

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)	
NATRONA COUNTY ASSESSOR)	Docket No. 2021-116
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	
(2021 Property Valuation))	

DECISION AND ORDER

APPEARANCES

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

Taxpayer Jeremy Olsen appeared pro se before the Natrona County Board of Equalization. No one appeared on Mr. Olsen's behalf before the State Board.

SUMMARY

[¶ 1] Natrona County Assessor Matt Keating appeals from the Natrona County Board of Equalization's decision remanding his 2021 valuation of real property owned by Jeremy Olsen. The County Board determined that Mr. Olsen overcame the presumption that Assessor's valuation was correct and showed by a preponderance of the evidence that Assessor's valuation was not correct. Assessor contends on appeal that the County Board erred. Mr. Olsen did not file a brief, and 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 Assessor's written submissions to this Board. Finding no reversible error, we will affirm the County Board's decision.

ISSUES

[¶ 2] Assessor presented this statement of the issues:

1. Is there substantial evidence to support Assessor's value?¹
2. Was the Natrona County Board of Equalization ("CBOE") action remanding Assessor's value arbitrary, not in accordance with law, and/or unsupported by substantial evidence?

(Assessor's Br. 1).

[¶ 3] Mr. Olsen did not file a brief or otherwise present issues for review.

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. 76). Assessor filed his appeal on December 30, 2021. (Notice of Appeal). Accordingly, the appeal is timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Mr. Olsen bought an improved residential property in Natrona County in 2020. (R. 44). The house was built in 2019. (R. 48). In 2020, (before Mr. Olsen bought it) Assessor valued the land at \$19,700 and the improvements at \$624,416, for a total of \$644,116. (R. 42). In April 2021, Assessor initially valued Mr. Olsen's land at \$17,706 and his improvements at \$971,487, for a total of \$989,194. (R. 41). In June 2021, Assessor issued an amended valuation of \$17,692 for land and \$970,702 for improvements, for a total of \$988,394. (R. 44). Mr. Olsen timely appealed to the County Board from the June valuation. (R. 43). In July 2021, after Mr. Olsen filed his appeal, Assessor issued another amended valuation of \$17,692 for land and \$841,847 for improvements, for a total of \$859,539. (R. 40). Assessor calculated the value for the improvements by multiplying the replacement cost of Mr. Olsen's house, less depreciation, by a neighborhood adjustment of 1.96. (R. 48-49). On November 19, 2021, Assessor issued a "Taxroll Correction" reducing the total value of Mr. Olsen's property to \$823,283. (R. 67).

¹ Assessor asks the wrong question. The County Board's job was to determine whether substantial evidence supported Assessor's valuation: our job is to determine whether substantial evidence supports the County Board's determination. Rules, Wyo. State Bd. of Equalization, ch. 3 § 9(a)-(d) (2021).

[¶ 6] At the County Board hearing², Mr. Olsen offered, and the Hearing Officer admitted, a 27-page fee appraisal from 2020 valuing his property at \$577,000. (R. 13). Mr. Olsen testified on his own behalf, and made extensive use of Assessor's exhibits. He testified that the neighborhood adjustment was derived from an analysis of unimproved properties, but then unfairly applied to his improved property. (Hr'g R. 2:10-3:15). He also testified that, per the standard articulated in Assessor's Exhibit H-3, a sale ratio below .8 or above 1.2 requires a review, yet Assessor didn't review the ratios shown in Assessor's Exhibit H-7, which are all below .8 or above 1.2. (*Id.* at 7:00). Mr. Olsen further testified that Assessor valued his land at \$17,692, even though the developer who built Mr. Olsen's house bought that land for \$165,000 before the 2020 valuation. (*Id.* at 4:05; R. 19).

[¶ 7] Chief Deputy Assessor Renee Berry testified on Assessor's behalf. Her direct examination covered some of Assessor's exhibits, and she testified that the November adjustment to Mr. Olsen's valuation was due to a correction to the size of the improvements. (Hr'g R. 17:35). She testified generally about the Computer Assisted Mass Appraisal system, and took issue with some of Mr. Olsen's testimony.

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.

² Nothing in the record tells us the date of the County Board hearing, but a document dated November 19, 2021, was an exhibit at the hearing, so the hearing must have happened no earlier than that date, and no later than December 1, 2021, when the County Board issued its decision.

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] “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). If a taxpayer presents credible evidence sufficient to rebut the presumption, the county board must then “equally weigh the evidence of all parties and measure it against the appropriate burden of proof.” *Britt*, ¶ 23, 126 P.3d at 125 (citing *CIG v. Wyo. Dep’t of Revenue*, 2001 WY 34, ¶ 10, 20 P.3d 528, 531 (Wyo. 2001)). The burden of going forward³ would then shift to Assessor, but the ultimate burden of persuasion would remain with the taxpayer to prove, by a preponderance of the evidence, that Assessor’s valuation wasn’t derived in compliance with constitutional or statutory requirements. *Id.*

B. Substantial evidence supports the County Board’s decision.

[¶ 10] As noted above (supra ¶ 2, fn. 1) the real question before us is not whether substantial evidence supports Assessor’s valuation, but whether substantial evidence supports the County Board’s decision to reject that valuation. That distinction is crucial, because there is evidence supporting both Assessor’s valuation and the County Board’s decision. Assessor argues that the appraisal Mr. Olsen offered as an exhibit is not persuasive. (Assessor’s Br. 6-7). We agree, but Mr. Olsen’s evidence went well beyond that one exhibit, and he testified at some length about what he perceived as deficiencies in Assessor’s methods. After hearing Mr. Olsen’s testimony, the County Board found that he “presented sufficient evidence to overcome the presumption of validity of the Assessor’s

³ The burden of going forward, also called the burden of production, is “[a] party’s duty to introduce enough evidence on an issue to have the issue decided by the fact-finder, rather than decided against the party in a peremptory ruling such as a summary judgment or a directed verdict.” *Burden of Production*, *Black’s Law Dictionary*, 236 (10th ed. 2014).

evaluation and showed by a preponderance of the evidence that the Assessor's [valuation] was incorrect." (R. 76).

[¶ 11] The members of this Board might not have found in Mr. Olsen's favor, but that's not what matters. Rather, we must determine whether substantial evidence supports the County Board's decision. The County Board noted Mr. Olsen's testimony that the comparable values Assessor used in valuing his property were "not consistent," and that the 1.96 adjustment factor was inappropriate. (R. 75). Although Ms. Barry testified to the contrary, "[w]e will not substitute our judgment for the County Board's in resolving factual disputes or as to the weight of evidence received, unless clearly at odds with the record." *In re Natrona Cty. Assessor*, 2022 WL 362994, * 11, fn. 12, Docket Nos. 2021-81, 2021-82, 2021-83, 2021-84, ¶ 44 (Wyo. State Bd. of Equalization, Feb. 1, 2022). We find that the County Board's decision to give Mr. Olsen's testimony more weight than that of Ms. Barry was not clearly at odds with the record.

C. The County Board's decision is neither arbitrary nor contrary to law.

[¶ 12] Assessor's statement of this issue suggests that the County Board's decision is arbitrary or contrary to law. His argument, however, revisits the substantial evidence issue by questioning the probity of the appraisal that Mr. Olsen offered as an exhibit. (Assessor's Br. 6-7). We agree that such an appraisal is of little weight, but, as noted above, Mr. Olsen's evidence went beyond that one exhibit. Because Assessor has not explained what he believes was arbitrary about the County Board's decision, or what law he believes it is contrary to, we will not address this issue further.

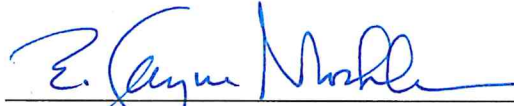
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ORDER


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

DATED this 13 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 13 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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