

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
REESE REAL ESTATE AND) Docket No. 2019-30
INVESTMENT COMPANY FROM A)
FROM A DECISION BY THE UINTA)
COUNTY BOARD OF EQUALIZATION)
(2019 Property Tax Assessment))

ORDER OF REMAND

This matter came before the Wyoming State Board of Equalization on the appeal of Reese Real Estate and Investment Company from the August 15, 2019, Order on Assessor’s Motion to Dismiss issued by the Uinta County Board of Equalization. The State Board, on its own motion, remands this case to the County Board for issuance of an amended decision.

APPEARANCES

Austin Glidewell, Pivotal Tax Solutions, appeared on behalf of Reese Real Estate and Investment Company.

Mark W. Harris, Harris Law Office, P.C., appeared on behalf of the Uinta County Assessor.

PROCEDURAL HISTORY

[¶ 1] Reese Real Estate appealed Assessor’s 2019 valuation of Reese’s land in Uinta County to the County Board. Reese identified the issue as “current economic and market conditions support a lower value for the subject property.” (Pet. for Appeal Before the Cty. Bd. of Equalization, Cty. Bd. R. at 1, 3).¹ Reese did not provide any explanation or evidence of current economic or market conditions, or cite any authority for its assertion. *Id.*

¹ The fill-in-the-blanks appeal form supplied by Assessor provides only three lines for a petitioner’s “brief explanation of unresolved matter.” Reese’s single-sentence explanation used less than half of that available space.

[¶ 2] After a scheduling conference at which, apparently, nobody mentioned any problems with Reese’s notice of appeal, Assessor moved for dismissal on the basis that Reese’s notice of appeal violated Chapter 7, Section 7 of the State Board’s rules requiring “a written statement specifying the reasons why the assessment is incorrect” along with a statement of facts, issues, and objections. (Assessor’s Mot. to Dismiss, 2-3, Cty. Bd. R. at 012-13). Reese, represented by Austin Glidewell, J.D., an Arizona-based tax specialist who is not a licensed attorney in Wyoming or Arizona, filed a response to Assessor’s motion. (Reese Resp. to Assessor’s Mot. to Dismiss, Cty Bd. R. at 091-94).

[¶ 3] The County Board decided, *sua sponte*, that it would not consider Reese’s response to Assessor’s motion to dismiss because Mr. Glidewell is not authorized to practice law in Wyoming. (Order on Assessor’s Mot. to Dismiss, 2-3, Cty. Bd. R. at 096-97). The County Board granted Assessor’s motion to dismiss, finding that Reese’s “notice of appeal and subsequent filings” didn’t comply with Chapter 7 of our rules because they didn’t “provide sufficient bases to provide notice to ... Assessor as to the point or area of disagreement.”² *Id.*

[¶ 4] Reese now appeals the County Board’s dismissal of its appeal, contending that the County Board erred in determining that Mr. Glidewell cannot represent Reese before the County Board. (Notice of Appeal, 1). Reese did not file an opening brief with the State Board, opting instead to rely on its Notice of Appeal.

[¶ 5] Assessor filed a brief conceding that the County Board erred when it decided that Mr. Glidewell cannot represent Reese before the County Board. (Assessor’s Br., 4-5). Assessor nonetheless urges us to affirm the dismissal because Reese violated Chapter 7, Section 7 of our rules, by failing to provide a written statement specifying the reasons why the assessment was incorrect, by failing to provide a concise statement of the facts, issues and objections it considered relevant to the assessment of the property, and by failing to cite applicable authority. *Id.* at 12.

[¶ 6] While this Board appreciates Assessor’s forthright admission that a litigant before the County Board may be represented by anyone that litigant chooses, we believe a brief discussion of the question may prove helpful to future litigants. The County Board purportedly based its decision to disregard Reese’s pleading on: 1) Rules of Professional Conduct for Attorneys at Law 5.5; 2) Rules Governing the Wyoming State Bar and the Authorized Practice of Law 7; 3) Bylaws of the Wyoming State Bar, Article I; and 4) the

² The county board could also have relied on its own, analogous rule. *Rules, Uinta Cty. Bd. of Equalization*, ch. 1 § 8. <https://www.uintacounty.com/518/County-Board-of-Equalization-Rules>.

Wyoming Bar's Pro Hac Vice Submission Checklist. (Order on Assessor's M. to Dismiss, 2-3). But, the County Board's decision contains no analysis of those authorities and does not explain how they apply to the facts. We will address each authority in turn.

Rules of Professional Conduct for Attorneys at Law 5.5

[¶ 7] Rule 5.5 provides:

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding; or

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission.

(d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction or the equivalent of, may provide legal services in this jurisdiction that:

(1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(2) are services that the lawyer is authorized by federal law, tribal law or other law or rule to provide in this jurisdiction.

Rule 5.5. Unauthorized practice of law; multijurisdictional practice of law, Wyo. Rules of Professional Conduct (2014).

[¶ 8] The County Board didn't specify which portion of this rule it relied on. All four sections apply only to lawyers. While Mr. Glidewell indicated he has a law degree, he is not a bar member in Wyoming or in his home state of Arizona. For our purposes, therefore, he is not a lawyer. Accordingly, this rule does not apply to him.

Rule 7 Governing the Wyoming State Bar and the Authorized Practice of Law

[¶ 9] Again, the county board did not specify which portion of this rule it relied on. We suspect it was Section (a), a list of categories of persons authorized to practice law in Wyoming. Mr. Glidewell doesn't fit any of the listed categories, and thus isn't authorized to practice law in Wyoming. But, Section (a) isn't the final word:

(c) Whether or not they constitute the practice of law, the following are not prohibited:

(7) Nonlawyers appearing as an advocate in a representative capacity before any body, board³ committee, or commission constituted by law, if that body, board, committee or commission has authorized such representation by federal statute, state statute, county, or city resolution or ordinance, federal administrative regulation, or state administrative regulation.

Rules Governing the Wyo. State Bar & the Authorized Practice of Law, (7)(c)(7) (2014). So, even if representing Reese before the county board is the practice of law, it's not forbidden by these rules if the county board has authorized it by rule.

[¶ 10] We believe the county board has done so:

The Appellant may represent himself/herself at the hearing, he/she *may be represented by a person designated by the Appellant*, or he/she may be represented by an attorney who is duly authorized to practice law in the

³ There is no comma between "board" and "committee" in this list. But, the comma between "board" and "committee" when the list is reiterated later in the same sentence leads us to believe its absence here was an oversight rather than a choice.

State of Wyoming or is associated at the hearing with one or more attorneys authorized to practice law in Wyoming.

Rules, Uinta Cty. Bd. of Equalization, ch. 1, § 15(a) (emphasis added). That rule is based on one of ours: “A petitioner may be self-represented, *may be represented by a person designated by the petitioner*, or may be represented by an attorney duly authorized to practice law in the State of Wyoming or associated with one or more attorneys authorized to practice law in the State of Wyoming.” *Rules, Wyo. State Bd. of Equalization*, ch. 7 § 13(a) (2015) (emphasis added).

[¶ 11] Both of those rules allow a litigant to be represented by a person the litigant delegates. While he may not be a lawyer in Wyoming, or even in Arizona, we feel confident that Mr. Glidewell is a person. Accordingly, Reese may designate him to represent it before the County Board.

Bylaws of the Wyoming State Bar, Article I

[¶ 12] Article I governs membership in the Wyoming Bar. Mr. Glidewell isn't a Wyoming Bar member, and no one has claimed that he is. This article, therefore, has no bearing on the question before us.

Pro Hac Vice Submission Checklist

[¶ 13] The Wyoming State Bar's checklist and procedures of admission pro hac vice are available at www.wyomingbar.org/for-lawyers/admissions/pro-hac-vice. However, since no one has claimed that Mr. Glidewell was, or sought to be, admitted pro hac vice, this checklist has no bearing on the question before us.

CONCLUSION

[¶ 14] The County Board's decision to not consider Reese's response to Assessor's motion to dismiss was error. We, therefore reverse it and remand the case to the County Board with instructions to issue a new decision that: 1) takes into consideration Reese's response to Assessor's motion; and 2) applies authority to the facts instead of just citing a string of authorities without explaining how they apply to the facts of the case.

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ORDER

[¶ 15] **IT IS, THEREFORE ORDERED** that the Decision of the Uinta County Board of Equalization is **reversed and remanded** to the County Board for further proceedings in accordance with this order.

DATED this 19 day of December 2019.

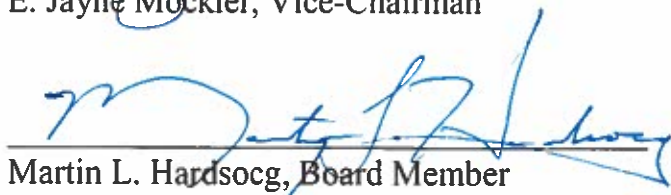
STATE BOARD OF EQUALIZATION



David L. Delicath, Chairman



E. Jayne Mockler, Vice-Chairman



Martin L. Hardsocg, Board Member

ATTEST:



Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of December 2019, I served the foregoing **ORDER OF REMAND** 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 – Uinta County
ABA State and Local Tax Reporter
State law Library