

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)	
DANNY HARMON)	Docket No. 2021-56
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

IN THE MATTER OF THE APPEAL OF)	
JASON DINKEL)	Docket No. 2021-58
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

IN THE MATTER OF THE APPEAL OF)	
ERVIN SCHROEDER)	Docket No. 2021-85
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	

DECISION AND ORDER

APPEARANCES

Danny C. Harmon appeared pro se (Harmon or Petitioners).

Jason Dinkel appeared pro se (Dinkel or Petitioners).¹

Ervin Schroeder appeared pro se (Schroeder or Petitioners).²

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

¹ Joined with appeal of Mr. Harmon for purposes of presentation to State Board. The Board shall cite to evidence in this appeal record as "Dinkel R. at Br" and "Dinkel Hr'g Recording at ***."

² Joined with appeal of Mr. Harmon for purposes of presentation to State Board. The Board shall cite to evidence in this appeal record as "Schroeder R. at Br" and "Schroeder Hr'g Recording at ***."

SUMMARY

[¶ 1] Neighboring Petitioners separately challenged the 2020 assessed values of their residential lands in Natrona County, claiming that Assessor failed to appraise them at fair market value as required by Wyoming law. Following separate contested case hearings, the Natrona County Board of Equalization (County Board) determined that Petitioners did not offer sufficient evidence that Assessor valued the residential lands in a manner contrary to Wyoming law. The Wyoming State Board of Equalization (State Board), Chairman E. Jayne Mockler, Vice-Chairman Martin L. Hardsocg, and Board Member David L. Delicath, reviewed each Petitioner's record, received briefing from Harmon, and heard oral argument from the parties. The State Board **affirms** the County Board's Findings of Fact, Conclusions of Law, and Order, in each appeal.

ISSUES

[¶ 2] Neither Dinkel nor Schroeder submitted a brief. Harmon did not identify issues in his briefing to this Board. From Harmon's overlapping procedural and valuation arguments, however, we infer the following issues:

- 1) Did the County Board's administration of the contested case hearing violate Petitioner Harmon's procedural rights?
- 2) Did Assessor's failure to clearly explain Harmon's valuation violate Wyoming law?
- 3) Did Assessor err in relying on Wyoming's computer assisted mass appraisal system (CAMA)?
- 4) Is the legal presumption favoring Assessor's assessment, and assignment of the initial and ultimate burdens of proof on Petitioners, consistent with law?
- 5) Was Assessor's determination of fair market value consistent with Wyoming law?

[¶ 3] Assessor identified the following 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., p. 1).

JURISDICTION

[¶ 4] Petitioners appealed within thirty days of the County Board's decisions and, therefore, we have jurisdiction to hear their appeals. Notices of Appeal; *See* Wyo. Stat. Ann. § 39-11-102.1(c) (2021); Rules, Wyo. State Bd. of Equalization, ch. 2, § 5(e) (2021).

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Three neighboring property owners appealed their 2020 Natrona County property tax assessments. The property owners and the legal descriptions of their properties are:

Harmon: Garden Creek Church #2 Lot 6 (Harmon R. at 1, 70).

Dinkel: Garden CK Church #2 Lot 5 Commercial (Dinkel R. at 1, 96).

Schroeder: Garden CK Church # 2 Lot 3 (Schroeder R. at 1, 15).

We shall address each Petitioner's evidentiary presentation separately.

Harmon Property

[¶ 6] Assessor valued Harmon's land at \$280,246, and his residential improvements at \$347,127. (R. at 52). Harmon claimed Assessor overvalued his land and that the total value of all residential property should have been \$550,000, a difference from the total assessed value of approximately \$77,000. (R. at 15; Harmon Hr'g Recording 1, 00:03:45:00-00:05:00; Harmon Br., pp. 1, 4, 9, 13-14).

[¶ 7] After Harmon appealed, Assessor provided Harmon with a "Hearing Brief" on December 2, 2020, describing the mass appraisal valuation process, including defined appraisal terms and legal authority for how Wyoming's property tax system operates. (R. at 3-10). The Hearing Brief, a standard form given to appealing taxpayers, correctly advised that taxpayers bear the burden of proof when challenging a property tax assessment. (R. at 3-10); *see infra* ¶¶ 32-33.

[¶ 8] At the hearing's commencement, the hearing officer explained that Harmon would be permitted to give an opening statement, to call witnesses, and to question witnesses. (Harmon Hr'g Recording 1, 00:01:45-00:02:50, 00:47:40-00:48:00). The hearing officer advised Harmon throughout the hearing about the procedure and the manner in which to question witnesses. (Harmon Hr'g Recording 1, 00:01:45-00:02:50, 00:07:40-00:08:15, 00:55:00-00:60:00, 01:11:00-01:13:00; Harmon Hr'g Recording 2, 00:20:00-00:21:00, 00:29:00-00:33:00).

[¶ 9] In a submitted written summary of his evidence and argument, as well as during his testimony, Harmon asked numerous argumentative questions and levelled angry complaints concerning Assessor's appraisal and the hearing process. (R. at 15-23). Harmon ultimately urged that his land value was "overinflated" and "unfair," and asked that Assessor reassess through "a legitimate evaluation." (R. at 1; Harmon Br., *passim*; Harmon Hr'g Recording 1, 00:02:00-00:04:30, 00:11:00-00:11:30). This written narrative would thereafter serve as the core of Harmon's brief submitted to the State Board.

[¶ 10] A recurring objection during the hearing and in his brief, Harmon alleges that Assessor violated state law by not adequately explaining the valuation of his property. (Harmon Hr'g Recording 1, 00:04:30-00:07:00, 00:57:00-00:58:00; 01:03:00-01:04:30, 01:11:00-01:13:00; Harmon Hr'g Recording 2, 00:20:00-00:21:00, 0:33:00-0:34:00, 00:37:00-00:39:00; Harmon Br., pp. 4, 8). Harmon and his wife, Cynthia Harmon, repeatedly cited to "Statute 23-11," and "Wyoming law" in general. *Id.* They testified and argued that the property tax valuation system was not understandable, nor did they understand witness explanations of how Assessor valued their land. (Harmon Hr'g Recording 1, 00:43:00-00:45:00, 00:56:00-00:58:00, 01:03:00-01:05:30, 01:11:00-01:13:00; Harmon Hr'g Recording 2, 00:24:00-00:25:00, 00:37:00-00:39:00). Harmon's growing frustration throughout the hearing fueled comments that he was being "railroaded" and that the hearing was "a waste of time." (Harmon Hr'g Recording 2, 00:30:00-00:33:00, 00:38:00-00:40:00; Harmon Br., pp. 2-5).

[¶ 11] An Assessor's Office employee, Corrie Cabrall, testified that the Assessor's Office attempted to explain Harmon's property valuation during previous communications. (Harmon Hr'g recording 1, 01:03:00-01:07:00, 01:14:00-01:15:00). Ms. Harmon acknowledged efforts to explain the valuation. *Id.*

[¶ 12] Harmon asserted the land's value violated Wyoming law for several reasons.³ Harmon complained that the value of his land was greater than 30% of the total value of land and improvements and, therefore, was incorrect.⁴ Assessor acknowledged that land

³ Along with his Brief, Harmon appended information not presented to the County Board, which we may not consider. Wyo. Stat. Ann. § 39-13-109(b)(ii), (iii) (2021) (An appeal to the State Board requires submission of the county board of equalization record to the State Board); Rules, Wyo. Bd. of Equalization, Ch. 3 §§ 7-9 (2021) (Unless additional evidence is submitted to the State Board in accordance with section eight of its chapter three rules, the Board's review is confined to the record before the county board of equalization.). The State Board also denied Harmon's request to offer the State Board new evidence through his appeal. (Order Denying Harmon's Motion to Submit New Evidence, dated June 17, 2021).

⁴ The Petitioners' focus on the 30% quotient drove an overarching concern that the quotient would perpetuate a rapid inflation of the overall property values, based on their incorrect perception that the 30% land-to-total value quotient was an appraisal standard or "rule." (Harmon Hr'g Recording 1, 00:08:45-00:09:30, 00:29:45-00:32:00, 00:42:00-00:44:00, 00:53:00-00:55:30; Harmon R. at 15; Harmon Br., pp. 4-5).

value is typically about 20% of a residential property's total value. (Harmon Hr'g Recording 1, 00:53:30-00:54:20).

[¶ 13] Harmon testified that the abrupt increase in his land's assessed value between 2019 and 2020, from \$27,750, to \$280,246, even though the property had not changed, was evidence the valuation was incorrect. (Harmon R. at 70-71). Conceding that the 2019 value was likely too low, Harmon asserted that his 2020 value should range between \$110,000 and \$140,000, rather than \$280,000. *Id.* (Harmon R. at 22; *see also* Harmon Hr'g Recording 1, 00:31-00:32:00, 00:43:00-00:45:00).

[¶ 14] Harmon offered partial appraisal materials or a "comparative market analysis" from past realtor market evaluations or other sources, indicating a total value of between \$350,000 and \$580,000. (Harmon R. at 16, 24-28; Harmon Br., p. 13; Harmon Hr'g Recording 1, 00:25:00-00:30:00).

[¶ 15] Harmon offered a comparison of the assessed values of his land when compared to three neighboring residential lands, which showed a difference in market value per square foot. (Harmon R. at 29-35; Harmon Hr'g Recording 1, 00:36:00-00:38:00, 00:48:00-00:53:00; Harmon Hr'g Recording 2, 00:35:00-00:38:00). Harmon argued that this evidence demonstrated valuation inequality among like properties. *Id.*

[¶ 16] Harmon asserted that neighboring properties had not sold for a price near \$280,000, inferring that this was evidence that Assessor overvalued his land. (Harmon Hr'g Recording 1, 00:19:20-00:22:30).

[¶ 17] Referring to Wyoming's mass appraisal system, including CAMA, Assessor and an employee of the Assessor's Office summarized the mass appraisal process, including but not limited to, how they determined the market value of Harmon's land through "abstraction," a comparable sales analysis, and calculation of a market adjustment.⁵ (Harmon Hr'g Recording 1, 00:55:00-01:16:00; Harmon Hr'g Recording 2, 00:01:00-38; Harmon R. at 59-67). Witnesses for Assessor referred to sales occurring within groupings referred to as "Land Economic Areas" and/or "neighborhoods" to calculate a valuation adjustment.⁶ *Id.*; (Harmon Hr'g Recording 1, 00:55:00-01:16:00; Harmon Hr'g Recording 2, 00:08:00-00:20:00; Harmon R. at 59-67). Ms. Cabrall testified that there were various

⁵ Much of Assessor's evidence occurred through a live demonstration of how Ms. Cabrall calculated a market adjustment. However, the parties did not offer the written portion of that demonstration for admission into evidence, and the hearing recording is difficult to follow on that portion of Ms. Cabrall's testimony. (Harmon Hr'g Recording 2, 00:08:00-00:18:00).

⁶ A substantial part of Harmon's and Assessor Office witness presentations addressed Harmon's mistaken focus how the perceived value of smaller properties—less than .70 acres—influenced the values of larger properties such as his. Much of Harmon's angst about his valuation stemmed from his misperception that assessed values were a function of property size. (Harmon Hr'g Recording 1, 00:11:30-00:12:00, 00:15:00-00:20:00, 01:06:45-01:16:00; Harmon R. at 16, 24; Harmon Br., pp. 10-13). Much of Mr. Harmon's testimony and argument arose from this nonfactor in the valuation of his property. *Id.*

land sales within the relevant Land Economic Area supporting Assessor's valuation of the Harmon's land. *Id.*; (Harmon Hr'g Recording 1, 01:14:30-01:16:00). Complaining that he did not understand the mass appraisal process and casting it as illegitimate, Harmon insisted that Assessor likely used poor information when "projecting" and calculating the market value of his land. (Harmon Hr'g Recording 1, 00:41:00-00:43:00, 00:54:00-01:05:00).

[¶ 18] Neither the Harmons nor employees of Assessor's Office, including Assessor, addressed or refuted the other's evidence. Harmon alternated between objections to mass appraisal concepts and allegations that Assessor's valuation could not stand up to his own superior evidence. (Harmon Hr'g Recording 1, 00:40:00-01:05:00; Harmon Br., *passim*). The Assessor's Office responded that it complied with Wyoming's mass appraisal system, consistent with the Wyoming Department of Revenue's direction. *Supra* ¶ 17.

[¶ 19] The County Board concluded that Harmon "provided no evidence that the method used by the Assessor in valuing his property was unlawful or was not lawfully applied" and affirmed. (Harmon R. at 74). The County Board also concluded that Harmon's allegation that Assessor did not explain the valuation, or Harmon's failure to understand the valuation, "is not a valid reason for the CBOE to remand this appeal to the Assessor to reevaluate." *Id.*

Dinkel Property

[¶ 20] Dinkel also disputed the assessed value of his land and feared that the overvaluation of his land might disproportionately drive the total value of land and improvements beyond their fair market value in the future. (Dinkel Hr'g Recording 00:01:24-00:05:00; 00:10:30-00:13:00); *see supra* n. 4. Assessor valued Dinkel's land in 2020 at \$253,226 and his improvements at \$326,433, for a total value of \$579,659. (Dinkel R. at 96).

[¶ 21] In his testimony, Dinkel suggested that his total value was likely correct, but testified that because Assessor's valuation of his land had increased dramatically from \$25,000 to \$253,226 between 2019 and 2020, Assessor miscalculated the land's value. (Dinkel R. at 1-2, 96, 116; Dinkel Hr'g Recording 00:02:00-00:4:00, 00:10:00-00:14:00). Dinkel offered into evidence a 2020 fee appraisal⁷ of his property, which placed its total

⁷ The term "fee appraisal" refers to an "appraisal of properties one at a time, for pay." *In re Appeal of Wal-Mart Stores, Inc.*, 2003 WL 21774606, Doc. No. 2002-143, * 3 (Wyo. St. Bd. of Equalization, July 21, 2003) (citing Glossary for Property Appraisal and Assessment, International Association of Assessing Officers (1997)). This Board in the *Wal-Mart Stores* case received evidence comparing fee appraisal results with mass appraisal results and addressed whether one appraisal approach was superior to the other. *Id.* at ** 4-9. We concluded that an argument that one approach is superior to the other was a mere difference of opinion which would not suffice to overcome the presumption favoring an assessor's valuation. *Id.* at * 9.

value at \$480,500. (Dinkel R. at 18-26). Dinkel also referred to Harmon's submitted evidence, which was incorporated into his appeal. (Dinkel Hr'g Recording 00:01:00-00:01:15; 00:07:30-00:09:00).

[¶ 22] The County Board, parroting its response to Harmon's appeal that ended just prior, briefly deliberated and affirmed Assessor's valuation of Dinkel's property as well. (Dinkel Hr'g Recording 00:09:00-00:14:00; Dinkel R. at 118-19). It concluded that Dinkel offered no evidence that Assessor valued the land in a manner contrary to law. (Dinkel R. at 119).

Schroeder Property

[¶ 23] Schroeder also disputed the assessed value of his neighboring land because it increased substantially from the previous year. (Schroeder R. at 1). He complained that his land value assessment increased by "10 fold" and did not reflect a fair market value as required by law. *Id.*; (Schroeder Hr'g Recording 00:11:00-00:14:00). Assessor valued the Schroeder land at \$25,000 in 2019 and improvements at \$490,664, for a total value of \$515,664. (Schroeder R. at 113). Assessor valued Schroeder's land in 2020 at \$253,226 and improvements at \$385,362, for a total value of \$635,130. (Schroeder R. at 15, 91; Schroeder Hr'g Recording 00:52:00-53).

[¶ 24] Schroeder offered real estate listing information in support of his position that Assessor overvalued his land, testifying that he was aware of land parcels in his neighborhood that had remained unsold on the market because the listed price was too high. Those other lands, Schroeder continued, eventually sold at \$110,000. (Schroeder R. at 43-49; Schroeder Hr'g Recording 00:13:30-00:17:00). He complained that he could find no evidence of land values higher than approximately \$110,000 per similar lot. (Schroeder Hr'g Recording, 00:13:00-00:18:00). He pressed the County Board for an order directing Assessor to recalculate the fair market value of his land. (Schroeder Hr'g Recording 00:54:00-56).

[¶ 25] Mr. Schroeder also complained that he asked the Assessor's Office for data supporting land values of \$250,000, which he did not receive. (Schroeder R. at 1). He said he received a list of sales, but no detail about the sales. *Id.* He repeated that he "struggles" to understand Assessor's basis for a land value of \$250,000. (Schroeder Hr'g Recording 00:13:00-00:17:40).

[¶ 26] Assessor testified that his office used mass appraisal methods to determine property values within a "land economic area" through a multiple regression analysis. (Schroeder Hr'g Recording 00:18:00-00:48:00; Schroeder R. at 101-10). As was true of the Harmon and Dinkel hearings, much of Schroeder's lack of understanding stemmed from the "power curve" analysis applied to appraise land within the land economic area, which included the

Schroeder property. *Id.* Assessor referred to the power curve graph, a “splatter dot graph” showing the relationships among 2019 land sales within the land economic area. *Id.*; (Schroeder R. at 103-10). Schroeder questioned Assessor about his stratification process and selection of sales used to derive land values, depicted in the “power curve” graph. *Id.* He objected to Assessor’s practice of valuing all land economic area parcels of .70 acres or larger at \$253,000. *Id.* He also suggested that Assessor improperly used land sales of parcels in more desirable areas, such as “on the river,” to value parcels that were not located in those areas. *Id.*

[¶ 27] The County Board, following its decisions in the Harmon and Dinkel appeals, affirmed Assessor’s valuation of Schroeder’s property. The Board, however, listed the property’s assessed value at \$479,220, for which this Board finds no evidentiary support. (Schroeder R. at 115). This appears to be a misstatement of the appraised values in the record, including Assessor’s confirmation of the values at issue. *See supra* ¶ 23.

CONCLUSIONS OF LAW

(a) Standard of Review

[¶ 28] When the State Board hears appeals from a county board, it sits as an intermediate level of appellate review. *Town of Thermopolis v. Deromedi*, 2002 WY 70, ¶ 11, 45 P.3d 1155, 1159 (Wyo. 2002). In its appellate capacity, the State Board treats a county board as the finder of fact. *Id.*

[¶ 29] The State Board’s standard of review of a county board decision is, by rule, nearly identical to Wyoming Statutes section 16-3-114(c)(ii) (2021), the Wyoming Administrative Procedure Act standard that a district court must apply in reviewing agency decisions. The State Board’s 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).

[¶ 30] Because the State Board rules are patterned on the judicial review provisions of Wyo. Stat. section § 16-3-114 (2021), judicial rulings interpreting that section offer guidance:

When an appellant challenges an agency's findings of fact and both parties submitted evidence at the contested case hearing, we examine the entire record to determine if the agency's findings are supported by substantial evidence. If the agency's findings of fact are supported by substantial evidence, we will not substitute our judgment for that of the agency and will uphold the factual findings on appeal. "Substantial evidence is more than a scintilla of evidence; it is evidence that a reasonable mind might accept in support of the conclusions of the agency."

Chevron U.S.A., Inc. v. Dep't of Revenue, 2001 WY 79, ¶ 9, 158 P.3d 131, 134 (Wyo. 2001) (citations omitted).

[¶ 31] The State Board reviews conclusions of law *de novo*:

Questions of law are reviewed *de novo*, and "[c]onclusions of law made by an administrative agency are affirmed only if they are in accord with the law. We do not afford any deference to the agency's determination, and we will correct any error made by the agency in either interpreting or applying 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)).

[¶ 32] "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)). "[A] mere difference of opinion as to value" is not sufficient to overcome the presumption. *Id.* at ¶¶ 28, 34, 126 P.3d at 126-27.

[¶ 33] If Petitioner successfully overcame the presumption, the "county board was 'required to 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 Court explained the shifting of burdens upon overcoming the presumption: "The burden of going forward would then have shifted to the Assessor to defend her valuation," but the ultimate burden of persuasion remained with the taxpayer to prove by a preponderance of evidence that the valuation was not derived in accordance with constitutional or statutory requirements. *Id.*

(b) Applicable Law

[¶ 34] 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).

[¶ 35] Pursuant to Chapter Nine of the Department’s rules, county assessors shall apply the sales comparison, cost, or income appraisal methods. Rules, Wyo. Dep’t of Revenue, Ch. 9 § 5 (2016). Further, “The [CAMA] system 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.” *Id.* at § 7.

[¶ 36] Within Wyoming’s mass appraisal system, appraisers employ several tools to appraise land, including a “multiple regression analysis.”⁸ “Within any LEA [Land Economic Area] any data points of Assessed Valuation when plotted against land area prior to applying land attribute adjustments, should fit a regression line which is derived from sold properties. The equation of the regression lines is used to assess the land value of all sold and unsold properties in the LEA.” Rules, Wyo. Dep’t of Revenue, Ch. 9 § 6(vi) (2021).

[¶ 37] The Department of Revenue’s rules direct that “[t]he Level of Assessment for any Neighborhood shall annually be calculated by varying the Market Adjustment Factor until the final desired Level of Assessment is achieved[.]” Rules, Wyo. Dep’t of Revenue, Ch. 9 § 6(a)(iv) (2021). The “Level of Assessment” or appraisal is the “ratio of appraised values to market values” and must be between .90 and 1.10. *Id.* at §§ 4(a)(xx), 6(a)(iii). Assessors calculate and apply market adjustments to reflect “supply and demand preferences” based on ratio studies that compare values to current prices of similar properties. *Id.* at § 4(a)(xxi); *see also id.* at § 4(a)(xxxii) (defining “ratio study”).

⁸ “Multiple regression analysis” is “[a] statistical technique, similar to correlation, used to analyze data in order to predict the value of one variable (the dependent variable), such as market value, from the known values of other variables (called “independent variables”), such as lot size, number of rooms, and so on.” *Standard on Automated Valuation Models*, International Association of Assessing Officers, Glossary, p. 48 (2018).

(c) Review of the County Board's Decision

[¶ 38] Each taxpayer acknowledged that his previous 2019 land value of \$25,000 was likely too low and incorrect, but then complained that Assessor improperly increased each's land value approximately tenfold to approximately \$250,000 in 2020. *Supra* ¶¶ 13, 21. Each taxpayer offered anecdotal or inferential evidence in support of claims that Assessor's 2020 valuations did not reflect each parcel's "fair market value." For example, Petitioners complained that their land values could not logically increase by ten times and that they knew of properties in the area that sold for much less than the "inflated" land assessments. *Supra* ¶¶ 15-16, 21, 24. Petitioners believed that because their land assessment was greater than 20% to 30% of their total combined residential property value (land plus improvements), that the land values were necessarily too high. Petitioners generally assumed that this ratio was a set standard under the law. *Supra* ¶¶ 12, 20. Petitioners ask that we reverse and order Assessor to determine a "true" fair market value. *Supra* ¶¶ 9, 18, 21, 24.

[¶ 39] Per Petitioners' request (and because neither Schroeder nor Dinkel submitted a brief), we structure our decision in response to Mr. Harmon's five claims: 1) that the County Board violated Harmon's procedural rights in how it conducted the contested case hearing; 2) that Assessor violated Wyoming law because he did not sufficiently explain how his Office valued Harmon's land; 3) that Assessor's application of Wyoming's CAMA system did not result in a fair market value of Harmon's land; 4) that the presumption of correctness favoring an assessor's valuation, and placing the burden of proof on a challenging taxpayer, is contrary to law; and 5) that Assessor's valuation of Harmon's land violated Wyoming law.

- i. Did the County Board or hearing officer violate the Petitioners' rights in how they conducted the contested case hearings?

[¶ 40] Harmon broadly claims that the hearing officer denied Harmon and his wife an opportunity to ask questions and that the process was "stacked" in Assessor's favor. (Harmon Br., pp. 2-3); *supra* ¶¶ 8-10.

[¶ 41] Harmon's disparagement of the hearing process is a due process claim of sorts. Procedural due process is satisfied " 'if a person is afforded adequate notice and an opportunity to be heard at a meaningful time and in a meaningful manner.' " *Laughter v. Bd. of Cty. Com'rs for Sweetwater Cty.*, 2005 WY 54, ¶ 19, 110 P.3d 875, 882 (Wyo. 2005) (quoting *Amoco Prod. Co. v. Wyo. State Bd. of Equalization*, 882 P.2d 866, 872 (Wyo. 1994)). "A party claiming infringement [of due process rights] has the burden of demonstrating that infringement by first showing the existence of a protected property interest and then showing the interest has been affected in an impermissible way." *Pfeil v. Amax Coal West, Inc.*, 908 P.2d 956, 961 (Wyo. 1995) (citing *Meyer v. Norman*, 780 P.2d 283, 289 (Wyo. 1989)).

[¶ 42] Harmon's objections stem from his lack of familiarity with contested case trial proceedings and terminology, and the order by which parties are expected to conduct their case presentations so that decision-makers receive admissible evidence rather than just argument. (Harmon Hr'g Recording 00:30:00-00:33:00); *supra* ¶¶ 8-10. For example, the hearing officer repeatedly cautioned the Harmons to question witnesses rather than argue with witnesses during cross-examination. (Harmon Hr'g Recording 1, 00:55:00-00:56:00, 00:57:45-00:58:00, 01:11:00-01:13:00; Harmon Hr'g Recording 2, 00:20:00-00:21:00, 00:31:00-00:35:00). Then, after evidence had closed, the Harmons mistakenly believed they could continue questioning witnesses and complained that the process was prejudicial. *Id.*; (Harmon Hr'g Recording 2, 00:31:00-00:33:00).

[¶ 43] Our review of the three hearings reveals orderly explanation of how the proceedings would occur, reasonable guidance to Petitioners as they tried to understand the process, and every reasonable opportunity to present, and respond to, evidence. *See supra* ¶¶ 8, 10, 42.

[¶ 44] Exacerbating the Harmons' frustration was their inability to understand the mass appraisal system and testimony offered to explain it, which bore little similarity to the more familiar "fee appraisal" concepts offered to challenge Assessor's valuation. *Supra* ¶¶ 6, 10-17, 26. Unfamiliar with both the trial process and Wyoming's mass appraisal property tax system, Harmon quickly concluded that the Assessor and County Board were "railroading" him, and that the County Board was a "Kangaroo Court." *Supra* ¶ 10; (Harmon Br., p. 2).

[¶ 45] While we appreciate the considerable challenge in understanding an unfamiliar assessment system and hearing process, we find no evidence of procedural error or a deprivation of due process. Petitioners had fair notice and sufficient opportunity to present their claims before the County Board. Their lack of familiarity with mass appraisal and adjudicatory processes did not constitute a due process violation.

ii. Did Assessor fail to adequately explain the valuation of Taxpayers' land in violation of law?

[¶ 46] Harmon, during his contested case hearing and in briefing to this Board, alleged that Assessor failed to adequately explain the land valuation as required by Wyoming law, citing Wyoming Statute 23-11. (Harmon's Br., p. 4); *supra* ¶ 10. There is no Wyoming Statute 23-11, and we are not aware of Harmon's claimed authority.

[¶ 47] Wyoming statute once required the Department of Revenue to promulgate rules governing an assessor's property valuation explanations:

The rules shall include requirements for the format and quality of a written explanation of the county assessor's residential assessment methodology, including an explanation and description of the parameters used to develop any stratification applied to a class of property as well as any market adjustment factors utilized to arrive at a fair market value for a property.

Wyo. Stat. Ann. § 39-11-102(c)(xxv) (2015 Lexis Nexis). The legislature removed that language from the statute in 2016. 2016 Wyo. Sess. Laws pp. 261-62.

[¶ 48] The Department of Revenue's current chapter nine rules no longer direct how assessors are to counsel taxpayers. The Department's rules now provide that "[a]ny taxpayer whose property is appraised under W.S. 39-13-103(b)(v) and 39-13-107(a)(i) and this Chapter will be notified of the appraised value of the subject property and, upon request, will be provided a statement indicating those methods set forth in section 5 of this chapter that were used in arriving at the appraisal." Rules, Wyo. Dep't of Revenue, Ch. 9 (2016).

[¶ 49] Similarly, the Department is to publish a list of "taxpayer rights," including "[a] right to assessment notices that describe in plain terms the basis for assessments and describe the procedures for appeal." Wyo. Stat. Ann. § 39-11-102(a)(i)(F) (2021). The Department has done so. *See* revenue.wyo.gov.

[¶ 50] Harmon raises a question to which no clear answer exists for all taxpayers under all circumstances: to what level of understanding must an assessor explain a valuation? Harmon's evidence of the Assessor's failure to advise consisted of Mr. and Ms. Harmon's shared opinion that the valuation system is confusing and beyond comprehension. *Supra* ¶ 10. The Harmons were in communication with the Assessor's Office about its assessment. *Supra* ¶ 11. The evidence suggests that the Assessor's Office could have done more to illuminate the manner in which it arrived at Harmon's land 2020 value. But, the evidence does not demonstrate a violation of Wyoming's less-than-precise guidance on how assessors must explain property valuations.

[¶ 51] Harmon has not demonstrated that the Assessor's Office failed to comply with Wyoming law in the manner by which the Assessor's Office described Harmon's assessed land value. The law did not require that the Assessor's Office successfully educate the Harmons regarding Wyoming's mass appraisal system, and Assessor was not responsible for the Harmons' failure to understand the mass-appraised valuation of their property.

- iii. Whether the County Board correctly presumed Assessor's valuation to be correct, and whether it properly placed upon taxpayers the initial burden of going forward and ultimate burden of proof.

[¶ 52] Taxpayers question a foundational aspect of Wyoming's tax adjudication system: the presumption that property valuations are correct, and placement of the initial and ultimate burdens of proof upon taxpayers to demonstrate a violation of tax law when contesting a property tax assessment. *Supra* ¶¶ 32-33. We certainly understand the difficulty facing taxpayers, especially non-attorneys and persons unfamiliar with Wyoming's Computer Assisted Mass Appraisal technology (CAMA) and mass appraisal concepts.

[¶ 53] A little background is helpful. Assessors must account for the fair market value of every taxable property in the county each year. *See* Wyo. Stat. Ann. § 39-13-103(b) (2021) ("All taxable property shall be annually listed, valued and assessed for taxation in the county in which located and in the name of the owner of the property on January 1;"). Because assessors are responsible for the appraisal of thousands of properties each year, and must be able to defend valuations through established appraisal guidelines, they do not perform a traditional "fee appraisal" of each property. Even were this desired, insufficient comparable sales occur and county governments lack the resources to undertake such.

[¶ 54] Rather, mass appraisal techniques allow assessors to group properties and value them using mathematical or statistical tools. *See* Rules, Wyo. Dep't of Revenue, Ch. 9 (2016). Wyoming's mass appraisal system typically combines the cost appraisal and sales comparison appraisal methods to value residential properties. Assessors value improvements through Wyoming's CAMA system, an automated system that calculates the cost to reproduce a building or like improvement. CAMA also accounts for a property's age, quality, and condition, and the cost of construction by region, among other factors. Rules, Wyo. Dep't of Revenue, Ch. 9 §§ 3(c), 5(b)(ii), 7 (2016). Assessors apply the sales comparison method to calculate the value of land, apart from any improvements. This process requires a grouping of like properties to evaluate the cost of land through qualified market sales. Assessors then may calculate and impose a market adjustment derived from sales trends within a grouping of properties referred to as a "land economic area," "neighborhood" or the like. These adjustments assure that a property's taxable value reflects heightened or depressed market demand trends for properties in a given neighborhood or location. *See* Rules, Wyo. Dep't of Revenue, Ch. 9 § 6(a)(iv) (2016).

[¶ 55] Wyoming law presumes that tax officials correctly apply the systems and methodologies prescribed by departmental rule, including implementation of Wyoming's CAMA system. Rather than require assessors prove that they have made no mistake in defense of their assessments, the law places the burden of proof on taxpayers challenging tax assessments. *Supra* ¶¶ 32-33. Because Wyoming's mass appraisal system operates differently than a standard appraisal, such as an appraisal conducted to finance the purchase

of a home or an appraisal sought by a real estate agent to determine a property's listing price, taxpayers often misunderstand how assessors arrive at market value.

[¶ 56] Regardless, assessors enjoy a presumption of correctness under Wyoming law, and taxpayers must therefore prove an assessment is incorrect to prevail on appeal. Taxpayers, at a minimum, should first understand how assessors perform their work. Failure to do so nearly ensures that they will be unable to carry their burdens of proof under Wyoming law.

- iv. Did the County Board correctly find that Petitioners failed to demonstrate that Assessor valued their land in a manner contrary to law?

[¶ 57] Petitioners each offered circumstantial and indirect evidence that Assessor incorrectly valued their residential land. That is, Petitioners relied on various outdated appraisals or other indicators of value assembled over the last six or more years. *Supra* ¶¶ 12-16, 21, 24. Petitioners also referred to the sale of unspecified lots that they recalled were on the market for lengthy periods of time and that eventually sold for less than the 2020 assessed values of their lots. *Supra* ¶¶ 16, 24. Petitioners reasoned that their lots could not have appreciated by a factor of approximately ten between 2019 and 2020, even though they readily admitted that the 2019 assessed values of their lots were too low. *Supra* ¶ 38.

[¶ 58] Petitioners did not offer direct evidence of how the Assessor erred in administering Wyoming's appraisal system. Petitioners came closest to directly challenging Assessor's mass appraisal practice when they suggested that Assessor relied upon the sales of properties dissimilar to their own to arrive at a per square foot value, which inflated the values of the lands underlying their homes. This indeed could have occurred, but Petitioners offered no clear evidence supporting that allegation; the County Board heard only Petitioners' supposition.

[¶ 59] In the end, Petitioners' questions and testimony revealed a fundamental lack of understanding as to how mass appraisal works. This prevented Petitioners from squarely confronting Assessor's assessed valuations derived from the mass appraisal methods applied. Petitioner Schroeder complained that he asked for detail on property sales used to value his lot, but offered no evidence of how those requests were issued or how the Assessor's Office denied reasonable access to information. *Supra* ¶ 25. This too, had Schroeder clearly proven that he was denied necessary information to understand the valuation of his land, may have been enough to warrant a remand for corrective action.

[¶ 60] In sum, Petitioners offered strong circumstantial and/or anecdotal evidence that Assessor may have overvalued their land, but no direct evidence of how *Assessor*

misapplied Wyoming's valuation laws, in particular the mass appraisal methods adopted under Wyoming law. *See* Rules, Wyo. Dep't of Revenue, Ch. 9 (2016); *see also* generally publications by the International Association of Assessing Officers (IAAO). The County Board received little evidence that could have carried Petitioners' burden of proving an erroneous valuation under Wyoming law. Therefore, the County Board correctly rejected Petitioners' claims of error.

CONCLUSION

[¶ 61] Petitioners did not carry their initial burdens of going forward or ultimate burdens of proving by a preponderance of evidence that Assessor valued their parcels of land in a manner contrary to Wyoming law. Substantial evidence supported the County Board's decision in each appeal affirming Assessor's assessed valuation of land.

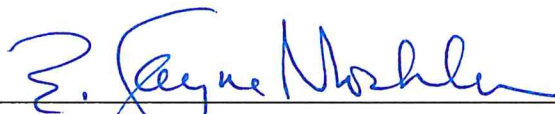
ORDER

[¶ 62] **IT IS HEREBY ORDERED** that the Natrona County Board of Equalization's Findings of Fact, Conclusions of Law, and Order in Docket No's. 2021-56, 2021-58, and 2021-85 are **affirmed**.


[¶ 63] 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 19 day of October 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 hereby certify that on the 19 day of October 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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Brian Judkins, Property Tax Div., Dep't of Revenue
Commissioners/Treasurer/Clerk— Natrona County
CCH
ABA State and Local Tax Reporter
State Library