

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)	
GUNARS HVASTKOV)	Docket No. 2021-46
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

IN THE MATTER OF THE APPEAL OF)	
GUNARS HVASTKOV)	Docket No. 2021-47
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

IN THE MATTER OF THE APPEAL OF)	
GUNARS HVASTKOV)	Docket No. 2021-48
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

IN THE MATTER OF THE APPEAL OF)	
GUNARS HVASTKOV)	Docket No. 2021-49
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

IN THE MATTER OF THE APPEAL OF)	
GUNARS HVASTKOV)	Docket No. 2021-50
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

IN THE MATTER OF THE APPEAL OF)	
GUNARS HVASTKOV)	Docket No. 2021-51
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

DECISION AND ORDER

APPEARANCES

Gunars Hvastkovs, taxpayer, appeared pro se.

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

SUMMARY

[¶ 1] Gunars Hvastkovs appeals from the Natrona County Board of Equalization's decisions affirming Assessor's 2020 assessments of multiple parcels of real property. Mr. Hvastkovs contends that Assessor intentionally misled the County Board and that the County Board ignored the evidence he presented. 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' briefs. Because Mr. Hvastkovs has not demonstrated reversible error at the County Board level, we will affirm the County Board's decision.¹

ISSUES

[¶ 2] Mr. Hvastkovs did not present an issues statement or cogent argument. The State Board understands him to contend that:

- A) Assessor's counsel falsely told the County Board that CAMA was the only appraisal technique Assessor was allowed to use;
- B) The County Board failed to review all of the evidence or question Assessor; and
- C) The County Board applied the wrong standard of review.

(Hvastkovs' Br. 1-2).

[¶ 3] Assessor articulates this issue:

¹ Although the State Board has elected to decide Mr. Hvastkovs' appeals on the merits, we could have summarily affirmed the County Board decisions because Mr. Hvastkovs has not supported his claims with cogent argument or citation to relevant authority. *In re Gray*, 2017 WL 5559382, * 11, Docket No. 2016-44, ¶ 33 (Wyo. State Bd. of Equalization, Nov. 9, 2017).

Did Petitioner overcome the strong presumption that Assessor correctly applied Wyoming tax law when Assessor determined the valuations of the subject properties?

(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 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 decisions March 18, 2021. (Ex. 500). Mr. Hvastkovs filed his appeals on March 29, 2021. (Notice of Appeal). Accordingly, we have jurisdiction.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Mr. Hvastkovs owns multiple parcels of real property in Natrona County. In 2020, Assessor valued those parcels higher than he had in 2019. Mr. Hvastkovs appealed to the County Board, which divided the parcels into two groups. The first group (County Board Docket No. 2020-2236) consisted of a single improved lot; the second group (County Board Docket Nos. 2020-2225, 2020-2229, 2020-2230, 2020-2232, and 2020-2235) included five vacant residential lots.

[¶ 6] The County Board heard Docket No. 2020-2236 first. Mr. Hvastkovs testified that he is an expert in valuing property, but during voir dire by Assessor's counsel he testified that he knew nothing about mass appraisal. (Hr'g Rec. at 8:00 – 17:00).² His exhibits consisted mainly of documents downloaded from the Multiple Listing Service purportedly showing the sales prices of other properties in Natrona County. (2020-2236 R. at 10-36).

[¶ 7] Deputy Assessor Renee Berry testified that Mr. Hvastkovs' land was valued using the sales comparison method as well as Computer Assisted Mass Appraisal (CAMA). (Hr'g Rec. at 53:15). After Ms. Berry testified, Assessor moved for dismissal on the basis that Mr. Hvastkovs hadn't met his burden of showing that Assessor's valuation was wrong.

² The County Clerk submitted a separate appellate record for each County Board appeal. We will identify the individual record cited by its County Board Docket number. There is a single audio recording that we cite as "Hr'g Rec.".

(2020-2236 R. at 67). The hearing officer granted that motion, and the County Board subsequently issued an order dismissing the appeal.³ *Id.*

[¶ 8] The County Board then heard the rest of Mr. Hvastkovs' appeals, granting Assessor's request to incorporate Mr. Hvastkovs' testimony from the hearing in Docket No. 2020-2236. (2020-2225 R. at 73). Mr. Hvastkovs and Assessor each offered exhibits that were accepted into evidence. *Id.* Mr. Hvastkovs' exhibits, again, were mostly Multiple Listing Service information sheets. *Id.* Ms. Berry again testified that Assessor used CAMA and the sales comparison method to value Mr. Hvastkovs' property. (*Id.* at 74).

[¶ 9] The County Board concluded that Mr. Hvastkovs "provided no evidence that the method used by the Assessor in valuing his property was unlawful or was not lawfully applied. Petitioner testified that he did not know how the Assessor valued his property." (*Id.* at 74). The County Board went on to characterize the dispute as a difference of opinion. (*Id.* at 75). It affirmed Assessor's valuation. *Id.*

CONCLUSIONS OF LAW

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

[¶ 10] 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.

³ Assessor's motion, and its resolution, were unnecessary. Having concluded that Mr. Hvastkovs failed to carry his burden of persuasion, the County Board needed only to affirm Assessor's valuation. By dismissing the appeal instead, the County Board muddled the waters and might have created an appellate issue. Because the parties have not raised that issue, we will not address it. *Solvay Chem., Inc. v. Dep't of Revenue*, 2018 WY 124, ¶¶ 26-27, 430 P.3d 295, 303-04 (Wyo. 2018) (State Board may not decide issues not raised by the parties).

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, 246 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)).

[¶ 11] 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)).

[¶ 12] 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. 1988) (quoted in *Chevron U.S.A., Inc. v. Dep’t of Revenue*, 2007 WY 79, ¶ 10, 159 P.3d 131, 134 (Wyo. 2007)).

[¶ 13] “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, 1125 (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 ¶¶ 28, 34, 126 P.3d at 126-27.

B. Mr. Hvastkovs has not demonstrated error in the County Board decision.

[¶ 14] In what we perceive to be his first issue, Mr. Hvastkovs contends:

On December 30th, 2020, I appeared before the County Board of Equalization with my facts and documents in hand. The Assessor's Representative never asked for any of my information but (as the oral deposition shows and records) informed the Board that they were under the State of Wyoming's direction to only use the Computer Assisted Mass Appraisal technique in obtaining 'fair market' value for real estate in Natrona County. The board never once asked for proof of this misstatement or for any of my data or my conclusions of fact – and allowed the misstatement of the Assessor's office stand. (subsequent investigation has disclosed that the State of Wyoming offers several approved methods of obtaining real estate value and does not favor one method of valuation over another – the one I used was comparable sales method)⁴.

(Hvastkovs Br. at 1). We believe the first sentence of that paragraph is true.

[¶ 15] The second sentence is also true, but it's unpersuasive because Assessor's counsel wasn't obliged to ask for Mr. Hvastkovs' information, and Assessors are required to use CAMA (except in specific circumstances that aren't present in this case). Wyo. Stat. Ann. § 39-13-103(b)(ii) (2021) (“[T]he department [of revenue] shall prescribe by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal standards.”); Rules, Wyo. Dep't of Revenue, ch. 9, § 7 (2016) (“the system [CAMA] shall be used for all real and personal property, except property for which narrative appraisals or other recognized supplemental appraisals are used as a substitute to the CAMA system.” More importantly, Mr. Hvastkovs presented exhibits to the County Board, which admitted them into evidence and included them in the appellate record. (2020-2236 R. at 10-36; 2020-2225 R. at 13-59). If he brought other exhibits to the hearing and didn't offer into evidence, that fact doesn't appear in the record before us.

[¶ 16] The third sentence contends that the assertion about being required to use CAMA was false. It wasn't. (Supra, ¶ 15). Mr. Hvastkovs' “subsequent investigation” isn't relevant because we're limited to reviewing the record developed before the County Board, along with the parties' briefs. Rules, Wyo. State Bd. of Equalization, ch. 3, § 9 (2021). His assertion that the sales comparison method is an alternative to CAMA is just wrong. The three allowable appraisal methods are the sales comparison approach, the cost approach, and the income approach. Rules, Wyo. Dep't of Revenue, ch. 9, § 5 (2016). CAMA “automates the comparable sales and replacement cost methods.” *Britt*, at ¶ 39, 126 P.3d at 128. In other words, the comparable sales method includes use of CAMA. *See also*, Rules, Wyo. Dep't of Revenue, ch. 9, § 7 (2016).

⁴ To be clear, this paragraph and the other two we quote below from Hvastkovs' brief are not his statements of the issues: they are his entire discussion of the issues.

[¶ 17] In what we perceive to be his second issue, Mr. Hvastkovs contends:

The Natrona County BOE failed to review all the provided information [and] never asked about specific values or questioned the assessor as to the exact methods used and why they never considered any actual sales data.

(Hvastkovs' Br. 1). The County Board had copies of the exhibits that were admitted into evidence. (Supra, ¶ 15). Those exhibits were evidence of the sales prices of other properties in Natrona County. Mr. Hvastkovs hasn't explained why he thinks the County Board didn't review the evidence. Without such an explanation, backed by convincing evidence, we will assume that the County Board members performed their duty to weigh the evidence. The County Board isn't obliged to ask questions at all. Mr. Hvastkovs had an opportunity to cross-examine Assessor's witness: any questions that went unasked are his responsibility and no one else's.

[¶ 18] The paragraph that we perceive to be Mr. Hvastkovs third issue reads:

The Natrona County BOE then, without examining any of the appeal data or my actual data that I had brought issued their Order – and especially Stated that my defense was only a matter of “a difference of opinion”. (I only thought I had to prove my value points, and not destroy the assessor's argument of using their Mass Appraisal Technique – (which is legitimate under certain circumstances and in metropolitan locales)).

(Hvastkovs' Br. 2). Mr. Hvastkovs seems to take issue with the presumption that the assessment is correct, with his burden to refute that presumption, and with Assessor's use of mass appraisal. Even if we accept most of this paragraph as true, it doesn't matter. The presumption in favor of the assessment is real, as is the petitioner's burden. (Supra, ¶ 13). And, Assessor really is authorized to use CAMA. (Supra, ¶ 15). Mr. Hvastkovs had the burden at the hearing to present evidence proving his claims. He didn't do that.

CONCLUSION

[¶ 19] Mr. Hvastkovs did not present evidence sufficient to meet his burden at the County Board hearing.

ORDER

[¶ 20] **IT IS, THEREFORE, ORDERED** that the decisions of the Natrona County Board of Equalization are **AFFIRMED**.

[¶ 21] 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 10 day of August 2021.

STATE BOARD OF EQUALIZATION



E. Jayne Mockler, Chairman

Martin L. Hardsogg, Vice Chairman

David L. Delicath, Board Member

ATTEST:



Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 6 day of **August 2021** 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:

Gunars Hvastkovs
2020 S. Walsh Drive
Casper, WY 82609

Eric Nelson
Natrona County Attorney
200 North Center St. 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: Brenda Henson, Director, Dep't of Revenue
Brian Judkins, Property Tax Div., Dep't of Revenue
Commissioners/Treasurer/Clerk/Assessor – Natrona County
CCH
ABA State and Local Tax Reporter
State Library