

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
SHAWN L. WAGNER) Docket No. 2020-07
FROM A DECISION BY THE NATRONA)
COUNTY BOARD OF EQUALIZATION)
(2019 Property Tax Assessment))

DECISION AND ORDER

APPEARANCES

Taxpayer Shawn Wagner appeared pro se.

Charmaine Reed, Natrona County Attorney's Office, appeared on behalf of Natrona County Assessor Matt Keating.

SUMMARY

[¶ 1] Taxpayer Shawn Wagner appealed Assessor's 2019 assessment of his real property to the Natrona County Board of Equalization. The County Board held an evidentiary hearing and determined that Mr. Wagner did not satisfy his burden of showing that the assessment was incorrect. Finding no reversible error, we affirm the County Board's decision.

ISSUES

[¶ 2] Mr. Wagner did not present an issue statement or file a brief, choosing instead to rely on his notice of appeal. He contends that Assessor over-valued his property.

[¶ 3] Assessor's brief does not include an issue statement. He contends that the County Board correctly affirmed the assessment because Mr. Wagner "failed to identify how Assessor's determination of valuation was incorrect or unlawful." (Assessor's Br. 2).

JURISDICTION

[¶ 4] The State Board shall “hear appeals from county boards of equalization[.]” Wyo. Stat. Ann. § 39-11-102.1(c) (2019). An aggrieved taxpayer may file an appeal with the State Board within 30 days of the County Board’s final decision. Rules, Wyo. State Bd. of Equalization, ch. 3 § 2(a) (2006). The County Board issued its final decision on January 27, 2020. (R. at 10). Mr. Wagner filed his appeal on February 18, 2020. (Notice of Appeal, 1). Accordingly, we have jurisdiction to decide this matter.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Mr. Wagner owns a house in Natrona County. He paid \$150,000 for the land and paid \$389,742 to build the house. (Hr’g at 4:48). Construction was finished in 2018. In 2019, Assessor valued Mr. Wagner’s house at \$662,699. (R. at 11). Assessor later amended the assessment to \$710,805. (R. at 10). Mr. Wagner appealed to the County Board. (R. at 1).

[¶ 6] At the County Board hearing, Mr. Wagner presented a fee appraisal by Certified Residential Appraiser, Cynthia Whitlock, who valued the property at \$551,000. (R. at 24-103). That appraisal was done in December, 2017, before the house was finished. (R. 26). During the hearing, Assessor amended his assessment to \$656,289 after learning that the basement was smaller than originally reported. (R. at 23).

CONCLUSIONS OF LAW

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

[¶ 7] This Board reviews county board decisions as an intermediate appellate body and treats the county board as the finder of fact. *Town of Thermopolis v. Deromedi*, 2002 WY 70, ¶ 11, 45 P.3d 1155, 1159 (Wyo. 2002). Our standard of review of a county board decision is nearly identical to the Wyoming Administrative Procedure Act standard, found at Wyoming Statutes section 16-3-114(c)(ii) (2019), 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). “Substantial evidence is relevant evidence which a reasonable mind might accept in support of the [County Board’s] conclusions. It is more than a scintilla of evidence.” *In re Lysne*, 2018 WY 107, ¶ 12, 426 P.3d 290, 294-95 (Wyo. 2018) (quoting *Walton v. State ex rel. Wyo. Workers’ Safety & Comp. Div.*, 2007 WY 46, ¶ 9, 153 P.3d 932, 935 (Wyo. 2007)).

[¶ 8] Mr. Wagner bears the burden of proving, by a preponderance of the evidence, that Assessor did not value the property in accordance with the applicable constitutional and statutory requirements. *Helmut J. Mueller Ltd. P’ship v. Treanor*, 2018 WY 131, ¶ 13, 430 P.3d 733, 737 (Wyo. 2018). A strong presumption favors Assessor’s valuation, and a mere difference of opinion about value is not sufficient to overcome that presumption. *Britt v. Fremont Cty. Assessor*, 2006 WY 10, ¶ 28-29, 126 P.3d. 117, 126 (Wyo. 2006).

[¶ 9] We review questions of law de novo and will affirm the County Board’s conclusions of law “only if they are in accord with 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)).

Discussion and Recommended Disposition

[¶ 10] Mr. Wagner’s presentation was limited to asserting that Assessor’s assessment was wrong, and that the fee assessment done in 2017 (while the house was being built) was right. He did not prove, or even contend, that Assessor violated any statute, violated any rule, or performed any calculation incorrectly. Mr. Wagner can’t prevail without showing the County Board how Assessor erred, and a fee appraisal disagreeing with Assessor’s appraisal is not sufficient. See e.g. *In re Fremont Cty. Assessor*, 2004 WL 225016, *6, Docket No. 2003-110 (Wyo. State Bd. of Equalization Jan. 23, 2004). This is a paradigmatic “difference of opinion” that does not overcome the presumption in Assessor’s favor. (*Supra*, ¶ 8).

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ORDER

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

DATED this 10 day of June 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 10 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:

Shawn L. Wagner
3302 Cattle Trail Dr.
Casper, WY 82604

Charmaine Reed
Natrona County Attorney's Office
200 North Center Street, Suite 300
Casper, WY 82601



Jennifer Fujinami, Executive Assistant
State Board of Equalization
P.O. Box 448
Cheyenne, WY 82003
Phone: (307) 777-6989
Fax: (307) 777-6363

cc: Dan Noble, Director, Dep't of Revenue
Brian Judkins, Property Tax Div., Dep't of Revenue
Commissioners/Treasurer/Clerk – Natrona County
CCH
ABA State and Local Tax Reporter
State Library
File