

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)	
CARPENTER CO., LLC)	Docket No. 2021-67
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	
(Group 1))	

IN THE MATTER OF THE APPEAL OF)	
CARPENTER CO., LLC)	Docket No. 2021-68
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	
(Group 1))	

IN THE MATTER OF THE APPEAL OF)	
PAUL FRANKLIN, LLC)	Docket No. 2021-72
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	
(Group 1))	

IN THE MATTER OF THE APPEAL OF)	
CHRISTENSEN BARNHART, LLC)	Docket No. 2021-75
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	
(Group 1))	

IN THE MATTER OF THE APPEAL OF)	
MARGARET BOBKEN, LLC)	Docket No. 2021-76
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	
(Group 1))	

DECISION AND ORDER

APPEARANCES

Ken Carpenter, pro se, appeared on behalf of taxpayers Carpenter Co., LLC, Christensen Barnhart, LLC, Paul Franklin, LLC, and Margaret Bobken, LLC (hereafter

Taxpayers).

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] Taxpayers appealed the 2020 assessments of their residential improved properties in Natrona County, claiming Assessor overvalued the properties. Upon appealing, Taxpayers immediately sought access to the valuation information underlying Assessor's assessments, in particular the "Statements of Consideration" for property sales within the Land Economic Area that Assessor relied upon to value and adjust values. During the hearing, Taxpayers asserted before the Natrona County Board of Equalization (County Board) that Assessor did not comply with Wyoming statute because the Assessor's Office did not provide the required access to underlying valuation data. Taxpayers claimed they were unable to fully evaluate the assessed values. Taxpayers sought to limit Assessor's admission of valuation evidence in light of his failure to divulge valuation data to Taxpayers. The County Board, without addressing Taxpayers' allegations of pre-hearing noncompliance, ruled on the merits that Taxpayers did not prove that Assessor incorrectly valued the five residential properties.

[¶ 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 Assessor denied Taxpayers adequate access to the valuation information supporting the contested assessments, as Wyoming Statutes section 39-13-109(b)(i) (2021) required, the County Board improperly affirmed the assessments. We **reverse** and **remand** the appeals to the County Board for rehearing.

ISSUES

[¶ 3] Taxpayers identify 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?

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

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 WRCP 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?

(Taxpayers' Briefs, 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 Briefs, 1).

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

- 1) Did the County Board conduct the pre-hearing processes and contested case hearing in accordance with law?
- 2) Did the County Board rely upon substantial evidence and correctly apply Wyoming law in affirming the assessments?

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

PROCEEDINGS BEFORE HEARING OFFICER AND COUNTY BOARD¹

[¶ 6] Taxpayers, through business representative Ken Carpenter, appealed several dozen 2020 assessments of various Natrona County residential improved and residential vacant properties.² Mr. Carpenter enlisted the assistance of former Johnson County Assessor, Cynthia Barlow, doing business as “OnPoint Business Consulting, LLC,” to present Taxpayers’ appeals to the County Board. (See 2021-67 R. at 18; 2021-68 R. at 82; 2021-72 R. at 17; 2021-75 R. at 92; 2021-76 R. at 18).

[¶ 7] Prior to each contested case hearing, Taxpayers, through Mr. Carpenter and Ms. Barlow, labored to acquire valuation data from Assessor, to better understand the taxable valuations assessed. Mr. Carpenter demanded that Assessor turn over voluminous information, eventually seeking a subpoena duces tecum³, to compel the production of Assessor’s valuation materials. We will not review these numerous demands in depth. Suffice to say, Taxpayers 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* ¶¶ 23-24.

[¶ 8] Unsatisfied with Assessor’s response, Taxpayers filed a Motion in Limine seeking to prevent Assessor from admitting into evidence the evidentiary basis of his valuations. (2021-67 R. at 131-136; 2021-68 R. at 94-99; 2021-72 R. at 142-147; 2021-75 R. at 104-109; 2021-76 R. at 139-144). Taxpayers 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 have denied admission of Assessor’s evidence of how he arrived at the assessed values. *Id.* Taxpayers argued that Assessor would then have been required to rely upon the previous year’s valuations. *Id.*

¹ Each County Board docket has a record. We shall identify each record with the assigned State Board docket number, such as 2021-70 R. at **).

² These 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 Natrona County Board.

³ 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 the provision of documents or other materials.

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

[¶ 9] Following a hearing on the Motion in Limine, the hearing officer denied the motion.⁴ She found that: 1) Taxpayers were 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 Taxpayers 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 the Assessor Office's ability to respond. (2021-67 R. at 201-203; 2021-68 R. at 113-115; 2021-72 R. at 176-178; 2021-75 R. at 152-154; 2021-76 R. at 187-189). 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.*

[¶ 10] The County Board, through its hearing officer and with the parties' input, grouped the appeals so that the County Board could hear the evidence addressing similarly situated or characterized properties of the taxpayers in successive hearings. The hearing officer designated the above-captioned appeals as "Group 1."⁵ The County Board dockets in Group 1 and the property at issue in each appeal were as follows:

⁴ The record does not contain a transcript or audio recording of the pre-trial hearing on the Motion in Limine.

⁵ Unfortunately, the County Board did not formally join the appeals together for purposes of issuing its numerous decisions, and the parties thereafter rearranged and grouped the appeals by property owner for briefing purposes, rather than as the hearing officer grouped the appeals for hearing purposes. So, we have disentangled the appeals and joined docket numbers according to the hearing groupings established before the County Board. *See* Board Order Consolidating Appeals dated January 27, 2022. In so doing, we have joined the appeals heard in the same contested case hearings. This allowed us to streamline our decisions, citations to the audio record, and should assist appellate bodies if further review is sought. County Boards, as any trial court, have broad discretion to join, rearrange, and marshal proceedings to avoid confusion and ensure efficiency in the adjudicative process, as well as to aid reviewing courts.

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

State Board Docket	County Board Docket	Property	2019 valuation	2020 valuation
2021-67	2020-0579	Residential property at 520 Kimball Street, Casper, Wyoming, with a single family residence, located within LEA 0301Res01	Residential land: \$29,013 Improvements: \$23,078 Total: 52,079	Residential land: \$47,475 Improvements: \$18,594 Total: \$66,069
2021-68	2020-0584	Residential property at 219 West 15 th Street, Casper, Wyoming, with a single family residence, located within LEA 0301Res01.	Residential land: \$16,775 Improvements: \$72,773 Total: \$89,548	Residential land: \$27,450 Improvements: \$58,772 Total: \$86,222
2021-72	2020-0589	Residential property at 1311 Spruce Street, Casper, Wyoming, with a single family residence, located within LEA 0501Res01.	Residential Land: \$17,875 Improvements: \$87,678 Total: \$105,553	Residential land: \$29,250 Improvements: \$70,680 Total: \$99,930
2021-75	2020-0574	Residential property at 218 West 8 th Street, Casper, Wyoming, with a single family residence, located within LEA 0301Res01.	Residential Land: \$16,709 Improvements: \$112,951 Total: \$129,660	Residential land: \$27,342 Improvements: \$89,407 Total: \$116,749
2021-76	2020-0173	Residential property at 534 S. Kimball Street, Casper, Wyoming, with two improvements consisting of a single family residence and a	Residential land: \$27,852 Improvements: \$65,984 Total: \$93,836	Residential land: \$45,576 Improvements: \$50,995 Total: \$96,571

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

		duplex, located within LEA 0301Res01.		
--	--	--	--	--

(2021-67 R. at 313-314; 2021-68 R. at 217-218; 2021-72 R. at 284-285; 2021-75 R. at 261-262; 2021-76 R. at 325-326).

[¶ 11] At the contested case hearing before the County Board, Taxpayers again alleged that Assessor had not complied with Wyoming Statutes section 39-13-109(b) (2021). Assessor objected to Taxpayers’ continued claims, objections, and arguments that Assessor had failed to disclose supporting valuation materials, arguing that the hearing officer had previously ruled on Taxpayers’ objections. *See supra* ¶¶ 7-9; (Hr’g Audio 1, 00:08:45 – 00:12:00). The hearing officer reviewed a number of options available to the County Board regarding Taxpayers’ discovery-based objections, including allowing the County Board to revisit the question of whether the hearing should proceed. *Id.* The County Board permitted the hearing to proceed, subject to the Taxpayers’ objections. *Id.* However, Taxpayers reasserted throughout the hearing that Assessor’s failure to disclose source valuation data, in particular the original SOC’s for property sales within the Land Economic Area (LEA) containing the properties at issue, prevented Taxpayers from fully understanding how Assessor valued the properties, and ultimately prevented Taxpayers from carrying their burden of proof. *Id.*

[¶ 12] Taxpayers then discussed the property valuations at issue and challenged Assessor’s use of “abstraction”⁶ to value the properties, objecting that abstraction should be used only when an assessor is highly confident in the underlying valuation information. (Hr’g Audio 1, 00:22:00 – 00:24:00). Taxpayers disagreed with the Assessor’s Office’s rounding of square foot value calculations to \$9.00 per square foot. (Hr’g Audio 1. 00:25:00 – 00:30:00). Taxpayers, through Ms. Barlow, questioned several sales within the LEA, which Assessor used to arrive at the valuations. But Ms. Barlow was unable to pinpoint a specific valuation error, merely doubting the strength of Assessor’s valuations. *Id.*

[¶ 13] Assessor and his employees then testified to how they arrived at the values for the five properties in question, describing such in a very summary fashion. Rene Berry, the “Field Crew Supervisor” for the office, explained how abstraction was used to calculate land values on a square foot basis. (Hr’g Audio 2, 00:04:00 – 00:05:00). This process

⁶ “Abstraction Method” is a mass appraisal technique of valuing land separately from improvements: “Method of land valuation in the absence of vacant land sales, whereby improvement values obtained from the cost model are subtracted from sale prices of improved parcels to yield residual land value estimates.” Standard on Mass Appraisal of Real Property, Glossary, International Association of Assessing Officers (April 2013).

entailed a calculation of improvement values through consultation of the Marshall & Swift appraisal service and the State's Computer-assisted Mass Appraisal system. *Id.* She further explained that once the value of improvements was determined, that value was subtracted from the entire value to calculate a square foot land value on a per acre basis. (Hr'g Audio 2, 00:06:25 – 00:07:30).

[¶ 14] Both parties presented their evidence concerning valuation methodology and form in a summary form rather than a property-by-property review. Ms. Barlow, testifying for Taxpayers, and Ms. Berry, testifying for the Assessor's Office, discussed general aspects of the methodology or results. Their opinions as to alleged defects or compliance with law offered little insight into the intricacies of the appraisal methodologies or results.

[¶ 15] In response to Taxpayers' allegations that Assessor withheld valuation information, Ms. Berry reviewed the office's handling of SOC's, including changes to that process due to staffing. (Hr'g Audio 2, 00:14:00 – 00:19:20). The Assessor's Office, she explained, made all SOC's available to Taxpayers, as well as an electronic file of all uploaded sales. She also testified to the "verification" of sales, the process by which the Office determined whether the sales were properly included in the mass appraisal valuation analysis. *Id.* It was undisputed that Assessor made the SOC's available to Taxpayers. However, Mr. Carpenter stated that Assessor's failure to identify the specific sales information relevant to the valuations, including the SOC's, and the late date at which they were provided, prevented Taxpayers from accessing the information as intended by the statute. (Hr'g Audio 2, 00:26:03 – 00:29:30:00).

[¶ 16] The County Board affirmed the five valuations, concluding that Taxpayers did not carry their burden of proof. (2021-67 R. at 315-317; 2021-68 R. at 219-221; 2021-72 R. at 286-288; 2021-75 R. at 263-265; 2021-76 R. at 327-329). The County Board struggled with how it should proceed given the range of procedural claims of noncompliance, but declined to address those through the decisions. 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

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

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 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).

[¶ 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.’ ”

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

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

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

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.

...

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

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 (2015).

(c) Review of the County Board Decisions

[¶ 26] The record before us includes evidence of the Taxpayers' repeated efforts to acquire information used to value their property, in particular the SOC's identifying property sales details for property sales used in Assessor's valuation methodology. *Supra* ¶¶ 7-9. Taxpayers complained that, although they were allowed access to boxes of Natrona County SOC's for the past three years, that access did not comply with law because the SOC's were not organized or limited to those that Assessor used to value the properties in question. Taxpayers' Br., p. 5; Hr'g Audio 1. 00:47:00 – 00:55:00; 2021-67 R. at 131-136; 2021-68 R. at 94-99; 2021-72 R. at 142-147; 2021-75 R. at 104-109; 2021-76 R. at 139-144. Taxpayers also complained that they were 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. (2021-67 R. at 315-317 and 113-115; 2021-68 R. at 219-221 and 74-76; 2021-72 R. at 286-288 and 125-127; 2021-75 R. at 263-265 and 84-86; 2021-76 R. at 327-329 and 121-123). Taxpayers assert 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.* Taxpayers' consultant, Ms. Barlow, testified that she was unable to properly analyze the manner in which Assessor determined value. (Hr'g Audio 1. 00:35:00).

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

[¶ 27] The question is whether Taxpayers, under the circumstances, were denied access to Assessor's valuation information as the statute required. And, if so, did Taxpayers demonstrate before the County Board that Assessor's level of compliance warranted remand and direction to comply with statutory property tax appeal guidelines?^{7 8} We find that Assessor failed to comply with Wyoming Statutes section 39-13-109(b) (2021) and this Board's Chapter Seven rules. Taxpayers also offered sufficient evidence that Assessor's noncompliance materially impacted their ability to pursue their appeals. Having received evidence of both Assessor's noncompliance, and of the prejudicial impact on Taxpayers' ability to conduct their appeals, the County Board erred when it affirmed the assessments notwithstanding Taxpayers' well-founded objections and evidence. The County Board could have disallowed admission of Assessor's evidence containing information withheld from the Taxpayer. Rules, Wyo. State Bd. of Equalization, Ch. 7 § 8(b) (2015). But, it admitted that evidence so now must rehear the appeal after Taxpayers have 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, 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.).

⁷ Taxpayers alternatively argue 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. (Taxpayers' Br., 8).

⁸ Taxpayers also complain 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., p. 9). Taxpayers were 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).

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

[¶ 29] Most taxpayers face an uphill battle of learning how mass appraisal works and of overcoming the presumption of correctness favoring assessed valuations. *See supra* ¶ 20. 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 Taxpayers that the phrases “documents *relevant to the appeal*,” “*relevant statements of consideration*,” and “*specifically identify the sales information*,” required Assessor to provide access not only to the SOC’s, but to 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, Taxpayers were entitled to not only the particular SOC’s that Assessor relied upon, but 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 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, *supra* ¶ 9, was beside the point and should not have sufficed to resolve the matter without some type of remedy or accommodation for the Taxpayers.

[¶ 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, including hearing officers hired to administer their hearings, have ample discretion to modify proceedings to fulfill procedural or administrative requirements.⁹ *See* Wyo. Stat.

⁹ 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

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

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*, during and following the hearing, upon receipt of Taxpayers’ objections, evidence, and arguments concerning Assessor’s failure to timely or adequately comply with Wyoming Statutes section 39-13-109(b)(i) (2021) and the Board of Equalization’s Chapter Seven rules.

[¶ 34] As we have resolved the first issue in Taxpayers’ favor and shall order remand of these appeals to the County Board for corrective action, the remaining issues are rendered moot, and we issue no decision as to whether the County Board properly concluded that Assessor valued the properties in compliance with Wyoming law.

[¶ 35] The County Board in these appeals struggled with how to proceed in light of the Taxpayers’ strenuous objections that they had not been given fair opportunity to understand the valuations from the ground up. The hearing officer, having ruled on these prehearing matters, the County Board acquiesced and proceeded without fully considering those objections and the gravity of the alleged omissions. The County Board was not bound by the hearing officer’s preliminary or procedural decisions. As the hearing officer in these appeals advised, *supra* ¶ 11, the County Board could have reviewed Taxpayers’ objections, reconsidered those discovery objections, and ensured that all procedural or administrative steps had been properly taken before ruling on the merits of the appeals. This may include, as the hearing officer advised, receiving additional briefing, conducting additional hearings, and seeking specific legal advice from the hearing officer or independent legal counsel.

CONCLUSION

[¶ 36] The County Board erred when it affirmed the five assessments upon compelling evidence that Assessor failed to make source valuation data available to Taxpayers, upon their request.

after that date. This Board is aware of no legal consequence from violation of that deadline.

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

ORDER

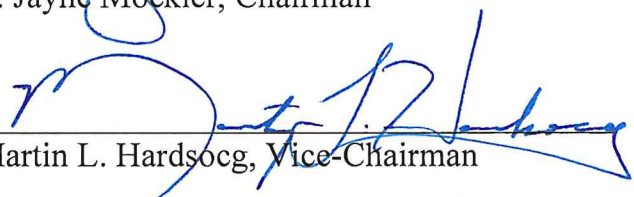
[¶ 37] **IT IS HEREBY ORDERED** that the Natrona County Board of Equalization's Findings of Fact, Conclusions of Law, and Order, challenged in Docket No's. 2021-67, 2021-68, 2021-72, 2021-75, and 2021-76, are **reversed** and **remanded** to the County Board for a new hearing, following Assessor's disclosure of all required valuation data to Taxpayers.

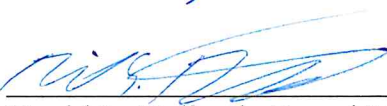
[¶ 38] Pursuant to Wyoming Statutes section 16-3-114 (2021) and Rule 12, Wyoming Rules of Appellate Procedure, any person aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date of this decision.

DATED this 1 day of February 2022.

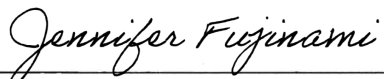
STATE BOARD OF EQUALIZATION


E. Jayne Mockler, Chairman


Martin L. Hardsocg, Vice-Chairman


David L. Delicath, Board Member

ATTEST:


Jennifer Fujinami, Executive Assistant

In re Appeals of Carpenter Co., LLC, Doc. Nos. 2021-67, 2021-68

In re Appeal of Paul Franklin, LLC, Doc. No. 2021-72

In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-75

In re Appeal of Margaret Bobken, LLC, Doc. No. 2021-76

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
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
ABA State and Local Tax Reporter
State Library