

**BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING**

IN THE MATTER OF THE EXAMINATION)
OF THE PROPERTY TAX VALUATION OF) **Docket No. 2019-45**
PARCEL ID# 33792121501000 FOR TAX YEAR)
2018 (2019 ASSESSMENT))

EXAMINATION FINDINGS AND DECISION

THIS MATTER came before the Board on Petitioner Tri Max Builders LLC’s (Petitioner) Request for Examination, filed December 30, 2019. Having reviewed this matter, the Board finds and rules as follows:

I. Petitioner’s allegations and the investigation proceedings

1. The Natrona County Assessor (Assessor) assessed Petitioner’s property at a value generating a significant tax liability increase between 2018 and 2019. Petitioner did not appeal the Assessor’s assessed valuation and does not address its failure to do so.

2. Petitioner sought a Board examination after the time for appeal lapsed, asserting “[t]here [were] no adequate proceedings provided by law which [would] remedy the allegation.” *Id.* As a reason for its examination petition, Petitioner asserts that Assessor imposed an “Unreasonable Property Tax” because the property was and is a “drainage area and is unsuitable for building per the DEQ.” *Id.*

3. Petitioner submitted no copies of assessments, nor did it identify the actual taxable values assessed upon its property in 2018 and 2019. (Pet’r’s Req. for Examination).

4. The Board issued an Order Setting Initial Procedure for Examination on January 27, 2020. In that order, the Board directed Petitioner to submit a verified written statement detailing its allegations as required by Chapter 4, Section 3(c) of the Board’s rules. (Order Setting Initial Procedure for Examination, ¶ 4). Assessor was to then respond or otherwise defend his assessment. *Id.* at ¶ 5.

5. Petitioner, on February 13, 2020, filed a statement asserting that its property was “unfairly assessed” because the property is subject to a drainage easement which feeds a Casper Municipal Golf Course. Development of the property, Petitioner insisted, could not occur. In a meeting with Assessor, Petitioner learned that Assessor had removed all

property “variances” which led to the valuation increase. (Pet’r’s Statement). Petitioner reported that Assessor acknowledged that the valuation was incorrect, but said he would not revisit the 2019 valuation and would reevaluate it the next year. *Id.*

6. Assessor moved to dismiss the Petition for Examination on several grounds, including Petitioner’s failure to timely appeal. (Assessor’s Motion to Dismiss and Motion for an extension of time to respond). Assessor responded separately to Petitioner’s statement and Petition, identifying various deficiencies and grounds to deny Petitioner’s requested relief. (Assessor’s Resp. to Pet’r’s Req. for Examination). The Board did not dismiss the petition and determined that an examination would ensue.

7. The State Board issued an Examination Procedure Order on March 12, 2020, noting Petitioner’s failure to submit adequate information in support of its Petition for Examination. The Board directed that Petitioner submit an affidavit detailing all allegations, with supporting documentation, no later than April 23, 2020. (Examination Procedure Order, ¶¶ 5-7). The Board directed Assessor to respond to Petitioner’s submitted detailed evidence within thirty days. (Examination Procedure Order, ¶ 8). The parties could request an evidentiary hearing to further review Petitioner’s allegations and the evidence. (Examination Procedure Order, ¶ 9).

8. Petitioner submitted no affidavit or evidence in response to the Examination Procedure Order.

II. The State Board’s Examination Authority

9. The State Board’s authority to “examine” and redress fraudulent, improper or unequal taxation is set forth in Wyoming Statutes section 39-11-102.1(c)(x) (2019). That section directs that the Board shall:

Carefully examine into all cases wherein it is alleged that property subject to taxation has not been assessed or has been fraudulently, improperly, or unequally assessed, or the law in any manner evaded or violated, and cause to be instituted proceedings which will remedy improper or negligent administration of the tax laws of the state. Except for allegations based in fraud, any request for relief under this paragraph shall be filed within five (5) years from the date the taxes were paid or should have been paid[.]

10. The State Board’s authority to summarily dismiss an examination request is unsettled. *See Wyodak Res. Dev. Corp. v. St. Bd. of Equalization*, 2001 WY 92, ¶ 14, 32 P.3d 1056, 1059 (Wyo. 2001) (The Court stated “Assuming without deciding that the Board may by rule limit the extent of its examination under the statute, ...”); *see also Exxon Corp. v. Bd. of Cty. Comm’rs, Sublette Cty.*, 987 P.2d 158 (Wyo. 1999).

11. The Board may determine how it shall conduct a formal examination of alleged taxation improprieties. *In re Bd. of Cty. Comm'rs, Sublette Cty.*, 2001 WY 91, ¶¶ 17-18, 33 P.3d 107, 113-14 (Wyo. 2001).

III. Examination findings

12. Petitioner alleged that Assessor greatly overvalued property that Petitioner could not build upon or develop. Petitioner, however, offered no sworn testimony (as in an affidavit) in support of this allegation, or documentary evidence, other than a map depicting the property. Petitioner argued that the previous 2018 assessed valuation, which is not disclosed in submissions to this Board, was an appropriate valuation.

13. In a statement submitted to the Board, Petitioner refers to a meeting in which Assessor allegedly admitted the valuation was incorrect, but said he would not revisit the matter until the next valuation cycle. *Supra* ¶ 5. Petitioner did not submit this testimony under oath as required, and Petitioner's allegations are insufficient to establish that Assessor has "fraudulently, improperly, or unequally assessed" Petitioner's property. *Supra* ¶ 9. Petitioner has not demonstrated an improper or negligent application of Wyoming law. *Id.*

14. Notwithstanding multiple opportunities to supply the Board with detailed allegations and evidence to support Petitioner's assertions, Petitioner has not responded. *Supra* ¶ 8. We know only that Petitioner believes the 2019 valuation to be unreasonably high when considering the limited uses of the property. We are therefore unable to conclude that Assessor has fraudulently, improperly, or unequally assessed Petitioner's property, or that he has improperly or negligently administered Wyoming property tax law. *Supra* ¶ 9.

15. Petitioner broadly contends that it otherwise lacks adequate proceedings to pursue a remedy. *Supra* ¶ 3; *see* Rules, Wyo. St. Bd. of Equalization, Ch. 4 § 3(c)(iii)(C) (2001) (requiring that in support of petitions, petitioners allege that there are inadequate proceedings to pursue tax remedies). Petitioner offers no explanation why it could not have appealed the assessment to the Natrona County Board of Equalization. The Board Examination remedy is not a substitute for timely appeal to a county board of equalization.

16. In the absence of particularized evidence we must presume that Assessor has administered Wyoming's property tax valuation guidelines as required by Wyoming statutes and the Department of Revenue's regulations. *Britt v. Fremont Cty. Assessor*, 2006 WY 10, ¶ 23, 126 P.3d 117, 125 (Wyo. 2006).

IV. Conclusion

17. Petitioner has not demonstrated that Assessor incorrectly applied Wyoming's property tax laws. Referring to Petitioner's Petition for Examination and materials submitted, Petitioner is entitled to no relief or further proceedings to determine whether relief should be considered.

18. Pursuant to Wyoming Statutes section 16-3-114 (2019) 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 26 day of May 2020.

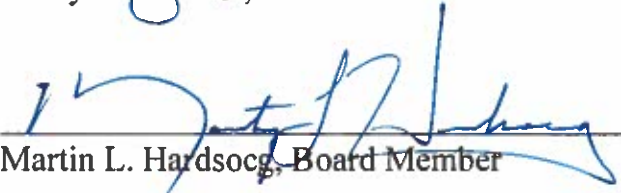
STATE BOARD OF EQUALIZATION



David L. Delicath, Chairman



E. Jayne Mockler, Vice-Chairman



Martin L. Hardsocg, Board Member

ATTEST:



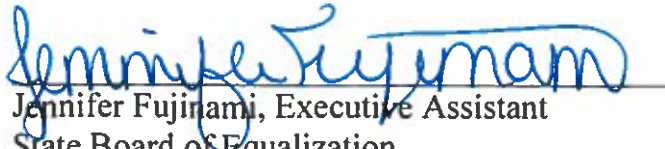
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 27 day of May 2020, I served the foregoing **EXAMINATION FINDINGS AND DECISION**, by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to:

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