

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF THE)
TETON COUNTY ASSESSOR) Docket No. 2018-29
FROM A DECISION BY THE TETON)
COUNTY BOARD OF EQUALIZATION)
(Lockhart Cattle Co., LLC, 2016 Property)
Tax Assessment))

DECISION AND ORDER

APPEARANCES

Keith M. Gingery, Deputy County Attorney, appeared on behalf of the Teton County Assessor (Assessor).¹

Kelly Lockhart, Manager, Lockhart Cattle Company, LLC, (Lockhart) appeared *pro se*.

DIGEST

[¶ 1] Assessor appeals from a decision of the Teton County Board of Equalization (County Board), which reversed and remanded Assessor's valuation and 2016 assessment of three acres within a larger 39 acre agricultural property in Teton County. On those three acres were improvements such as cabins, barns, sheds and the like. Citing Department of Revenue rules governing the valuation of agricultural property, Assessor classified the three acres as residential. The property's owner, Lockhart, argued before the County Board that Assessor misclassified the three acres as residential and overvalued the lands when compared to other similarly situated Teton County lands. The County Board agreed.

[¶ 2] The Wyoming State Board of Equalization, Chairman Martin L. Hardsocg, Vice Chairman David L. Delicath, and Board Member E. Jayne Mockler, reviewed the parties' briefs and County Board record to determine whether the County Board's Amended Decision is arbitrary, capricious, unsupported by substantial evidence, and/or contrary to

¹ The Teton County Assessor who valued the Lockhart property in 2015 and 2016, and who defended the valuation before the County Board in 2016, was Mr. Andy Cavallaro. He resigned in 2017. His successor, Ms. Melissa Shinkle, continued to appeal in response to the County Board's amended rulings and, as of the date of this ruling, is the Teton County Assessor. *See infra* ¶ 6.

law. We reverse the County Board's Amended Decision and affirm the Assessor's valuation in all respects.

ISSUES

[¶ 3] Assessor identifies three issues on appeal:

1. Whether the County Assessor properly applied the methodology of abstraction in assessing the parcel owned by the Landowner?
2. Whether the County Assessor properly applied Wyoming Department of Revenue Rule Chapter 10, Section 3(c) in regards to designation of non-agricultural lands?
3. Whether the County Assessor is required to "take into consideration the regulatory environment of property?"

(Assessor Br. 4).

[¶ 4] Lockhart identifies different issues for review:

1. Whether the County Board of Equalization's determination that the County Assessor erroneously classified the "non-agricultural lands" on the Subject Property was supported by substantial evidence and/or was arbitrary, capricious, or otherwise not in accordance with law?
2. Whether the County Board of Equalization's determination that the Assessor's valuation for the Subject Property was not done in accordance with law and resulted in an unfair assessment was supported by substantial evidence and/or was arbitrary, capricious, or otherwise not in accordance with law?

(Lockhart Br. 1).

JURISDICTION

[¶ 5] As required by Chapter 3, section 2(a) of the State Board's rules, Assessor appealed from the County Board's Amended Decision on June 20, 2018, within 30 days of the County Board Amended Decision issued June 19, 2018. (Add'l Suppl. to Docket No. 2016-40 at 11-14; Notice of Appeal). We have jurisdiction to decide this matter.

PROCEEDINGS BEFORE THE COUNTY BOARD

Procedural history and posture of present appeal

[¶ 6] This is the third appeal from the County Board concerning the 2016 taxable value of the Lockhart property. In two previous rulings the County Board reversed the Assessor and remanded the matter for a new valuation, after which Assessor appealed. *See In re Teton Cty. Assessor*, 2017 WL 5128105, Docket No. 2016-40 (Wyo. State Bd. of Equalization, Oct. 26, 2017); *In re Teton Cty. Assessor*, 2018 WL 1703445, Docket No. 2018-06 (Wyo. State Bd. of Equalization, March 22, 2018).

[¶ 7] The State Board did not address the merits in either of those first two appeals. Rather, we determined that because the County Board did not include sufficient findings of fact and conclusions of law to support its decisions, appellate review was not possible. *Supra* ¶ 6. We deemed the rulings arbitrary and capricious and remanded each for a new decision supported by requisite findings of fact and conclusions of law. *Id.*

[¶ 8] Following each remand, the County Board opted to receive no additional evidence and relied on the original contested case hearing conducted on July 20, 2016. We, therefore, have before us the original contested case transcript and evidentiary record submitted to this Board in the Assessor's original appeal, State Board Docket No. 2016-40, along with the County Board's subsequent public meeting considerations (Cty. Bd. minutes) following each remand.²

[¶ 9] The County Board arrived at a similar conclusion in each of its decisions. In the County Board's present decision, the County Board again remanded valuation to the Assessor, directing him to "issue [a] new assessment taking into consideration the direction given regarding the designation of Residential Land, the valuation method, and the consideration of the regulatory environment within which the Property operates." (Cty. Bd. Decision 5, R. at Add'l Suppl. to Docket 2016-40 at 15).

Parties' evidence presented to the County Board of Equalization

[¶ 10] The Lockhart property is located at 2000 S. Highway 89 in Teton County, Wyoming. The property consists of 39.1 acres, including various buildings and structures.

² The County Board designated its recorded considerations following this Board's first remand as "Supplement to Docket 2016-40" and its recorded considerations following our second remand as "Additional Supplement to Docket 2016-40." Each of these supplemental records includes the County Board's minutes of its deliberations and an Amended Decision, the second of which is now before us for appellate review.

(R. at 7, 27, 43-57, 63-64). Lockhart produces crops and raises cattle on the property. (Tr. 15).

[¶ 11] Setting the stage for Lockhart’s 2016 tax appeal to the County Board, Assessor significantly increased the taxable value of Lockhart’s “residential land” when compared to the previous year’s taxable value:

| | <u>2015</u> | <u>2016</u> |
|-----------------------------------|-------------|-------------|
| Residential improvements: | \$75,676 | \$112,095 |
| Residential Land: | \$125,000 | \$750,123 |
| Agricultural irrigated crop land: | \$47,941 | \$49,746 |

(Exs. C3.2, C3.3; R. at 65, 98-99).

[¶ 12] Lockhart challenged only Assessor’s valuation of “Residential Land,” consisting of three acres underlying approximately twelve buildings and structures, including cabins, barns, garages, and sheds. (R. at 63-64, 90, Tr. 19-20); *supra* ¶ 11.

[¶ 13] The crux of Lockhart’s disagreement with Assessor’s valuation and assessment is Assessor’s “carve out” and increased valuation of the three acres of land underlying structures within his 39 acre agricultural property. (R. at 21-22, 27-34; Tr. 90); *infra* ¶ 16. Assessor classified that land as residential, which is taxed at a much higher value than agricultural land. Assessor also dramatically increased that residential land’s value when compared to the value given that land the previous year. *Supra* ¶ 11.

[¶ 14] Mr. Kelly Lockhart, on behalf of Lockhart, objected on three grounds:

- a) Lockhart disagrees that the three acres underlying the improvements should be “carved out” and valued differently than the property valued as agricultural land, arguing the structures served agricultural purposes.
- b) Lockhart disagrees that the three acres were marketable as residential land because they could not be sold independent of the remaining acres.
- c) Lockhart argues the “carved out” land was not valued uniformly with other properties in Teton County as required by law and Wyoming’s Constitution.

(Tr. 13-14; R. at 90; Lockhart Br. 8-19).

[¶ 15] Arguing the property underlying the improvements was agricultural land, Mr. Lockhart explained “[a]ll of the buildings – literally, every one of them – the corrals, the buildings – are all used for the raising of crops and the feeding and care of cattle which is the definition of agriculture.” (Tr. 15). Assessor did not dispute Mr. Lockhart’s description of the use of the land underlying the improvements. Rather, he cited the Department of Revenue’s rules and guidance as justification for his classification of the land as residential. *Infra* ¶¶ 20-22.

[¶ 16] To the extent Assessor relied on the Department of Revenue’s rules, in particular Chapter 10, section 3, or related valuation manual guidance, *infra* ¶¶ 36-37, Mr. Lockhart argued the Department’s rule and guidance conflicted with Wyoming statutory law. (Tr. 18; Lockhart Br. 10-14); *See* Wyo. Stat. Ann. §§ 39-13-101(a)(iii), (viii); 39-13-103(b)(x) (2015)³, *infra* ¶ 36.

[¶ 17] Mr. Lockhart also questioned why the three acres of land classified as residential experienced a fivefold valuation increase, while other Teton County properties of which he was aware did not. He submitted into evidence aerial photos and the 2015 and 2016 tax assessments for nine Teton County properties, arguing that Assessor did not value those nine properties in a like manner. (Tr. 20-25, 51-53; R. at 100-126; Lockhart Br. 16-17). Mr. Lockhart testified: “I’ve looked at about 40 homesteads throughout the county, and I was not able to find any increase that much other than the Jackson Hole Hereford Ranch properties that you heard earlier this morning.” (Tr. 20, referring to a similar appeal the County Board heard that same day).

[¶ 18] Finally, Mr. Lockhart asserted that Assessor could not properly “carve out” the land underlying the improvements and separately value it as residential land because Teton County regulations disallowed subdivision of his property and prevented Lockhart from selling the three acres as residential land independent of the whole agricultural property. (Lockhart Br. 16-18; *see* Tr. 45-47).

[¶ 19] In support of this third assertion, Lockhart offered the testimony of its attorney, Stefan Fodor. Mr. Fodor was a member of the Teton County Planning Commission and specialized in land development.⁴ Mr. Fodor testified that Assessor, who classified the three acres as residential for tax purposes, did so improperly because the land could not be marketed and sold as three acres of residential land in accordance with Teton County’s

³ Except for statutes that have changed since 2015 and the interpretation of which is directly germane to the dispute between the parties, we shall refer to the 2017 Wyoming Statutes. For the statutes, the interpretation of which is disputed, we shall refer to the 2015 Wyoming Statutes.

⁴ The Hearing Officer declined to designate Mr. Fodor as a property valuation expert. (R. at 29-32).

land development regulations. (Tr. 32-37). He disagreed that Assessor, in determining fair market value, could compare three acres in a residential neighborhood with three acres in a larger, undividable agricultural property. (Tr. 37-41). He opined that the “regulatory environment” prevented valuing the property in such a manner. *Id.*

[¶ 20] Defending his valuation, Assessor Andy Cavallaro explained that his increased valuation of the residential land to \$750,123, in contrast to the previous year’s value of \$125,000, was appropriate in light of his Office’s study and examination of each property within Land Economic Area (LEA) 0137, which included the Lockhart property. (Tr. 46-47).

[¶ 21] Assessor offered into evidence a written summary of his LEA 0137 valuation process. (R. at 59-62). Through “abstraction,” Assessor isolated the value of Lockhart’s buildings and other structures and subtracted those values, leaving only Lockhart’s agricultural and residential land to value. The Assessor’s Office conducted a land valuation study and applied a “multiple regression analysis” of the sales of residential properties within LEA 0137, including two vacant land sales, plotting on a chart the open market land sales to arrive at a per acre value. (R. at 61, 75, 78; Tr. 59-62).

[¶ 22] Assessor and his Chief Deputy, Kristin Williamson, further explained that they employed the “abstraction” approach, rather than the previously employed “site” valuation approach, by which the types of property within a parcel (land distinguished from improvements) are not segregated and separately valued. Abstraction is the more accurate and rational method, Assessor explained, because recent open market sales offered a superior indicator of land value alone. (Tr. 52, 59-63, 71-72). The Department of Revenue, Ms. Williamson added, advised that abstraction was the best method to use. (Tr. 62-63).

[¶ 23] In response to Mr. Lockhart’s valuation comparisons between the Lockhart property and other Teton County properties, *supra* ¶¶ 13, 17, Assessor explained that he had not performed those valuations, was unfamiliar with them, or that his office lacked recent sales data with which to perform a land valuation study including those properties. Consequently, Assessor carried historic valuations forward. (Tr. 51-53, 71).

[¶ 24] The Assessor also responded to Lockhart’s argument that land underlying the Lockhart property improvements could not be separated from the whole 39 acre property and sold separately as residential land. *Supra* ¶¶ 18-19. Assessor stated that his valuation conformed to the Department of Revenue’s rules. (Tr. 46-47, 68-69); *infra* ¶¶ 36-38. Ms. Williamson testified similarly, adding that the Department of Revenue required the Assessor’s Office to value all properties within an LEA similarly. (Tr. 63-64).

County Board Decision

[¶ 25] The County Board issued an amended decision on February 22, 2018, remanding the Lockhart valuation to Assessor and ordering him to prepare a new 2016 assessment. (Am. Decision of Teton Cty. Bd. of Equalization, Add'l Suppl. R. at 0011-15 (June 19, 2018)). Integral to that decision, the County Board effectively accepted Lockhart's three arguments, finding that:

- a) The Lockhart's residential land value increased over \$625,000 between 2015 and 2016;
- b) The value increase corresponded to Assessor's change from a "site valuation" approach to an abstraction valuation approach in LEA 0137;
- c) Lockhart's residential land, designated as such by Assessor, is "not actually used for residential purposes";
- d) "The Assessor's inclusion of this agricultural land within the boundaries of the designated Residential Land was erroneous and contributed to a significantly inflated valuation";
- e) Assessor relied on the Department's rules, as well as the definition of "home site" in the Department's Agricultural Appraisal Manual;
- f) The Department's rules and definition of "home site" conflict with the statutory definition of "Agricultural purpose" in Wyo. Stat. Ann. § 39-13-101(a)(viii);
- g) The Legislature's statutory changes to the definition of "Agricultural purpose" is evidence demonstrating the Department's rules conflicted with statute;
- h) Assessor did not "equally and uniformly" value Lockhart's residential land with other similarly situated properties in Teton County;
- i) Assessor's appraisal method improperly inflated the valuation;
- j) Teton County's Land Development regulations "would prohibit the designated Residential Land from being sold as a residential parcel separate and apart from the Property and its larger agricultural portion";
- k) "[T]he comparable properties used by the Assessor in valuing the Residential Land (other properties in LEA 0137) do not exist in the same regulatory environment as the [Lockhart] Property";
- l) "The Assessor did not take into consideration the Property's regulatory environment when valuing the designated Residential Land," which contributed to a significantly inflated valuation.

(*Id.* at 0012-14); *supra* ¶ 14.

[¶ 26] The County Board ordered Assessor to take “into consideration the direction given regarding the designation of Residential Land, the valuation method, and the consideration of the regulatory environment within which the Property operates.” (*Id.* at 0015).

CONCLUSIONS OF LAW

A. State Board’s review function and burdens of proof

[¶ 27] This Board reviews county board decisions as an intermediate appellate body, treating the county board as the finder of fact. *Town of Thermopolis v. Deromedi*, 2002 WY 70, ¶ 11, 45 P.3d 1155, 1159 (Wyo. 2002). Our standards for review of a county board decision are, by rule, nearly identical to the Wyoming Administrative Procedure Act (WAPA) standard (codified at Wyoming Statutes section 16-3-114(c)(ii) (2017)), that a district court must apply in reviewing such decisions. 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).

[¶ 28] Because our rules are patterned on the judicial review provisions of WAPA, judicial rulings interpreting Wyoming Statutes section 16-3-114(c) (2017) offer guidance. Where both parties submit evidence at a contested case hearing, we apply the substantial evidence standard:

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, 2007 WY 79, ¶ 9, 158 P.3d 131, 134 (Wyo. 2007) (citations omitted).

[¶ 29] 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) (quoting *Bowen v. State Dep't of Transp.* 2011 WY 1, ¶ 7, 245 P.3d 827, 829 (Wyo. 2011)).

[¶ 30] “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. Wyo. Dep't of Transp.*, 2009 WY 137, ¶ 5, 220 P.3d 236, 238 (Wyo. 2009) (citation omitted).

[¶ 31] “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)). A mere difference of opinion as to value is not sufficient to overcome the presumption. *Id.*, ¶ 34, 126 P.3d at 127..

B. Applicable law

[¶ 32] The Wyoming Constitution requires that all property be uniformly valued for taxation and that the Legislature prescribe regulations to secure a just valuation for the taxation of all property. Wyo. Const. art. 15, § 11(a), (d). 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. v. Dep't of Revenue*, 970 P.2d 841, 852 (Wyo. 1998). 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.*

[¶ 33] The Department of Revenue 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. § 39-11-103(c)(xvi), (xix) (2017). 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) (2017).

[¶ 34] 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) (2017).

[¶ 35] All taxable property must be valued annually at fair market value. Wyo. Stat. Ann. § 39-13-103(b)(vii) (2017). 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) (2017).

[¶ 36] Much of this dispute arises from Assessor’s application of statutes and rules addressing the classification of “agricultural” land. To qualify as “agricultural land,” land must serve an “[a]gricultural purpose,”⁵ defined as “the following land uses when conducted consistent with the land’s capability to produce: (A) Cultivation of the soil for production of crops; or (B) Production of timber products or grasses for forage; or (C) Rearing, feeding, grazing or management of livestock.” Wyo. Stat. Ann. § 39-13-101(a)(viii) (2015).⁶

[¶ 37] Further defining the “agricultural purpose” prerequisite, the Department’s rules provided:

⁵ Land classified as “agricultural” must serve an “agricultural purpose” as defined by statute and rule, but must also satisfy a four-part test set forth in Wyo. Stat. Ann. § 39-13-103(b)(x) (2015). Because Assessor determined the acres in questions did not serve an agricultural purpose as the Department defined the term, he did not apply the remaining analysis under Wyoming Statutes section 39-13-103(b)(x) (2015).

⁶ The Legislature amended this statute in 2017, including within the definition of “agricultural purpose” the use of land to support a “farmstead structure.” 2017 Wyo. Sess. Laws 417; Wyo. Stat. Ann. § 39-13-101(a)(viii)(D) (2017).

Section 3. Definitions. For the purposes of these rules, the definitions set forth in Wyoming Statutes Title 39, as amended, are incorporated by reference. In addition, the following definitions shall apply:

(a) "Agricultural" means the primary use of the land is to produce crops, harvest timber or graze livestock for commercial purposes consistent with the land's capability to produce.

....

(c) "Non-agricultural lands" shall include but not be limited to lands as described in the State of Wyoming Market Valuation of Residential, Commercial and Industrial Lands as published by the Department:

...;

(ii) Farmsteads with lands occupied by buildings which constitute the home site including one or more acres (as determined by the County Assessor) of land used in direct connection with the home site;

...;

(iv) Land where Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise crops, timber or to graze livestock;

....

(d) "Primarily" means chiefly or the first importance.

Rules, Wyo. Dep't of Revenue, Ch. 10 § 3 (2014); (R. at 84).

[¶ 38] The Department, in its Agricultural Appraisal Manual, advised that in applying the term "home site":

The portion of land which contains building improvements, for example a residence or barn, should not be classified and appraised as agricultural land. This land is referred to as the "farmstead" or "home site" in the Department of Revenue rules Chapter 10 page 1, and is to be appraised at its full market value. An actual residence does not need to be present for land to be classified as the home site. Any improvements on agricultural land which remove a portion of the agricultural land out of production (grazing or growing a crop) should be classified as farmstead acreage. Vacant land that is not being used to grow a crop or graze animals even though owned by a legitimate producer should be valued at market value. The Department Chapter 10 Rules are very specific that the land must be producing an agricultural product (with the exception of circumstances out of the control of the producer such as the inability to graze due to extended draught (sic),

or no irrigation waters available, etc.) Per the Chapter 10 Rules, land used for feed lots cannot be classified as agricultural land.

(Ex. S, R. at 87).

C. Review of the County Board's Decision

[¶ 39] Accepting Lockhart's three arguments in opposition to Assessor's valuation, *supra* ¶ 14, the County Board remanded valuation of the Lockhart property to Assessor and ordered him to "issue [a] new assessment taking into consideration the direction given regarding the designation of Residential Land, the valuation method, and the consideration of the regulatory environment within which the Property operates." (Am. Decision of Teton Cty. Bd. of Equalization, p. 5, R. at Add'l Suppl. to Docket 2016-40 at 0015); *supra* ¶¶ 7, 23-24. We shall take each in turn.

Assessor's classification of land underlying improvements as "residential"

[¶ 40] Mr. Lockhart testified that the facilities located on the three acres in question, and therefore the land underlying those facilities, served an agricultural purpose: the growing of crops and raising of livestock. *Supra* ¶ 15. Assessor did not challenge Mr. Lockhart's characterization. *Id.*

[¶ 41] Yet, whether the land satisfied Mr. Lockhart's proffered meaning of "agricultural purpose" is not the decisive question. The question is whether Lockhart used the land for an "agricultural purpose" as the Department defined the term in tax year 2015 and as of January 1, 2016. *Supra* ¶¶ 36-38. Fully appreciating that the Department's interpretation of "agricultural purpose" under Wyoming statute differed from its own, Lockhart asserted the Department's rule and associated guidance is contrary to statute. (Lockhart Br. 8-14; Tr. 14). The County Board agreed and reversed. In support of its determination, the County Board seized upon the Legislature's 2017 change to the statutory definition of "agricultural purpose" in Wyoming Statutes section 39-13-101(a)(viii) (2015); the County Board reasoned (as does Lockhart in its brief) that the 2017 legislative change evidenced the statute's objective as it existed prior to 2017. *See supra* n. 6; ¶ 25; (Lockhart Br. 13).

[¶ 42] We apply rules of statutory interpretation when interpreting rules. *Wyo. Dep't of Revenue v. Buggy Bath Unlimited, Inc.*, 2001 WY 27, ¶ 6, 18 P.3d 1182, 1185 (Wyo. 2001) (citation omitted). We begin with an inquiry of the ordinary and obvious meaning of the regulatory language. Only "[i]f more than one reasonable interpretation exists, we resort to general principles of statutory construction." *Id.* at ¶ 7, 18 P.3d at 1185.

[¶ 43] We find no ambiguity in the Department’s rules. Among various regulatory provisions addressing the statutory “agricultural purpose” criteria, the Department directed that non-agricultural land included “Land where Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise crops, timber or to graze livestock.” Rules, Wyo. Dep’t of Revenue, ch. 10, § 3(e)(iii) (2014); *supra* ¶ 37.

[¶ 44] We need go no further. Given this clear definitional guidance, land supporting installations such as outbuildings, sheds, and the like was residential. In effect, once the land’s surface was incapable of directly producing crops or raising cattle, it no longer served an agricultural purpose. *See also In re D Bar D Ranch, LLC*, 2006 WL 3327975, *23-24, Docket No 2005-113, ¶¶ 109-11 (Wyo. State Bd. of Equalization, July 20, 2006) (reasoning that the statutory definition of “agricultural purpose” required literal use of land consistent with it’s capability to produce).

[¶ 45] Yet, the County Board reasoned that the Legislature’s 2017 amendment of the statutory “agricultural purpose” criteria was “evidence” in support of Lockhart’s challenge to the Department’s rule applied in 2016. *Supra* ¶ 25. We disagree. Such might have been true had the Legislature clarified an ambiguous statute. *See Moncrief v. Wyo. State Bd. of Equalization*, 856 P.2d 440, 444-45 (Wyo. 1993) (“[W]here the legislature, by subsequent amendment or legislation in the same act or on the same subject, enacts language which clarifies previously ambiguous language, the subsequent language gives meaning to the previously ambiguous expression.”); *Buggy Bath Unlimited, Inc.*, 2001 WY 27, ¶¶ 16-18, 18 P.3d at 1187-88 (examining whether statutory change was intended as clarification or substantive change to law).

[¶ 46] However, the Legislature in 2017 did not modify Wyoming Statutes section 39-13-101(a)(viii) with a nuanced or subtle change to clarify its previous intent. Rather, the Legislature declared that homestead lands served an “agricultural purpose.” *Supra* at n. 6. Given the Department’s long-existing regulatory direction concerning “agricultural purpose,” the 2017 statutory amendment was undoubtedly a substantive change and expansion of the “agricultural purpose” qualifying criteria. The 2017 legislative change, therefore, arguably supports the Department’s long standing statutory interpretation set forth in rule. *Supra* at ¶ 37.

[¶ 47] Whether or not the Department’s rule aligned with Wyoming Statute section § 39-13-101(a)(viii) (2015) is arguable. Regardless, an agency’s rules “have the force and effect of law[.]” *Wilson Advisory Comm. v. Bd. of Cty. Comm’rs*, 2012 WY 163, ¶ 22, 292 P.3d 855, 862 (Wyo. 2012) (quoting *Northfork Citizens for Responsible Dev. v. Bd. of Cty. Comm’rs of Park Cty.*, 2010 WY 41, ¶ 27, 228 P.3d 838, 848 (Wyo. 2010)). Wyoming statutes require that assessors follow the Department’s rules and guidance. *Supra* ¶ 34.

Assessor lacked discretion and was required to classify Lockhart's land underlying improvements as residential.

[¶ 48] In sum, the County Board erred when it decided that Assessor, because he followed the Department's unambiguous rules addressing "agricultural purpose," incorrectly "carved out" the Lockhart land underlying improvements as residential. While county boards of equalization may reconcile ambiguous rules with their statutory precursors, or otherwise distinguish the intent of rules vis-à-vis the facts and other authoritative sources, they must apply unambiguous statutes and rules as written, notwithstanding disagreement with the outcome. *In re Jedediah Corp.*, 2015 WL 6121954, *16, Docket Nos. 2013-08, 2013-50, ¶ 53 (Wyo. State Bd. of Equalization, Oct. 9, 2015); *See also Kennedy Oil v. Dep't of Revenue*, 2008 WY 154, ¶ 20, 205 P.3d 999, 1005-06 (Wyo. 2008) (Even if courts disagree with an outcome, they are not free to legislate in the face of clear and unambiguous statutes); *Hede v. Gilstrap*, 2005 WY 24, ¶ 6, 107 P.3d 158, 163 (Wyo. 2005) (Court's role is to interpret laws and are not responsible for its defects.).

Assessor's selection and application of "abstraction" as a sales comparison valuation method

[¶ 49] We begin, as we must, with the strong presumption that Assessor correctly selected and applied the valuation method. *Supra* ¶ 31. We carefully review the County Board's findings and examine the record for evidence in support of Lockhart's allegations of error, which Lockhart was required to demonstrate as part of its initial burden of production and ultimate burden of proof. *Supra* ¶ 30.

[¶ 50] The County Board concluded that Assessor either incorrectly applied a valuation method, or that Assessor applied the incorrect valuation method. The County Board found "[t]he Assessor used the abstraction method of valuation to determine the value of the residential land on the Property and only one other agricultural property in all of Teton County." Citing the Wyoming Constitution, the County Board concluded that Assessor failed to value the residential land "equally and uniformly with other similarly situated properties in Teton County." *Supra* ¶ 25(h). This unequal and non-uniform valuation, the County Board decided, "contributed to a significantly inflated valuation." *Supra* ¶ 25(l).

[¶ 51] As to its allegation that Assessor erred in selecting the "abstraction" technique in applying the sales comparison method, Lockhart did not offer adequate evidence to demonstrate error. Mr. Lockhart merely inquired as to the applicability of other methods. (Tr. 50-51, 66). Assessor and his Deputy, Kristin Williamson, explained that abstraction was the best method to value properties within LEA 0137 because there were sufficient open market sales to perform a land valuation study within that geographical area. *Supra* ¶¶ 20-22.

[¶ 52] As to whether Assessor correctly applied the abstraction technique, Lockhart focused on the taxable values of nine other Teton County properties, pointing out that those values did not experience the same increase between the 2015 and 2016 tax assessments as did the Lockhart property, the three residential acres in particular. *Supra* ¶ 17.

[¶ 53] Article 15, section 11 of the Wyoming Constitution requires that “[a]ll property, . . ., shall be uniformly valued at its full value as defined by the legislature” and that “[a]ll taxation shall be equal and uniform within each class of property.” Claims of non-uniform, unequal taxation are easily alleged but difficult to sustain. It is not enough to note differing values among properties. Constitutional uniformity does not require the same valuation result in every case; rather, the constitution demands a uniform tax assessment process. Uniform taxation violations arise from “systematic, arbitrary, or intentional undervaluation of some property, as compared to the valuation of other property in the same class[.]” *Weaver v. State Bd. of Equalization*, 511 P.2d 97, 98 (Wyo. 1973); *see also State Bd. of Equalization v. Monolith Portland Midwest Co., Inc.*, 574 P.2d 757, 761 (Wyo. 1978) (“These provisions [referring to art. 1, § 28; art. 15, § 11, Wyo. Const.] do not require, however that all minerals of the like kind be assigned the same value. Uniformity of assessment requires only that the method of appraisal be consistently applied.”).

[¶ 54] While Lockhart introduced evidence of varied values among a number of Teton County properties, he did not offer evidence that the values resulted from a defective methodology or systemic, intentional undervaluation. We do not know from the record whether Lockhart’s three acres are similarly situated to the other properties mentioned. The record offers little insight into how Assessor valued the properties identified. Assessor testified: “I can’t speak to those properties as I did not value those properties when they had been set as they are now.” (Tr. 52). Referring to a particular property, Assessor suggested that if there was insufficient sales data in a given LEA, historical values were possibly used. (Tr. 51). Therefore, we don’t even know whether the same valuation method was used to value the properties offered for comparison. If different valuation methods were used, we lack evidence to evaluate whether that was incorrect as a matter of practice.

[¶ 55] We find substantial evidence does not support the County Board’s conclusion that Assessor valued Lockhart’s residential property in a non-uniform or unfair manner. Given the evidence and limited County Board discussion or findings, the County Board likely misapprehended the type of evidence required to sustain this deceptively complex claim. Indeed, Assessor’s counsel, not Lockhart, mentioned one reason for the difference in values—the Lockhart property’s close proximity to the town of Jackson, relative to the other properties discussed. (Tr. 58; Assessor Br. 25). The record is otherwise devoid of a meaningful exposition of the properties offered for comparison and their taxable valuations, including the LEA’s containing those properties and the myriad other characteristics that might have come into play.

[¶ 56] Finally, contrary to the County Board’s finding that the value of Lockhart’s property was “significantly inflated,” the evidence suggests otherwise. Assessor and his deputy offered substantial evidence that he valued the LEA 0137 properties with the benefit of recent, open-market sales. *Supra* ¶¶ 20-22, 24. From the strong presumption favoring Assessor’s valuation, this meant that all residential acres within LEA 0137 were valued with the benefit of open-market prices paid on a per acre basis. Had Lockhart proved that the properties offered for comparison were similarly situated, those properties indeed may have been drastically undervalued. The legal remedy in that instance would not be reduction of the Lockhart property value, but revaluation of the other properties to address any non-uniformity.

Assessor’s failure to consider regulatory environment

[¶ 57] Assessor’s failure to consider the “regulatory environment within which the Property operates” is the third reason cited by the County Board for reversal. *Supra* ¶¶ 9, 26. That failure, the County Board concluded, contributed to a “significantly inflated valuation.” *Id.*

[¶ 58] The County Board’s ruling raises an interesting question: must assessors classify or group land for valuation purposes strictly as local guidelines might require the lands be partitioned from an acreage standpoint? Must assessors then disregard departmental rules if application of the rules does not comport with local guidelines?

[¶ 59] We first examine the County Board’s application of law. The County Board refers to “regulatory environment” as the factor that should have prevented the Assessor’s valuation in this instance, but it cites no statute or rule in support of that determination. *See supra* ¶ 25. Lockhart directs us to the departmental rules in effect at the time, which read:

The appraisal techniques which may be used by the County Assessor 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 market value of the property. Each approach used shall also consider the **nature of the property and regulatory and economic environment** within which the property operates. All methods used by the Assessor shall be consistent with the applicable IAAO and USPAP standards[.]

Rules, Wyo. Dep’t of Revenue, Ch. 9 § 5 (2011) (emphasis added) (*cited in* Lockhart Br. 17).

[¶ 60] Lockhart’s evidence of Teton County’s prohibitive “regulatory environment” came through witness Stephan Fodor, an attorney who represents Lockhart. *Supra* ¶ 19. Mr. Fodor opined that the three acres in question, separate from the total 39 acres, would not be marketable “under any of the development options in Teton County’s LDR,⁷ the FAR,⁸ the rural, or the CN-PRD.⁹” (R. at 33-34). Mr. Fodor explained that the PRD was not subdividable and imposed a “minimum acreage requirement of growth site area of 35 acres.” (Tr. 34). He added that the CN-PRD “has a minimum acreage requirement far in excess of 39.1 acres present here” and that the three acres would not be purchasable as such. (Tr. 34-35). In sum, Mr. Fodor opined that Assessor improperly valued Lockhart’s three acres as residential because the acres could not be partitioned and sold as a three-acre residential property.

[¶ 61] Although Assessor agrees that regulatory limitations on land should be considered, he responds that county land use regulations did not supersede, or “trump,” the Department’s agricultural land valuation guidelines. (Assessor Br. 28-29).

[¶ 62] Thus, each party cites a different departmental rule as correctly answering the question. Our primary objective is to give effect to the legislature’s intent, or in this case, the Department’s intent as the agency designated to facilitate the Legislature’s objective. If possible, we reconcile these two regulatory provisions: “all portions of an act [or regulation] must be read in *pari materia*, and every word, clause and sentence of it must be considered so that no part will be inoperative or superfluous.” *Powder River Basin Res. Council v. Wyo. Dep’t of Env’t. Quality*, 2010 WY 25, ¶ 30, 226 P.3d 809, 819 (Wyo. 2010) quoting *KP v. State*, 2004 WY 165, ¶ 22, 102 P.3d 217, 224 (Wyo. 2004).

[¶ 63] We do not find that these provisions conflict. Chapter 9, section 5 of the Department’s rules, *supra* ¶ 59, which Lockhart cites as authority for its position, merely required Assessor to “consider” regulatory and economic environment in the valuation process. The rule did not dictate that land be valued in strict compliance with local guidelines. The rule clearly granted Assessor discretion. *Id.*

[¶ 64] Conversely, Chapter 10, section 3 of the Department’s rules defined non-agricultural land as land which has been disturbed and which itself is incapable of producing crops or supporting livestock. *Supra* ¶ 37. The rule allowed Assessor no discretion as to how he could classify the land in question. Moreover, from the clear and unambiguous language of the rule, the Department implicitly recognized that non-agricultural lands underlying homesteads, barns, sheds, and the like might exist within very large or small agricultural operations, subject to an array of zoning or land-use restrictions.

⁷ LDR refers to “Land Development Regulations.” (Tr. 34).

⁸ FAR refers to “Floor Area Ratio.” (Tr. 34).

⁹ Mr. Fodor did not define “rural PRD” or “CN-PRD.” (R. at 34). However, Teton County’s Land Development Regulations refer to “rural PRD,” which refers to “Planned Residential Development.” See Jacksonstetonteton.com/DocumentCenter/View/932/Teton-County-Land-Development-Regulations-PDF.

The Department clearly intended that assessors classify such land as residential regardless of circumstances. Were the opposite true, little uniformity could exist because some homesteads would retain their agricultural status due to land use regulation guidelines, while others would be residential in the absence of land use restrictions. We avoid interpreting rules to produce an unwieldy and absurd result. *Stauffer Chem. Co. v. Curry*, 778 P.2d 1083, 1093 (Wyo. 1989).

[¶ 65] Even if we were to find these rules to conflict, a specific statute, or in this case a specific rule, controls over a general statute or rule dealing with the same subject. *Cheyenne Newspapers, Inc. v. Bd. of Trs. Laramie Cty. Sch. Dist. No. One*, 2016 WY 113, ¶ 23, 384 P.3d 679, 685 (Wyo. 2016) (citing *Rock v. Lankford*, 2013 WY 61, ¶ 37, 301 P.3d 1975, 1085 (Wyo. 2013)). The rules in question do not deal with the same subject per se, and the rule cited by Lockhart is a very general valuation principle, while the rule cited by Assessor very specifically answers the question raised. Accordingly, we agree with Assessor that Teton County's land development rules did not require Assessor to disregard the Department's agricultural land classification guidelines. *Supra* ¶ 61.

[¶ 66] Finally, we recall our ruling in a similar dispute, *In re D Bar D Ranch, LLC*, 2005 WL 907431, Docket No. 2004-123 (Wyo. State Bd. of Equalization, April 14, 2005). In that appeal from the Sheridan County Board of Equalization, the owner of a 1,738 acre ranch challenged various aspects of the Sheridan County Assessor's valuation of the property, including the valuation of three one-acre residential farmsteads. *Id.* at *2. As in the present case, Assessor valued the farmstead acres as residential in accordance with the Department's rules. *Id.* at *7, 13-14, ¶¶ 35, 36, 64-67. This Board responded to the taxpayer's objection, stating:

69. Having accepted the favorable aspects of the Assessor's use of his discretion, Petitioner would have the County Board, and this Board, limit that same discretion when it comes to comparisons used to determine the value of the land on which the residence rests. Petitioner argues that agricultural zoning must be taken into account. The practical effect of this argument is a claim that Petitioners are entitled to a single farmstead acre valued on the basis of property sales of much larger acreage, for much less an acre than sales of smaller parcels.

70. Of course, Petitioner's argument could readily be turned on its head. If agricultural zoning means that the only reasonable, correct, and permissible comparison is with 35 acre parcels, then it makes as much sense to insist that each farmstead should be deemed to rest on 35 acres. The result of this logic would be to deprive the Petitioner of the enjoyment of its low agricultural land valuation on 35 acres of farmstead rather than just one acre.

71. Whether framed for or against the interests of the Petitioner, Petitioner's argument misses the point plainly grasped by the Assessor, which is to equitably treat all owners of residential property without creating unwarranted privilege for those whose residential properties rest on what would otherwise be agricultural lands. By regulation, the Petitioner's farmsteads are non-agricultural lands, and Petitioner is not entitled to more favorable treatment than other similarly situated homeowners in Sheridan County. The County Board properly found for the Assessor.

Id. at *13-14, ¶¶ 69-71.

[¶ 67] The County Board erred when it determined that Assessor, because he did not consider the property's "regulatory environment," improperly inflated the value of Lockhart's non-agricultural property. Assessor, notwithstanding Teton County's land use guidelines, correctly valued the three acres as residential land.

CONCLUSION

[¶ 68] The County Board erred in reversing Assessor's valuation and assessment of Lockhart's residential property. The County Board incorrectly rejected the Department's guidance defining "agricultural purpose," which the Assessor was required to follow. *Supra* ¶¶ 43-48. Assessor correctly classified the land underlying Lockhart's improvements as residential land.

[¶ 69] Lockhart failed to demonstrate that Assessor violated constitutional requirements that property be valued uniformly and equally within the same class. *Supra* ¶¶ 53-56. The County Board failed to apply the correct standard and relied upon insufficient evidence in support of Lockhart's claim. *Id.*

[¶ 70] Finally, the County Board erred when it rejected Assessor's valuation for failure to consider the "regulatory environment." *Supra* ¶¶ 60-67. Assessor was not required to disregard departmental valuation guidance in favor of local land development restrictions.

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ORDER

[¶ 69] **IT IS HEREBY ORDERED** the amended decision of the Teton County Board of Equalization, reversing and remanding the Assessor's 2016 valuation and assessment of Lockhart Cattle Company, LLC's residential property, is **reversed**, and the Assessor's valuation is **affirmed** in all respects.

[¶ 70] 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 29th day of March, 2019

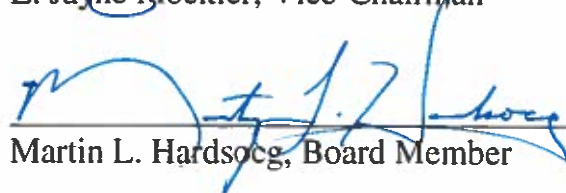
STATE BOARD OF EQUALIZATION



David L. Delicath, Chairman



E. Jayne Mockler, Vice-Chairman



Martin L. Hardsocg, Board Member

ATTEST:



Nadia Broome, Executive Assistant

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of March, 2019, 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:

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cc: Commissioners/Treasurer/Clerk/Assessor – Teton County
Brenda Arnold, Administrator, Property Tax Division, Department of Revenue
CCH
ABA State and Local Tax Reporter
Tax Analysts
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File