

**BEFORE THE STATE BOARD OF EQUALIZATION**

**FOR THE STATE OF WYOMING**

IN THE MATTER OF THE APPEAL OF	)	
<b>GREENBIRD AND ASSOC., LLC</b>	)	<b>Docket No. 2021-65</b>
FROM A DECISION BY THE NATRONA	)	
COUNTY BOARD OF EQUALIZATION	)	

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**DECISION AND ORDER**

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**APPEARANCES**

Ken Carpenter, pro se, appeared on behalf of taxpayer Greenbird and Assoc., LLC, (hereafter Taxpayer).

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

**SUMMARY**

[¶ 1] Taxpayer appealed the 2020 assessment of its residential vacant property in Natrona County, claiming Assessor overvalued the property. Upon appealing, Taxpayer immediately sought access to the valuation information underlying Assessor’s assessment, in particular the “Statements of Consideration” for property sales within the Land Economic Area that Assessor relied upon to value and adjust value. During the hearing, Taxpayer asserted before the Natrona County Board of Equalization (County Board) that Assessor did not comply with Wyoming statute because the Assessor’s Office had not provided the required access to underlying valuation data. Taxpayer claimed it was unable to fully evaluate the assessed value. The County Board, without addressing Taxpayer’s allegations of noncompliance, ruled that Taxpayer did not prove that Assessor incorrectly valued the unimproved residential land. The County Board deferred to the hearing officer’s earlier rulings on whether Assessor complied with statutory disclosure requirements.

[¶ 2] The Wyoming State Board of Equalization, Chairman E. Jayne Mockler, Vice-Chairman Martin L. Hardsocg, and Board Member David L. Delicath, reviewed the record and briefs of the parties, including all pre-hearing materials. We find that because Taxpayer was denied adequate access to Assessor’s valuation information, as Wyoming Statutes section 39-13-109(b)(i) (2021) required, the County Board improperly affirmed the assessment. We **reverse** and **remand** the appeal to the County Board for rehearing.

## ISSUES

[¶ 3] Taxpayer identifies the following issues on appeal:

1. Did the County Board of Equalization act arbitrarily and capriciously or otherwise not in accordance with the law when it did not consider the failure of the Assessor to fulfill his legal obligation to provide the Taxpayer copies of the Statements of Consideration (SOC) used to determine the values of the Taxpayer's properties?
2. Did the County Board of Equalization act arbitrarily and capriciously or otherwise not in accordance with the law when it allowed the Assessor to introduce evidence of value, ie: his summaries, without him being able to provide the supporting Statements of Consideration?
3. Did the County Board of Equalization act arbitrarily and capriciously or otherwise not in accordance with the law when it failed to consider Chapter 7 Uniform County Board of Equalization Practice and Procedure Rules, Section 9(b) and WRCR Rule 37(b)(2)(A)(ii) Failure to Comply with a Court Order during their deliberations.
4. Did the Hearing Officer err in denying the Taxpayer's Motion in Limine?

(Taxpayer's Brief, 2).

[¶ 4] Assessor, in response, identified the issues as:

1. Did the Natrona County Board of Equalization ("CBOE") act arbitrarily, capriciously or otherwise not in accordance with the law when it held a hearing for Taxpayer's appeals and admitted evidence?
2. Did Taxpayer overcome the strong presumption that Assessor correctly applied Wyoming Tax law?
3. Is there substantial evidence to support Assessor's valuation?

(Assessor's Brief, 1).

[¶ 5] We rephrase the questions presented as follows:

- 1) Did the County Board conduct the pre-hearing and contested case hearing

processes in accordance with law?

2) Did the County Board rely upon substantial evidence and correctly apply Wyoming law in affirming the assessments?

### **PROCEEDINGS BEFORE HEARING OFFICER AND COUNTY BOARD**

[¶ 6] Taxpayer, through business representative Ken Carpenter, appealed dozens of 2020 assessments of various Natrona County residential improved and residential vacant properties.<sup>1</sup> Mr. Carpenter enlisted the assistance of former Johnson County Assessor, Cynthia Barlow, doing business as “OnPoint Business Consulting, LLC,” to present Taxpayer’s appeals to the County Board. (R. at 18).

[¶ 7] Prior to each contested case hearing, Taxpayer, through Mr. Carpenter, labored to acquire valuation data from Assessor, to better understand the taxable valuations assessed. Mr. Carpenter demanded Assessor turn over voluminous information, eventually seeking a subpoena duces tecum<sup>2</sup>, to compel the production of Assessor’s valuation materials. We will not review these numerous discovery demands in depth. Suffice to say, Taxpayer aggressively demanded Assessor’s relevant valuation information in accordance with Wyoming Statutes section 39-13-109(b) (2021), which requires that assessors share valuation information upon request no less than thirty days before a contested case hearing. *See infra* ¶¶ 24-25.

[¶ 8] Unsatisfied with Assessor’s response, Taxpayer filed a Motion in Limine seeking to prevent Assessor from admitting into evidence the evidentiary basis of his valuations. (R. at 154-159).<sup>3</sup> Taxpayer claimed that, because Assessor had not sufficiently complied with statutory information-sharing requirements or the County Board’s Order Compelling Discovery, the hearing officer should deny admission of Assessor’s evidence of how he arrived at the assessed values. *Id.* Taxpayer argued that Assessor would then be required to default to the previous year’s valuations. *Id.*

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<sup>1</sup> This and other property-owning entities, through Mr. Carpenter, appealed 15 County Board decisions to this Board. *See In re Appeal of Greenbird & Assoc., LLC*, Doc. Nos. 2021-62, 2021-63, 2021-64, 2021-65, 2021-66; *In re Appeal of Carpenter Co., LLC*, Doc. Nos. 2021-67, 2021-68, 2021-69, 2021-70; *In re Appeal of Paul Franklin, LLC*, Doc. Nos. 2021-71, 2021-72, 2021-73; *In re Appeal of Christensen Barnhart, LLC*, Doc. Nos. 2021-74, 2021-75; *In re Appeal of Margaret Bobken, LLC*, Doc. No. 2021-76. Assessor appealed from four more County Board decisions adjudicating appeals brought through Mr. Carpenter. *In re Appeal of Natrona County Assessor*, Doc. Nos. 2021-81, 2021-82, 2021-83, 2021-84. Thus, this Board has before it a total of 19 local property tax appeals that Mr. Carpenter initiated before the County Board.

<sup>2</sup> A subpoena duces tecum is a written legal order, often issued to a party or third person in discovery prior to a trial or like proceeding, to compel disclosure and transfer of documents or other materials.

<sup>3</sup> The record does not contain a transcript or audio recording of the pre-trial hearing on the Motion in Limine.

[¶ 9] Following a hearing on the Motion in Limine, the hearing officer denied the motion. She found that: 1) Taxpayer was not able to view the specific statements of consideration (SOC's), as the three years of statements were made available in four boxes that were not organized by date or in any other manner; 2) Assessor provided taxpayer with spreadsheets containing valuation information in an electronic form; and 3) Assessor was unable to strictly comply with the statutory information disclosure requirement because the information was not organized, the Assessor was preparing for hundreds of appeals, and the COVID 19 pandemic limited his office's ability to respond. (R. at 202-204). The hearing officer concluded that Assessor had not intentionally violated the law, complying with its requirements "to the best of his ability under the circumstances." *Id.* The hearing officer concluded that granting the motion would likely result in remand and initiation of the appeal process anew at great time and expense to the parties. *Id.* Taxpayer would again object and allege that Assessor had not complied with disclosure requirements before the County Board during the contested case hearing. *Infra* ¶ 12.

[¶ 10] The County Board, through its hearing officer and with the parties' input, grouped the numerous appeals so that the County Board could hear the evidence addressing similarly situated or characterized properties of the taxpayer in successive hearings. The hearing officer, however, did not group the present docketed appeal with other docketed appeals, and the County Board considered this appeal by itself.

[¶ 11] The present appeal concerns the value of a vacant lot at 5055 Bel Vista Drive, Bar Nunn, with the legal description of Bar Nunn Ranch Lot 22, and consisting of 20,000 square feet. (R. at 235). Assessor valued the property at \$50,066 in 2019, but appraised the land's fair market value at \$15,808 in 2020. (R. at 234).

[¶ 12] At the contested case hearing before the County Board, Taxpayer again alleged that Assessor had not complied with Wyoming Statutes section 39-13-109(b) (2021). Assessor objected to Taxpayer's continued claims and arguments that Assessor failed to disclose supporting valuation materials, arguing that the hearing officer had previously ruled on Taxpayer's objections. *See supra* ¶ 9; ("Continuation" Hr'g Audio, 00:03:30 – 00:05:00). The County Board permitted the hearing to proceed, subject to Taxpayer's objections. *Id.*

[¶ 13] Turning to the valuation evidence, Taxpayer's representative, Ken Carpenter, described the property as located in the "old part of Bar Nunn,"<sup>4</sup> one of 15 lots cut off from utilities. Half of the property is flat and the other half inclines abruptly. (Hr'g Audio 9, 00:001:30 – 00: 04:30). Mr. Carpenter stated that the lot bordered on "Palamino" and, therefore, should be lower in value. *Id.* He offered no background or context for that inference, and nothing in the record otherwise explains why the land's proximity to

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<sup>4</sup> Although the parties did not describe Bar Nunn, public records establish that Bar Nunn was a subdivision of Casper, Wyoming, and thereafter became a town in 1982. *See* Townofbarnunn.com.

“Palamino” is significant.

[¶ 14] Assessor testified that his office used all past residential vacant sales of properties within Land Economic Area (LEA) 0701Res01, within which the subject lot was located, dating back eleven years to 2010, and time trended to the present, to value the lot. (R. at 240-44; Hr’g Audio 9, 00:04:30 – 00:09:00). Mr. Carpenter questioned Assessor, asking whether his valuations in general recognized the lack of utilities for some properties, versus others that had access to utility services. Assessor’s testimony in response was unclear. However, Assessor agreed to take another look at his assessment for the property, and the County Board adjourned the hearing to allow Assessor’s further examination. (Hr’g Audio 9, 00:13:00 – 00:14:30).

[¶ 15] Under a different hearing officer, the County Board reconvened to hear the balance of the appeal concerning the Bar Nunn vacant residential property. Rene Berry, Field Team Supervisor for the Assessor’s Office, testified to additional valuation detail. She explained that the office relied upon eight time-trended sales to achieve a statistically compliant valuation of \$15,808. She explained further that the Assessor’s Office adjusted the property’s value downward by 75% to account for its “lack of infrastructure.” (“Continuation” Hr’g Audio, 00:07:00 – 00:11:00).

[¶ 16] The County Board affirmed the assessment, concluding that Taxpayer did not carry its burden of proof. (R. at 245-247). The County Board struggled with how it should proceed given the range of procedural claims of noncompliance, but declined to address those through the decision. It implicitly accepted the hearing officer’s pretrial rulings and rulings to objections issued during the hearing. The County Board offered no legal determination as to whether Assessor failed to afford access to underlying valuation information upon request.

## **CONCLUSIONS OF LAW**

### **(a) Standard of Review**

[¶ 17] 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.*

[¶ 18] 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).

[¶ 19] Because the State Board rules are patterned on the judicial review provisions of Wyoming Statutes 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).

[¶ 20] 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)).

[¶ 21] "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.

[¶ 22] 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

[¶ 23] 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).

[¶ 24] Taxpayers may generally request information underlying the valuation of their property:

(i) Any person or his agent who wishes to review his property tax assessment or who contests his property tax assessment or valuation in a timely manner pursuant to paragraph (b)(i) of this section is entitled to review statements of consideration for properties of like use and geographic area available to the county assessor in determining the value of the property at issue as provided under paragraph (b)(i) of this section. During a review, the county assessor shall disclose information sufficient to permit identification of the real estate parcels used by the county assessor in determining the value of the property at issue and provide the person or his agent papers of all information, including statements of consideration, the assessor relied upon in determining the property value and including statements of consideration for properties of like use and geographic area which were available to the assessor and are requested by the person or his agent. The county assessor shall, upon request, provide the person or his agent a statement indicating why a certain property was not used in determining the value of the property at issue. The county assessor and the contestant shall disclose those

statements of consideration to the county board of equalization in conjunction with any hearing before the board with respect to the value or assessment of that property.

Wyo. Stat. Ann. § 39-13-109(a)(i) (2021).

[¶ 25] The process by which taxpayers appeal and proceed when protesting a property tax assessment is as follows:

(i) Any person wishing to contest an assessment of his property shall file not later than thirty (30) days after the date of the assessment schedule property sent pursuant to W.S. 39-13-103(b)(vii), a statement with the county assessor specifying the reasons why the assessment is incorrect. The county assessor shall provide a copy to the county clerk as clerk of the county board of equalization. The county assessor and the person contesting the assessment, or his agent, shall disclose witnesses and exchange information, evidence and documents relevant to the appeal, including sales information from relevant statements of consideration if requested, no later than thirty (30) days prior to the scheduled county board of equalization hearing. The assessor shall specifically identify the sales information used to determine market value of the property under appeal. A county board of equalization may receive evidence relative to any assessment and may require the person assessed or his agent or attorney to appear before it, be examined and produce any documents relating to the assessment.

...

The taxpayer may present any evidence that is relevant, material or not repetitious, including expert opinion testimony, to rebut the presumption in favor of a valuation asserted by the county assessor. The county attorney or his designee may represent the county board or the assessor, but not both. The assessor may be represented by an attorney and the board may hire a hearing officer. All deliberations of the board shall be in public. The county board of equalization may affirm the assessor's valuation or find in favor of the taxpayer and remand back the case back to the assessor. The board shall make specific written findings and conclusions as to the evidence presented not later than October 1 of each year;

Wyo. Stat. Ann. § 39-13-109(b)(i) (2021). The State Board's rules provided likewise and warned that: "[f]ailure to disclose witnesses or to exchange information, evidence or documents may result in exclusion of the undisclosed testimony, evidence or documents at the hearing at the discretion of the county board or hearing officer." Rules, Wyo. State Bd. of Equalization, Ch. 7 § 8 (July 2015 through Feb. 2021).



(c) Review of the County Board Decision

[¶ 26] The record before us includes evidence of Taxpayer's repeated efforts to acquire information used to value Taxpayer's property, in particular the SOC's identifying property sales details for property sales used in Assessor's valuation methodology. *Supra* ¶¶ 7-9. Taxpayer complained that, although it was allowed access to boxes of Natrona County SOC's for the past three years, that access did not comply with law because the statements were neither organized nor limited to those Assessor used to value the properties in question. (Taxpayers' Br., p. 5; Hr'g Audio 1. 00:46:00 – 00:48:00; 2021-65 R. at 154-159 and 135-138). Taxpayer also complained that it was required to review the SOC's in mass at the Assessor's Office without receiving copies, and that this access occurred late in the process. Assessor allowed access on December 29, 2020; the contested case hearing occurred on February 26, 2021. (R. at 245-247). Taxpayer asserted that neither did the electronic information concerning the valuations satisfy the statutory requirement that Assessor turn over the relevant valuation information, including the SOC's utilized. *Id.*

[¶ 27] The question is whether Taxpayer, under the circumstances, was denied access to Assessor's valuation information as the statute required. And, if so, did Taxpayer demonstrate before the County Board that Assessor's level of compliance warranted remand and direction to comply with statutory property tax appeal guidelines?<sup>5 6</sup> We hold that Taxpayer proved that Assessor failed to comply with Wyoming Statutes section 39-13-109(b) (2021) and this Board's rules. Taxpayer also offered sufficient evidence that Assessor's noncompliance materially impacted its ability to pursue its appeal. Having received evidence of both Assessor's noncompliance, and of the prejudicial impact on Taxpayer's ability to conduct its appeals, the County Board erred when it affirmed the assessments notwithstanding Taxpayer's well-founded objections and evidence. The County Board could have disallowed admission of Assessor's evidence containing information withheld from the Taxpayer. Rules, Wyo. Bd. of Equalization, Ch. 7 § 8(b) (2021). But, it admitted that evidence so now it must rehear the appeal after Taxpayer has had an opportunity to understand the assessment.

[¶ 28] This Board has consistently affirmed assessments because taxpayers failed to carry their burden of proof, i.e. have offered insufficient evidence that assessors misapplied the state's mass appraisal system when assessing taxable values. *See In re Appeal of Harmon,*

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<sup>5</sup> Taxpayer alternatively argues that the hearing officer could have denied admission of Assessor's valuation evidence, surmising that Assessor would have been required to apply the previous year's appraised valuations for 2020. (Taxpayer' Br. 8).

<sup>6</sup> Taxpayer also complains that the hearing officer erred when she did not enforce pretrial discovery orders, including her Order of Discovery and a separately served *subpoena duces tecum*. (Taxpayers' Br., 9). Taxpayer was required to apply to the appropriate district court for enforcement of those particular pretrial discovery demands. Wyo. Stat. Ann. § 16-3-107(c) thru (g) (2021).

*et al.*, 2021 WL 4955094, ¶¶ 59-60, Docket Nos. 2021-56, 2021-58, 2021-85, \*\* 11-12 (Wyo. State Bd. of Equalization, Oct. 19, 2021); *In re Appeal of Haynes Living Trust*, 2021 WL 4351871, ¶¶ 16-17, Docket No. 2021-53, \*\* 3-4 (Wyo. State Bd. of Equalization, Sept. 14, 2021). This often occurs because taxpayers first do not understand the mass appraisal system, and, second, do not even ask to review the property sales information used in the mass appraisal process. *Id.* Property owners challenging local county tax assessments often wrongly assume their traditional “fee” appraisal materials, publicly listed prices for neighboring properties, or like market price indicators, will carry the day before the County Board. *Id.* Because fee appraisals and other like materials do not speak directly to whether a mass appraised valuation is correct, these approaches are rarely successful. *See e.g. Gray v. Wyo. State Bd. of Equalization*, 896 P.2d 1347, 1351-53 (Wyo. 1995) (Court rejected taxpayer’s reliance upon purchase prices of properties to challenge assessed valuations of those properties, calculated through Wyoming’s computer assisted mass appraisal system.).

[¶ 29] Most taxpayers face an uphill battle of learning how mass appraisal works and of overcoming the presumption of correctness favoring assessed valuations. Assessors must therefore comply with Wyoming Statutes section 39-13-109(b)(i) (2021) to ensure that appealing taxpayers have an informed opportunity to prosecute their appeals. The statute, in pertinent part, provides that assessors:

shall disclose witnesses and exchange information, evidence and documents *relevant to the appeal*, including *sales information from relevant statements of consideration if requested*, no later than thirty (30) days prior to the scheduled county board of equalization hearing. The assessor shall *specifically identify the sales information used to determine market value of the property under appeal*.

Wyo. Stat. Ann. § 39-13-109(b)(i) (2021) (emphasis added).

[¶ 30] Reading subsections (a)(i) and (b)(i) of the “Taxpayer remedies” statute together, as we must, we agree with Taxpayer that the phrases “documents *relevant to the appeal*,” “*relevant statements of consideration*” and “*specifically identify the sales information*,” required Assessor to not only provide access to the SOC’s, but those documents specifically used to value the properties in question. We correspondingly disagree that Assessor could merely turn over three years of statements for the entire county, in no identifiable order. Rather, Taxpayer was entitled to the particular SOC’s that Assessor relied upon, and any other specific information used to appraise the properties.

[¶ 31] And because the statute requires that assessors provide this and other information to appealing taxpayers upon request, assessors must institute recordkeeping processes and policies that will ensure ready access to valuation information, regardless of circumstances such as appeal workload, the pandemic, or other intervening events. The hearing officer’s

finding that Assessor's statutory noncompliance was not intentional was beside the point and should not have sufficed to resolve the matter without some type of corrective remedy for the Taxpayer.

[¶ 32] In any event, when circumstances dictate, assessors, as any party in litigation, may request additional time to ensure taxpayers are served. County boards of equalization have ample discretion to modify proceedings to fulfill procedural or administrative requirements.<sup>7</sup> See Wyo. Stat. Ann. § 16-3-107(k) (2021) ("Every agency shall proceed with reasonable dispatch to conclude any matter presented to it except that due regard shall be had for the convenience and necessity of the parties or their representatives."); *Fallon v. Wyo. State Bd. of Medical Exam'rs*, 441 P.2d 322, 327 (Wyo. 1968) (quoting 2 Am.Jr.2d, Admin. Law, § 353, pp. 166-67) ("principles of justice and fair play require 'an orderly proceeding appropriate to the case or adopted to its nature, ... and adapted to the ends to be attained, one in which a person has an opportunity to be heard, and to defend, enforce, and protect his rights before a competent and impartial tribunal ... .").

[¶ 33] However, our review in this case is limited to the County Board's actions upon receipt of Taxpayer's objections, evidence, and arguments concerning Assessor's failure to timely or adequately comply with Wyoming Statutes section 39-13-109(b)(i) and the Board of Equalization's Chapter Seven rules.

[¶ 34] As we have resolved the first issue in Taxpayer's favor and shall order remand of this appeal to the County Board for corrective action, the remaining issues are rendered moot, and we issue no decision upon remaining issues.

[¶ 35] The County Board in this appeal struggled with how to proceed in light of the Taxpayer's strenuous objections that Taxpayer had not been given fair opportunity to understand the valuations from the ground up. The hearing officer having ruled on these issues, the County Board acquiesced and proceeded without fully considering those objections. County boards are not bound by preliminary decisions made by hearing officers, and may review, reconsider those decisions, and must ensure that all procedural or administrative steps have been properly taken before ruling on the merits of an appeal.

## **CONCLUSION**

[¶ 36] The County Board erred when it affirmed the assessment notwithstanding clear evidence that Assessor failed to make source valuation data available to Taxpayer, upon its request.

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<sup>7</sup> We acknowledge that county boards of equalization are required to issue written decisions on appeals by October 1 of each year. Wyo. Stat. Ann. § 39-13-109(b) (2021). While we do not opine that county boards may disregard that requirement, hearings often occur late in the year and county boards often issue decisions after that date. This Board is aware of no legal consequence to missing that deadline.

## ORDER

[¶ 37] **IT IS HEREBY ORDERED** that the Natrona County Board of Equalization's Findings of Fact, Conclusions of Law, and Order, challenged in Docket No's. 2021-65, is **reversed** and **remanded** to the County Board for a new hearing, following Assessor's disclosure of all required valuation data to Taxpayer.

[¶ 38] 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 1 day of February 2022.


### STATE BOARD OF EQUALIZATION

  
\_\_\_\_\_  
E. Jayne Mockler, Chairman

  
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Martin L. Hardsocg, Vice-Chairman

  
\_\_\_\_\_  
David L. Delicath, Board Member

ATTEST:

  
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Jennifer Fujinami, Executive Assistant

## CERTIFICATE OF SERVICE

I hereby certify that on the 1 day of February 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:

Ken Carpenter  
1836 Willow Creek Road  
Casper, Wyoming 82604

Eric K. Nelson  
Charmaine A. Reed  
Natrona County Attorney's Office  
200 N. Center Street, Suite 300  
Casper, Wyoming 82601

*Jennifer Fujinami*

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Jennifer Fujinami  
Executive Assistant  
State Board of Equalization  
P.O. Box 448  
Cheyenne, WY 82003  
Phone: (307) 777-6989  
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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