR has not presented cogent argument or cited relevant authority, the State Board affirms the County Board’s decision.

**ISSUE**

RR filed a notice of appeal but did not identify issues, cite authority, or present argument beyond disagreeing with Assessor’s assessment. (Notice of Appeal).

**JURISDICTION**

The State Board “shall hear appeals from county boards of equalization ... upon application of any interested person adversely affected.” Wyo. Stat. Ann. § 39-11-102.1(c) (2015). A taxpayer may file an appeal with the State Board within 30 days of the County Board’s final decision. Rules, Wyo. State Bd. of Equalization, ch. 3 § 2(a) (2006). The County Board issued its final decision on October 4, 2017. (R. Vol. I, at 115). RR filed its

appeal 13 days later. (Notice of Appeal). Accordingly, the notice of appeal was timely and we have jurisdiction.

## **FINDINGS OF FACT**

1. The facts are not disputed. RR bought a parcel of land and improvements in Crook County in 1987 for \$199,500. (R. vol. I, at 79). RR's property includes a 6,070 square foot house, and the assessment of that house is the only thing at issue in this appeal. (Hr'g Recording). From 2010 to 2016, the assessed value of RR's property dropped from \$260,568 to \$233,186. (R. vol. I, at 72).

2. In 2017, Assessor realized that the house on RR's property had reached its life expectancy but was still usable, so she decided to apply an effective age to determine the house's remaining economic life. (Hr'g Recording). She determined that the house was of good quality and average condition. (*Id.*). Applying the relevant Marshall and Swift table, Assessor determined that it had an effective age of 25 years and a remaining economic life of 30 years. (*Id.*).

3. Assessor next used the Replacement Cost New, Less Depreciation method in CAMA and assessed the house at \$537,187. (R., vol. I, at 13). When combined with the values of the land and other improvements, the total 2017 assessed value of RR's property was \$683,482: almost three times the 2016 assessment. (*Id.*).

4. RR appealed the 2017 assessment to the County Board, which held an evidentiary hearing. (R. vol. I, at 1; Hr'g Recording). Steve Brinkman represented RR at that hearing. (Hr'g Recording). He did not address the applicable standard of review or contend that Assessor had done anything that was incorrect or contrary to statute or rule. (*Id.*). Instead, his entire argument was that the assessment was not fair. (*Id.*). The County Board upheld the assessment. (R. vol. I, at 105-117).

5. RR appealed to us, again arguing only that the assessment was not fair. (Notice of Appeal). At oral argument, Mr. Brinkman confirmed that he was not contending that Assessor had done anything wrong or improperly applied the assessment method. (Argument Recording).

## **CONCLUSIONS OF LAW**

### **A. State Board's review function and burdens of proof**

6. This Board reviews county board decisions as an intermediate appellate body and treats the county board as the finder of fact. *Town of Thermopolis v. Deromedi*, 2002 WY 70, ¶ 11, 45 P.3d 1155, 1159 (Wyo. 2002).

7. Our review is limited to determining 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).

8. Because our rules are patterned on the judicial review provisions of Wyoming Statutes section 16-3-114 (2017), judicial rulings interpreting that section offer guidance:

When an appellant challenges an agency's findings of fact and both parties submitted evidence at the contested case hearing, we examine the entire record to determine if the agency's findings are supported by substantial evidence. If the agency's findings of fact are supported by substantial evidence, we will not substitute our judgment for that of the agency 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."

*Chevron U.S.A., Inc. v. Dep't of Revenue*, 2001 WY 79, ¶ 9, 158 P.3d 131, 134 (Wyo. 2001) (citations omitted). "The party challenging the sufficiency of the evidence has the burden of showing the lack of substantial evidence to support the agency's findings." *Faber v. Dep't of Transp.*, 2009 WY 137, ¶ 5, 220 P.3d 236, 238 (Wyo. 2009) (citations omitted).

9. In conjunction with the substantial evidence standard, we apply the "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., Wyo. Workers' Safety & Comp. Div. v. Madeley*, 2006 WY 63, ¶ 8, 134 P.3d 281, 284 (Wyo. 2006).

10. We review 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.’ ”

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

11. We also review a county board’s ultimate findings of 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).

B. Applicable statutes and rules

12. The Wyoming Constitution requires that all property be uniformly assessed for taxation and that the Legislature prescribe regulations to secure a just valuation for the taxation of all property. Wyo. Const. art. 15, § 11. Broken into its component parts, the Wyoming Constitution requires: (1) a rational method of valuation; (2) that is equally applied to all property; and (3) provides essential fairness. *Basin Elec. Power Coop.*, 970 P.2d at 852. It is the burden of the party challenging an assessment to prove by a preponderance of the evidence that at least one of these elements has not been fulfilled. *Id.*

13. The Wyoming Department of Revenue (Department) is required 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) (2015). In particular, the Department

“shall 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) (2015).

14. County assessors are required to “[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) (2015).

15. All taxable property must be valued annually at fair market value. Wyo. Stat. Ann. § 39-13-103(b)(ii) (2015). 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 the property has been offered in the open market for a reasonable time[.]

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

16. “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.’ ” *Britt v. Fremont Cty. Assessor*, 2006 WY 10, ¶ 23, 126 P.3d 117, 125 (Wyo. 2006) (quoting *Amoco Prod. Co. v. Dep’t of Revenue*, 2004 WY 89, ¶ 7, 94 P.3d 430, 435 (Wyo. 2004)).

17. A mere difference of opinion will not overcome the presumption favoring an assessor’s valuation. *J. Ray McDermott & Co. v. Hudson*, 370 P.2d 364, 370 (Wyo. 1962).

C. Review of the County Board’s decision

18. RR asks us to declare that the County Board erred when it affirmed Assessor’s 2017 assessment of RR’s property.

19. In its written submissions and oral argument before this Board, RR did not present cogent argument, cite relevant authority, or identify any issues beyond simply disagreeing with the assessment.

20. The failure to present cogent argument or cite relevant authority warrants summary affirmance. *In re Jan Charles Gray*, 2017 WL 5559382 at \*11, Docket No. 2016-44, ¶ 33

(Wyo. State Bd. of Equalization, Nov. 9, 2017) (*citing Fowles v. Fowles*, 2017 WY 112, ¶ 30, 402 P.3d 405, 413 (Wyo. 2017)).

21. We, therefore, summarily affirm the County Board's decision based on RR's failure to present cogent argument or cite relevant authority.

22. We also affirm because RR has not articulated a basis upon which the State Board might reverse.

## **CONCLUSION**

23. The County Board correctly affirmed Assessor's 2017 valuation of RR's property because RR did not present evidence sufficient to overcome the presumption in favor of Assessor's valuation. Neither has RR cogently stated why the County Board's decision is incorrect.

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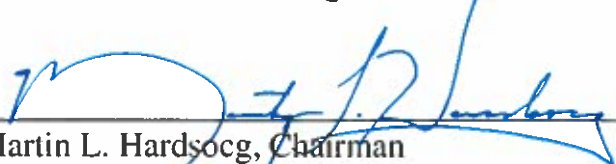
**ORDER**

**IT IS HEREBY ORDERED** the County Board's decision is **affirmed**.

Pursuant to Wyoming Statutes section § 16-3-114 (2017) 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 after the date of this decision.

DATED this 22<sup>nd</sup> day of August 2018.

**STATE BOARD OF EQUALIZATION**

  
\_\_\_\_\_  
Martin L. Hardsocg, Chairman

  
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David L. Delicath, Vice-Chairman

  
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E. Jayne Mockler, Board Member

ATTEST:

  
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Nadia Broome, Executive Assistant

## CERTIFICATE OF SERVICE

I certify that on the 2<sup>nd</sup> day of August 2018, 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:

Steve Brinkman  
RR Enterprises  
101 West 23rd Avenue  
Mitchell, SD 57301

Joseph M. Baron  
Crook County Attorney  
P.O. Box 397  
Sundance, WY 82729



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Phone: (307) 777-6989  
Fax: (307) 777-6363

cc: Dan Noble, Director, Department of Revenue  
Brenda Arnold, Administrator, Property Tax Division, Department of Revenue  
Crook County Board of Equalization, Clerk  
CCH  
ABA State and Local Tax Reporter  
Tax Analysts  
State Library  
File