

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

IN THE MATTER OF THE APPEAL OF)
MARCIA ELAINE WALKER) Docket No. **2021-111**
FROM A DECISION BY THE NATRONA)
COUNTY BOARD OF EQUALIZATION)
(2021 Property Valuation))

DECISION AND ORDER

APPEARANCES

Taxpayer, Marcia Elaine Walker, appeared pro se.

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

SUMMARY

[¶ 1] Ms. Walker appeals from a Natrona County Board of Equalization order affirming Assessor's 2021 valuation of her real property. The County Board affirmed Assessor's valuation, concluding that Ms. Walker "did not present sufficient evidence to overcome the presumption of validity of the Assessor's evaluation or show by a preponderance of the evidence that Assessor's valuation was incorrect or unlawful." Ms. Walker disagrees with the County Board's decision, but has not articulated specific issues for our review beyond complaining that the County Board did not consider a market appraisal that she submitted as evidence. Neither party requested oral argument, so the Wyoming State Board of Equalization, Chairman E. Jayne Mockler, Vice-Chairman Martin L. Hardsocg, and Board Member David L. Delicath, base this Decision and Order on the County Board record and the parties' written submissions. Finding no reversible error, we will affirm.

ISSUES

[¶ 2] Ms. Walker filed a written statement, but didn't provide a statement of issues. The closest she came to articulating a reviewable issue was this:

The Market Analysis in my exhibit package was compiled by a real estate company chosen at random. The agent, who makes a living on sales figures, valued the property in the area of the 2020 assessed valuation.

The Natrona County Board of Equalization apparently did not consider the Market Analysis nor the possibility of the statistical use of an alternate data base to be important.

(Walker Written Statement 1-2).

[¶ 3] Assessor presented this statement of the issue:

Was the Natrona County Board of Equalization affirmation of Assessor's valuation of the property arbitrary, capricious, an abuse of its discretion, or otherwise not in accordance with law?

(Assessor's Br. 1).

JURISDICTION

[¶ 4] The State Board shall "hear appeals from county boards of equalization ... upon application of any interested person adversely affected." Wyo. Stat. Ann. § 39-11-102.1(c) (2021). An aggrieved taxpayer or assessor may file an appeal with the State Board within 30 days after a county board's final decision. Rules, Wyo. State Bd. of Equalization, ch. 2, § 5(e) (2021). The County Board issued its final decision on December 1, 2021. (R. 71). Ms. Walker filed her appeal on December 13, 2021. (Notice of Appeal). Accordingly, the appeal is timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Ms. Walker owns a residential improved property in Natrona County. (R. 9). In 2019, Assessor valued Ms. Walker's property at \$130,954. (R. 8). In 2020, that value increased more than nine-fold to \$1,228,208. (R. 9). But, after Ms. Walker appealed, Assessor issued an amended valuation of \$157,125. (R. 15). In 2021, Assessor valued the property at \$240,319. (R. 16). Ms. Walker again appealed.

[¶ 6] Ms. Walker testified on her own behalf and offered a Fair Market Evaluation prepared by real estate broker John Lichty. (R. 24-28). Mr. Lichty suggested a price range of \$157,000 to \$166,000 for Ms. Walker's property. *Id.* Two members of Assessor's staff testified about CAMA and about how Ms. Walker's property was valued.

[¶ 7] The County Board concluded that “Petitioner did not present sufficient evidence to overcome the presumption of validity of the Assessor’s evaluation or show by a preponderance of the evidence that Assessor’s valuation was incorrect or unlawful” (R. 70).

CONCLUSIONS OF LAW

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

[¶ 8] 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 for reviewing a county board decision is nearly identical to the Wyoming Administrative Procedure Act standard, found at Wyoming Statutes section 16-3-114(c)(ii) (2021), 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) (2021). “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)).

[¶ 9] We review questions of law de novo and will affirm a 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)).

[¶ 10] We also apply de novo review to a county board’s ultimate findings of fact:

When an agency’s determinations contain elements of law and fact, we do not treat them with the deference we reserve for findings of basic fact. When reviewing an “ultimate fact,” we separate the factual and legal aspects of the finding to determine whether the correct rule of law has been properly

applied to the facts. We do not defer to the agency’s ultimate factual finding if there is an error in either stating or applying the law.

Basin Elec. Power Coop., Inc. v. Dep’t of Revenue, State of Wyo., 970 P.2d 841, 850-51 (Wyo.1998) (quoted in *Chevron U.S.A., Inc. v. Dep’t of Revenue*, 2007 WY 79, ¶ 10, 158 P.3d 131, 134 (Wyo. 2007)).

[¶ 11] “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)); see also, *Rules, Wyo. State Bd. of Equalization*, ch. 7, § 14(a) (2021) (“There is a presumption that the assessor’s property valuation is valid, accurate, and correct.”). “Petitioner may present any credible evidence to rebut the presumption in favor of the assessor’s valuation.” *Id.* at § 14(b). “A mere difference of opinion as to value” is not sufficient to overcome the presumption. *Britt*, at ¶ 34, 126 P.3d at 127.

B. The County Board did not err in declining to adopt Ms. Walker’s market analysis.

[¶ 12] In her only articulated issue, Ms. Walker contends that the County Board did not consider the market analysis that she presented as an exhibit at the hearing. The County Board mentioned that analysis in its decision, but clearly did not accord it much weight. (R. 70). We will not fault the County Board for that choice:

Property owners challenging local county tax assessments often wrongly assume their traditional ‘fee’ appraisal materials, publicly listed prices for neighboring properties, or like market price indicators, will carry the day before the County Board. Because fee appraisals and other like materials do not speak directly to whether a mass appraised valuation is correct, these approaches are rarely successful.

In re Franklin, LLC, 2022 WL 362993, * 7, Docket No. 2021-73, ¶ 27 (Wyo. State Bd. of Equalization, Feb. 1, 2022). Ms. Walker “can’t prevail without showing the County Board that Assessor erred, and a fee appraisal disagreeing with Assessor’s appraisal is not sufficient. Rather, it’s a paradigmatic ‘difference of opinion’ that does not overcome the presumption in Assessor’s favor.” *In re Wagner*, 2020 WL 3631228, * 2, Docket No. 2020-07, ¶ 10 (Wyo. State Bd. of Equalization, June 10, 2020) (internal citations omitted). Finding no error, we will affirm the County Board’s decision.

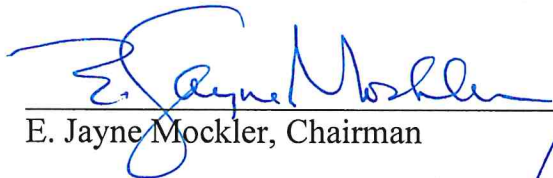
ORDER

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

[¶ 14] Pursuant to Wyoming Statutes section 16-3-114 (2021) 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 5 day of April 2022.

STATE BOARD OF EQUALIZATION



E. Jayne Mockler, Chairman



Martin L. Hardsocg, Vice-Chairman



David L. Delicath, Board Member

ATTEST:



Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 5 day of **April 2022** 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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Casper, WY 82601

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