

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
JOHN N. DiIORIO) Docket No. **2021-113**
FROM A DECISION BY THE NATRONA)
COUNTY BOARD OF EQUALIZATION)
(2021 Property Valuation))

DECISION AND ORDER

APPEARANCES

Taxpayer, John N. DiIorio, appeared pro se.

Eric K. Nelson and Charmaine A. Reed, Natrona County Attorney's Office, appeared on behalf of Natrona County Assessor Matt Keating.

SUMMARY

[¶ 1] John N. DiIorio appeals from a Natrona County Board of Equalization order affirming Natrona County Assessor Matt Keating's 2021 valuation of his real property. Mr. DiIorio contends that Assessor valued his property higher than similar, or superior properties in the same area. The Wyoming State Board of Equalization, Chairman E. Jayne Mockler, Vice-Chairman Martin L. Hardsocg, and Board Member David L. Delicath, heard the parties' oral arguments and considered their written submissions. Finding no reversible error, we will affirm.

ISSUES

[¶ 2] Mr. DiIorio filed a written statement, but didn't provide a statement of issues. He generally contends that his property was valued too high compared with his neighbors' properties, and also says, "I feel your statute or formula to estimate property tax is flawed & unfair[.]"

(DiIorio Written Statement 1).

[¶ 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. 83). Mr. DiIorio filed his appeal on December 22, 2021. (Notice of Appeal). Accordingly, the appeal is timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Mr. DiIorio owns a residential improved lot in Natrona County. (R. 9). In 2019, Assessor valued Mr. DiIorio's property at \$380,933. (R. 33). In 2020, that value increased to \$428,550. *Id.* In 2021, Assessor valued the property at \$427,175. (R. 32). Mr. DiIorio appealed to the County Board.

[¶ 6] The Hearing Officer admitted all six of the exhibits that Mr. DiIorio offered, but Mr. DiIorio did not explain the significance of those exhibits or how they supported his appeal. His testimony, in its entirety, was, "I'm just appealing my taxes because my property values went up, and my neighbors' went down thirty or forty percent. I don't know why. Not like, hundred dollars: thirty or forty percent. All I'm asking is, my taxes be in line with the neighboring properties." (Hr'g R. at 1:46 to 2:11).

[¶ 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 the Assessor's [valuation] was incorrect or unlawful" (R. 83).

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 affirming Assessor’s valuation.

[¶ 12] The County Board correctly recognized that Mr. DiIorio simply did not present evidence sufficient to overcome the presumption favoring Assessor’s valuation. He did not show that Assessor violated any statute or rule, or that Assessor performed any aspect of his job incorrectly. In short, this appeal presents a paradigmatic “difference of opinion as to value,” and cannot carry the day for Mr. DiIorio.

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ORDER

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

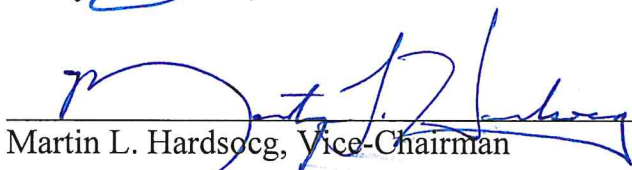
[¶ 14] Pursuant to Wyoming Statutes section 16-3-114 (2021) and Rule 12, Wyoming Rules of Appellate Procedure, any person aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date of this decision.

DATED this 26 day of April 2022.

STATE BOARD OF EQUALIZATION



E. Jayne Mockler, Chairman

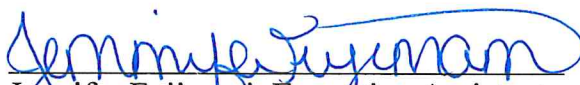


Martin L. Hardsocg, Vice-Chairman



David L. Delicath, Board Member

ATTEST:



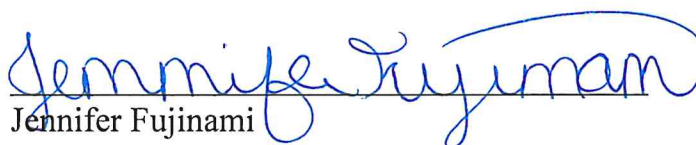
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 26 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 82604

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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