

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

IN THE MATTER OF THE APPEAL OF)
HAYNES LIVING TRUST) Docket No. **2021-53**
FROM A DECISION BY THE NATRONA)
COUNTY BOARD OF EQUALIZATION)
(2020 Property Valuation))

DECISION AND ORDER

APPEARANCES

Michael Haynes and Renee Haynes, pro se, appeared on behalf of Taxpayer, Haynes Living Trust.

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

SUMMARY

[¶ 1] The Haynes Living Trust appeals from the Natrona County Board of Equalization's decision affirming Assessor's 2020 valuation of the Trust's Natrona County real property. The Trust contends that the County Board erred by affirming a valuation that is too high. Neither party timely 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. We affirm the County Board's decision.

ISSUES

[¶ 2] The Trust's brief urges reversal of the County Board's decision, but it does not include an issues statement, cogent argument, or citation to relevant authority.¹

¹ Although the State Board could have chosen to disregard the Trust's brief because it lacks cogent argument or citation to relevant authority, we have instead decided to accept the brief and scour it for anything that might help us to decide this appeal. *Rodriguez v. State*, 2019 WY 25, ¶ 47, 435 P.3d 399, 413 (Wyo. 2019).

[¶ 3] Assessor articulates these issues:

1. Did Petitioner overcome the strong presumption that Assessor correctly applied Wyoming tax law?
2. Is there substantial evidence to support Assessor's valuation?

(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 March 22, 2021. (R. at 80). The Trust filed its appeal on April 21, 2021. (Notice of Appeal). Accordingly, the appeal was timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] The Trust owns real property in Natrona County. In 2019, Assessor valued that property at \$505,049. (R. at 16). In 2020, the assessed value increased to \$627,907. *Id.* The Trust appealed to the County Board, which held an evidentiary hearing on February 1, 2021. (*Id.* at 78).

[¶ 6] At the hearing, the hearing examiner admitted the Trust's Exhibits 1 through 4, which are: the Trust's Official Appeal of Assessment; the 2020 Notice of Assessment; an April 21, 2019 fee appraisal; and a 24-page packet purporting to show the valuations of other homes close to the Trust's property. (*Id.* at 15-56; Hr'g R. at 3:35). The hearing examiner also admitted Assessor's Exhibits B through H, which are: the 2020 Property Profile for the Trust's property; a Cost Breakdown Sheet for the property; an explanation of the Land Economic Area (LEA) in which the property is located; copies of appraiser certifications for Assessor and three of his subordinates; and another copy of the Official Appeal of Assessment. (R. at 57-75; Hr'g R. at 3:50).

[¶ 7] Michael and Renee Haynes both testified on behalf of the Trust. Both opined that the 2020 valuation of the Trust's property was too high. (Hr'g R. at 4:10-17:48; 17:50-20:50). Neither, however, contended that Assessor had done anything contrary to the applicable statutes and rules. *Id.*

[¶ 8] Field Crew Supervisor Renee Berry was Assessor’s only witness. She testified that the Trust’s property is in an LEA that includes all residential areas in Natrona County that are outside Metropolitan Planning Organization areas (MPO’s). (Hr’g R. at 24:20). She explained that the LEA had to be that large to have the requisite five sales specified by Department of Revenue rules. Ms. Berry further testified that the Replacement Cost New Less Depreciation (RCNLD) for each house (but not out-buildings) in the LEA is increased by a neighborhood adjustment factor of .65. (*Id.* at 31:05). The neighborhood adjustment represents how much above or below RCNLD properties are selling for. (*Id.* at 34:15). She also testified that the methods used to assess the Trust property are prescribed by the Department of Revenue, and that Assessor has no alternative to using those methods. (*Id.* at 32:20).

[¶ 9] Ms. Berry, in response to questions from the County Board, testified that some of the apparent discrepancies between the Trust property’s assessment and those of neighboring properties could be due to other properties being classified as agricultural, because agricultural properties would not be included in the same LEA as the Trust property. (Hr’g R. at 38:50). Differences in valuation could also arise from differences in the quality and condition ratings assigned to the properties. (*Id.* at 43:50). Differences in the type of construction (modular vs. site-built) could also account for differences in valuation. (*Id.* at 41:00). One County Board member told Ms. Berry, “I understand that you’re following the rules, but it sure seems like there ought to be a way that there can be adjustments.” (*Id.* at 47:25).

[¶ 10] The County Board members deliberated briefly and expressed their dismay at having no choice but to affirm because Assessor had followed statutes and the Department’s rules. (e.g. Hr’g R. at 1:01:00) (“I have to vote to affirm this value because the process was right. Take it to the State.”). Despite their reservations, the County Board members voted unanimously to affirm. (*Id.* at 1:03:40).

CONCLUSIONS OF LAW

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

[¶ 11] 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, 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)).

[¶ 12] 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)).

[¶ 13] 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)).

[¶ 14] “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. Applicable law

[¶ 15] The Wyoming Department of Revenue is required to confer with, advise, instruct, and direct county assessors and to promulgate rules necessary for the enforcement of all tax measures. Wyo. Stat. Ann. § 39-13-103(c)(xvi), (xix) (2021). Specifically, the Department “shall prescribe by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal standards[.]” Wyo. Stat. Ann. § 39-13-103(b)(ii) (2021). County assessors, in turn, are required to “[f]aithfully and diligently follow and apply the orders, procedures and formulae of the department of revenue or orders of the state board of equalization for the appraisal and assessment of all taxable property[.]” Wyo. Stat. Ann. § 18-3-204(a)(ix) (2021).

C. The County Board correctly affirmed Assessor’s valuation because the Trust failed to demonstrate reversible error.

[¶ 16] As the County Board recognized, the Trust did not produce evidence of reversible error. Before the County Board, the Trust was tasked with rebutting the presumption that Assessor’s valuation was correct. Rules, Wyo. State Bd. of Equalization, ch. 7, § 14(a) (2021). The Trust’s witnesses testified to their disagreement with the valuation, but didn’t present evidence that the valuation was incorrect or unlawful. The County Board, then, faced the paradigmatic difference of opinion that cannot rebut the presumption favoring Assessor’s valuation.

CONCLUSION

[¶ 17] While this Board understands the Trust’s frustration with an assessment that increased more than 24 percent in a single year, the Trust did not present evidence sufficient to overcome the mandatory presumption that Assessor’s valuation is correct.

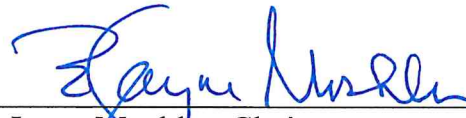
ORDER

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

[¶ 19] Pursuant to Wyoming Statutes section 16-3-114 (2021) and Rule 12, Wyoming Rules of Appellate Procedure, a taxpayer 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 14 day of September 2021.

STATE BOARD OF EQUALIZATION



E. Jayne Mockler, Chairman



Martin L. Hardsocg, Vice Chairman



David L. Delicath, Board Member

ATTEST:



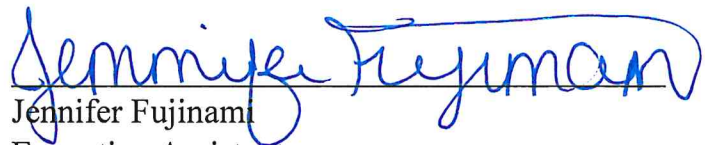
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 14 day of **September 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:

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Haynes Living Trust
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Eric Nelson
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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
CCH
ABA State and Local Tax Reporter
State Library