

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)	
DUANE WALL)	Docket No. 2019-32
FROM A DECISION BY THE LARAMIE)	
COUNTY BOARD OF EQUALIZATION)	
(2019 Property Tax Assessment))	

DECISION AND ORDER

APPEARANCES

R. Duane Wall (Petitioner) appeared pro se.

Gladys Ayokosok, Deputy Laramie County Attorney, appeared on behalf of the Laramie County Assessor, Kenneth Guille (Assessor).

DIGEST

[¶ 1] Petitioner challenged the 2019 taxable valuation of his residential property, specifically the value of his residential lot which is burdened by a defective “valley pan”¹ along the eastern border of his property. Although Assessor calculated a valuation decrease to account for the valley pan’s negative impact upon the lot, Petitioner claimed the lot’s value should be further reduced or have no value for tax purposes. Because Petitioner presented no evidence of how the lot should be valued, the Laramie County Board of Equalization (County Board) affirmed Assessor’s valuation.

[¶ 2] The Wyoming State Board of Equalization, Chairman David L. Delicath, Vice-Chairman E. Jayne Mockler, and Board Member Martin L. Hardsocg, agree that Petitioner failed to carry his burden of proof and, accordingly, **affirm** the County Board’s decision.

ISSUES

[¶ 3] Petitioner does not identify narrow issues for review. From his arguments, however, we discern the following points of contention:

¹ The “valley pan” is a four-foot wide concrete canal through which water, from rain and snowmelt runoff, flows from surrounding properties. (R. at 134-37).

A. Did Assessor err when he applied Wyoming's Computer Assisted Mass Appraisal System (CAMA), and when he grouped Petitioner's property with other properties not negatively impacted by a defective "valley pan"?

B. Did Assessor err when he reduced the value of Petitioner's lot by a calculated cost to replace the defective valley pan?

C. Did Assessor err by not retroactively reducing Petitioner's property values, allowing a credit for overpaid past taxes, plus interest?

(Pet'r's Brief and Reply Brief).

[¶ 4] Assessor identifies the issue as:

The County Board of Equalization correctly affirmed the Assessor's valuation of Petitioner's property because he took into account the effect of the defects on the Petitioner's property as recommended by this Board in its prior ruling while using the Computer Assisted Mass Appraisal (CAMA) System. Was the County Board's decision supported by substantial evidence, within its discretion, and in accordance with law?

(Assessor's Br. 2).

JURISDICTION

[¶ 5] The State Board shall "hear appeals from county boards of equalization[.]" Wyo. Stat. Ann. § 39-11-102.1(c) (2019). A taxpayer or county assessor 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 September 30, 2019. (R. 237-51). Petitioner filed his appeal before this Board on October 15, 2019. (Notice of Appeal). Accordingly, we have jurisdiction to decide this matter.

COUNTY BOARD PROCEEDINGS

[¶ 6] For a third time before this Board, Petitioner challenges the taxable valuation of his Laramie County residential property located at 1719 Gold Dust Road, Cheyenne, Wyoming. (R. at 89); *see In re Wall*, Doc. No. 2017-60, 2018 WL 8062051 (Wyo. St. Bd. of Equalization, Dec. 31, 2018) (addressing Petitioner's challenge of the 2017 taxable value) (*Wall I*); *In re Wall*, Doc. No. 2016-49, 2018 WL 2014342 (Wyo. St. Bd. of Equalization, April 18, 2018) (addressing Petitioner's 2016 taxable value) (*Wall II*) (R. at

75-87).

[¶ 7] Although Petitioner has somewhat refined his claims and supporting arguments, the source of Petitioner’s grievance remains unchanged. Petitioner again claims Assessor did not properly account for several property features and their negative valuation impacts on his residential lot. The objectionable property conditions, Petitioner claims, arose from the City of Cheyenne’s (and its contractor’s) 2003-05 planning and construction of a “valley pan,” and the connected sidewalk and gutter. (R. at 127-207, 217-18; Pet’r’s Br. 1-19). As before, Petitioner’s evidence centered upon the City’s and its contractor’s(s’) failure to follow technical project specifications and municipal construction guidelines. Petitioner repeats allegations that all concerned, including professional licensing agencies, have turned a blind eye to repeated complaints about the poor work. (R. at 23-30, 127-207, 217-18; Pet’r’s Reply Br. 1-17); *see Wall II, supra* ¶ 6.

[¶ 8] In his most recent 2018 appeal, we held that Petitioner indeed demonstrated the valley pan was poorly constructed and, as a result, mud and silt deposited within the valley pan itself and overflowed into Petitioner’s yard. *Wall II* at * 8-9, ¶¶ 30-32. This offending aspect of the valley pan’s poor operation, we explained, impacted and burdened *only* Petitioner’s property. The value of surrounding neighborhood properties, in particular those used for comparative purposes to assign a market adjustment, were not likewise burdened or diminished. *Id.* at * 10-12, ¶¶ 38-46. We held that, contrary to Assessor’s reading of Wyoming’s property valuation guidelines, Wyoming law permitted Assessor to account for the effects of the poorly constructed valley pan through an adjustment to land value, including an adjustment based on the cost to cure the defect. *Id.* at * 10-12, ¶¶ 38-41. However, Petitioner had offered no evidence of the cost to remediate the defective valley pan and, therefore, had not carried his burden of proof before the County Board. We, consequently, affirmed Assessor’s 2018 valuation. *Id.* at * 12-13, ¶ 46.

[¶ 9] In accordance with our previous ruling, Assessor reduced the 2019 value of Petitioner’s land by \$8,779, (21%), the cost Assessor calculated to remove and replace the defective valley pan structure. (R. at 47-53, 89-90, 114-17). Petitioner disagreed before the County Board that the land valuation decrease from \$41,802 to \$33,023 is adequate. (R. at 29-34; Pet’r’s Reply Br. 20-21). Petitioner asserted that the full cost to remediate all claimed defects and consequences would eclipse the value of his land, leaving only the value of his residence to be taxed. (R. at 32-34, 38-39; Pet’r’s Reply Br. 20-21). Petitioner offered no clear evidence of the remediation costs required. Still, he insists that Assessor, and not he himself, should be responsible for calculating a reduction in value, an apparent retort to this Board’s ruling in *Wall II*. (Pet’r’s Reply Br. 21).

[¶ 10] The County Board held that Assessor correctly applied CAMA to calculate the fair market value of Petitioner’s property. (County Board Decision, R. at 246-50); *supra* ¶ 9. Petitioner, the County Board concluded, offered no evidence challenging Assessor’s

calculated cost to remedy the defective valley pan and, therefore, did not carry his burden of proof. *Id.*

CONCLUSIONS OF LAW

A. Standard of Review

[¶ 11] 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); *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. *Town of Thermopolis*, ¶ 11, 45 P.3d at 1159.

[¶ 12] 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) (2019). 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).

[¶ 13] 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) (2019) offer guidance. 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).

B. Applicable Law

[¶ 14] 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.

[¶ 15] 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. § 39-11-103(c)(xvi), (xix) (2019). 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) (2019).

[¶ 16] County assessors, for their part, 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) (2019).

[¶ 17] The Wyoming Supreme Court described the burden of proof taxpayers bear when challenging a county assessor’s valuation:

A strong presumption favors the Assessor’s valuation. “In the absence of evidence to the contrary, we presume that the officials charged with establishing value exercised honest judgment in accordance with the applicable rules, regulations, and other directives that have passed public scrutiny, either through legislative enactment or agency rule-making, or both.” *Amoco Production Co. v. Dept. of Revenue*, 2004 WY 89, ¶ 7, 94 P.3d 430, 435 (Wyo. 2004). The Britts [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 v. Fremont Cty. Assessor, 2006 WY 10, ¶ 23, 126 P.3d 117, 125 (Wyo. 2006).

C. Review of the County Board Decision

[¶ 18] We determined in *Wall II* that Petitioner proved a defectively installed “valley pan” (running along the eastern border of his lot) negatively affected his land. *Supra* ¶¶ 6, 8. Wyoming’s property tax appraisal law, we noted, permitted a “cost-to-cure” valuation adjustment to account for such sources of functional obsolescence, contrary to Assessor’s position in that appeal. *Supra* ¶ 8. Following this guidance, Assessor in 2019 approximated a cost to remove and replace the defective valley pan structure, and he reduced the fair market value of Petitioner’s land by 21%, a value reduction of \$8,779. *Supra* ¶ 9.

[¶ 19] Petitioner offers three arguments in opposition to Assessor’s valuation adjustment. First, Petitioner complains that CAMA was, and is, ill-suited to value his property given the defective valley pan. (Pet’r’s Br. 3-4; Reply Br. 17-18, 20-21). Petitioner adds that Assessor’s valuation, because he did not properly account for the valley pan’s negative effect, placed Petitioner’s property in a separate class from other properties in violation of Wyoming’s Constitution. (R. at 20-21). Second, Petitioner generalizes that the cost to repair the valley pan and other defects would exceed the undiminished value of his land and, as such, his land should have no taxable value. *Supra* ¶¶ 8-9. Third, Petitioner claims Assessor should reexamine past tax years dating back to 2006, reduce the valuation of his land each year, and that Petitioner is entitled to recoup overpaid property taxes plus interest. (R. at 31-32; Pet’r’s Br. 3; Pet’r’s Reply Br. 20-21).

[¶ 20] Petitioner’s discontent with CAMA is nonspecific and difficult to follow. Yet, several of Petitioner’s statements in testimony and from arguments in his brief reveal that he believes CAMA incorrectly forces a comparison between properties despite disqualifying differences. (R. at 25-27; Pet’r’s Reply Br. 17-18, 20). Petitioner offered no direct evidence that Assessor misapplied Wyoming’s CAMA system. He offered no independent appraisal in support of his position, nor did he identify a particular aspect of CAMA that he believed was critically responsible for the claimed error. We must, in accordance with the presumption of correctness attributed to Assessor’s appraisal, affirm the County Board’s general conclusion that Assessor correctly applied CAMA. *Supra* ¶

17. A nonspecific disagreement with CAMA as a system of mass appraisal does not suffice to either overcome the initial presumption in favor of a valuation, *supra* ¶ 17, or carry a taxpayer’s ultimate burden of proof. “An Assessor’s valuation is presumed valid, accurate, and correct. The presumption survives until overturned by credible evidence.” *In re D Bar D Ranch LLC*, Doc. No. 2004-123, 2005 WL 907431, * 8 (Wyo. St. Bd. of Equalization, April 1, 2005) (citing *Teton Valley Ranch v. St. Bd. of Equalization*, 735 P.2d 107, 113 (Wyo. 1987)).

[¶ 21] We are compelled to note that our ruling in Petitioner’s previous appeal in large part addressed his concern. *Supra* ¶ 8. We stated that the sales comparison component of CAMA *permitted adjustments* to account for atypical or unique conditions or features not impacting all of the properties in a grouping. *Wall II*, * 10-12, ¶¶ 38-45. Conditions common to a group of similar properties, by contrast, would not merit an adjustment, as the sales ratio analysis of properties within the grouping would sufficiently capture the effect of those attributes, whether positive or negative. *Id.*; *see also In re Gorski*, Doc. No. 2015-52, 2017 WL 1041926 at * 16 (Wyo. St. Bd. of Equalization, March 10, 2017). For this reason as well, Petitioner’s objection to CAMA is not well taken and misses the pivotal question in this appeal—whether Assessor erred in adjusting the value of Petitioner’s lot when he accounted for the defective valley pan and other conditions.

[¶ 22] We may also summarily dispose of Petitioner’s related claim that Assessor, because he has not accounted for the defective valley pan, curb, and gutter, has unconstitutionally created a separate class of property for tax purposes. (Pet’r’s Br. 20-21); *see* Art. 15, § 11(c), Wyo. Const. (“The Legislature shall not create new classes or subclasses or authorize any property to be assessed at a rate other than the rates set for authorized classes.”). We need not entertain Petitioner’s facile claim, as he offers no substantive analysis or authority and clearly misconstrues this complex constitutional provision. Courts may refuse to consider alleged constitutional violations if not supported by appropriate analysis, legal authority, or cogent argument. *Dworkin v. L.F.P., Inc.*, 839 P.2d 903, 909 (Wyo. 1992).

[¶ 23] As in his past appeals, Petitioner’s vehement complaints concerning the City of Cheyenne’s actions dating back to 2003 fueled his challenge before the County Board. *Supra* ¶¶ 6-7. Seemingly unable to address the valuation component as a separate question, distinct from his frustrations with the city, Petitioner seeks a valuation that will right the full scope of perceived wrongs committed, including a tax credit, with interest, for his exhaustive efforts to see justice done. *Id.* Petitioner seeks remedies that neither Assessor, the County Board, nor this Board, may award.

[¶ 24] When confronted with narrow questions of how his lot should be valued, Petitioner answered that the cost to resolve the valley pan and other associated problems is more than the land is worth, effectively asserting that Assessor should value only the residential improvements and leave the land value at zero. *Supra* ¶¶ 9, 19. He offered no credible

evidence to support this proposition or to carry his ultimate burden of demonstrating that Assessor incorrectly accounted for the defective valley pan. Indeed, Petitioner dismissively states in his brief, “I should not have to do [Assessor] Guille’s work.” (Pet’r’s Reply Br. 21).

[¶ 25] To the contrary, because Assessor’s valuation was and is presumptively correct, demonstrating error required nothing less than a calculation effectively countering Assessor’s depreciation adjustment and valuation. Were it otherwise, a taxpayer’s difference of opinion might be enough to successfully challenge an assessor’s valuation, contrary to established Wyoming case law. *J. Ray Mc Dermott & Co. v. Hudson*, 370 P.2d 364, 370 (Wyo. 1962) (A mere difference of opinion as to value is not sufficient to overcome the presumption).

[¶ 26] Petitioner also complained before the County Board that Assessor’s calculations did not address various other associated defects of the sidewalk and curb/gutter. He also listed several other related consequences associated with the City of Cheyenne’s poor construction work, including the need to remove and replace fences, sprinklers, sod, etc. (Pet’r’s Br. 2-3). We find no error in Assessor’s limited focus on the defective valley pan, as the comparable sales and other properties used for comparative purposes within the CAMA system would not account for this atypical characteristic. Poorly formed curbs and sidewalks, on the other hand, are features likely to exist uniformly throughout any neighborhood or grouping of properties and, so, do not necessitate specific, separate valuation adjustments. *See supra* ¶ 21. Where necessary, assessors may address such variables through the “condition” designation, which allows an adjustment of value based on an improvement’s level of disrepair or maintenance. In any event, Wyoming’s mass appraisal system does not require that assessors separately account for every flaw, defect, or degradation in an improvement or structure.

[¶ 27] Finally, we summarily reject Petitioner’s argument that past overvaluations justify a credit or refund, with interest. (Pet’r’s Reply Br. 21). Besides Petitioner’s failure to cite authority for his claimed right to revive past tax years in the present appeal, he offered no credible evidence of past assessment errors.

CONCLUSION

[¶ 28] Substantial evidence supported the County Board’s decision affirming Assessor’s 2019 valuation of Petitioner’s property.

ORDER

[¶ 29] **IT IS, THEREFORE, ORDERED** that the decision of the Laramie County Board of Equalization is affirmed.

Pursuant to Wyo. Stat. Ann. §16-3-114 (2015) and Rule 12, Wyoming Rules of Appellate Procedure, any person aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days of the date of this decision.

DATED this 30 day of June 2020.

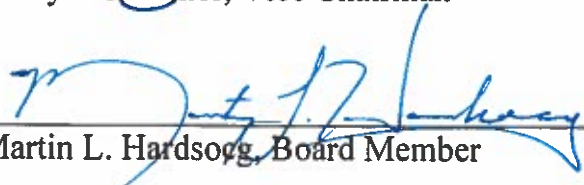
STATE BOARD OF EQUALIZATION



David L. Delicath, Chairman

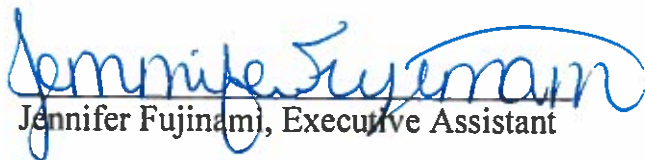


E. Jayne Mockler, Vice Chairman



Martin L. Hardsorg, Board Member

ATTEST:



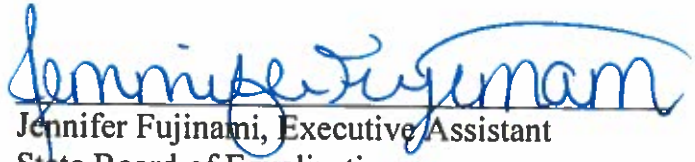
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 30 day of June 2020, 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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