

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

IN THE MATTER OF THE APPEAL OF	)	
<b>CARPENTER CO., LLC</b>	)	<b>Docket No. 2021-69</b>
FROM A DECISION BY THE NATRONA	)	
COUNTY BOARD OF EQUALIZATION	)	
(Group 4)	)	

IN THE MATTER OF THE APPEAL OF	)	
<b>CARPENTER CO., LLC</b>	)	<b>Docket No. 2021-70</b>
FROM A DECISION BY THE NATRONA	)	
COUNTY BOARD OF EQUALIZATION	)	
(Group 4)	)	

IN THE MATTER OF THE APPEAL OF	)	
<b>PAUL FRANKLIN, LLC</b>	)	<b>Docket No. 2021-71</b>
FROM A DECISION BY THE NATRONA	)	
COUNTY BOARD OF EQUALIZATION	)	
(Group 4)	)	

IN THE MATTER OF THE APPEAL OF	)	
<b>CHRISTENSEN BARNHART, LLC</b>	)	<b>Docket No. 2021-74</b>
FROM A DECISION BY THE NATRONA	)	
COUNTY BOARD OF EQUALIZATION	)	
(Group 4)	)	

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**DECISION AND ORDER**

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**APPEARANCES**

Ken Carpenter, pro se, appeared on behalf of taxpayers Carpenter Co., LLC, Christensen Barnhart, LLC, and Paul Franklin, 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 value. 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. The County Board, without addressing Taxpayers' allegations of noncompliance, ruled that Taxpayers did not prove that Assessor incorrectly valued the four 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 Taxpayers were denied adequate access to Assessor's valuation information, as Wyoming Statutes section 39-13-109(b)(i) (2021) required, the County Board improperly proceeded with the hearing and 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?
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

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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. Is it contrary to law for Taxpayer's agent/representative to both represent Taxpayer and testify as an expert witness?
3. Did Taxpayer overcome the strong presumption that Assessor correctly applied Wyoming Tax law?
4. Is there substantial evidence to support Assessor's valuation?

(Assessor's Briefs, 1) (footnote omitted from issue 2).

[¶ 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<sup>1</sup>**

[¶ 6] Taxpayers, through business representative Ken Carpenter, appealed dozens of 2020 assessments of various Natrona County residential improved and residential vacant

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<sup>1</sup> 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 \*\*).

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properties.<sup>2</sup> 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. (2021-69 R. at 126; 2021-70 R. at 29; 2021-71 R. at 17; 2021-74 R. at 131).

[¶ 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 Assessor turn over voluminous information, eventually seeking a subpoena duces tecum<sup>3</sup> to compel the production of Assessor’s valuation materials. We will not review these numerous pretrial 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 30 days before a contested case hearing. *See infra* ¶¶ 25-26.

[¶ 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- 69 R. at 105-110; 2021-70 R. at 137-142; 2021-71 R. at 119-124; 2021-74 R. at 100-105). 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 deny admission of Assessor’s evidence of how he arrived at the assessed values. *Id.* Taxpayers argued that Assessor would then be required to default to the previous year’s valuations. *Id.*

[¶ 9] Following a hearing on the Motion in Limine, the hearing officer denied the motion.<sup>4</sup> She found that: 1) Taxpayers were not able to view the specific statements of consideration (SOC’s), as the three years of statements for the entire county 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

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<sup>2</sup> 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 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.

<sup>3</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 the provision of documents or other materials.

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

information was not organized, the Assessor was preparing for hundreds of appeals, and the COVID 19 pandemic limited his office's ability to respond. (2021-69 R. at 153-155; 2021-70 R. at 177-179; 2021-71 R. at 163-165; 2021-74 R. at 147-149). 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 4."<sup>5</sup> The County Board docketed in Group 4 and the property at issue in each appeal, were as follows:

<b>State Board Docket</b>	<b>County Board Docket</b>	<b>Property</b>	<b>2019 valuation</b>	<b>2020 valuation</b>
2021-69	2020-0583	Residential property at 1310 South Boxelder Street, Casper, Wyoming, with a single family residence, located within LEA 0501Res03	Residential land: \$52,000 Improvements: \$42,953 Total: 94,953	Residential land: \$71,500 Improvements: \$33,641 Total: \$105,141
2021-70	2020-0585	Residential property at 1117 West 13 <sup>th</sup> Street, Casper, Wyoming, with a single family residence, located	Residential land: \$22,035 Improvements: \$97,442 Total: \$119,477	Residential land: \$71,500 Improvements: \$25,620 Total: \$97,120

<sup>5</sup> 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.

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		within LEA 0501Res03.		
2021-71	2020-0588	Residential property at 1210 Locust Street, Casper, Wyoming, with a single family residence, located within LEA 0501Res03	Residential Land: \$59,871 Improvements: \$16,611 Total: \$76,482	Residential land: \$53,900 Improvements: \$39,848 Total: \$93,748
2021-74	2020-0575	Residential property at 1814 West 15 <sup>th</sup> Street, Casper, Wyoming, with a single family residence, located within LEA 0501Res03.	Residential Land: \$20,340 Improvements: \$94,766 Total: \$115,106	Residential land: \$66,000 Improvements: \$74,494 Total: \$140,494

(2021-69 R. at 227-228; 2021-70 R. at 253-254; 2021-71 R. at 239-240; 2021-74 R. at 225-226).

[¶ 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). 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. (Hr’g Audio 10, 00:24:00 – 00:26:15, 00:29:00 – 00:29:45).

[¶ 12] Apart from their complaints that Assessor did not disclose valuation information as required by law, Taxpayers discussed the property valuations at issue in several ways, but primarily disagreed with Assessor’s valuation of the underlying land at \$11.00 per square foot. (Hr’g Audio 10, 00:06:00 – 00:08:00). Responding to questions from Ms. Barlow, an Assessor’s Office employee, Rene Berry, explained that valuation of the land was “rounded up” to \$11.00 from a median value (across all LEA properties) of \$10.74 per square foot. *Id.* Ms. Berry also reviewed the statistical compliance of valuations within the LEA considered, but gave no context for these statistical measures, so they went unexplained in the testimony.<sup>6</sup> *Id.*

<sup>6</sup> Evidence addressing a neighborhood’s mass appraisal compliance calculations, such as the “appraisal level,” “C.O.D.,” or “P.R.D.,” may be compelling, but much less so if not presented with the requisite

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[¶ 13] Assessor and his employees then testified in greater detail as to how they arrived at the values for the four properties in question. Ms. Berry testified that applying an “abstraction” method<sup>7</sup>, Assessor’s Office analyzed “validated sales” within LEA 0501Res03, which included the four properties under appeal. (Hr’g Audio 10, 00:12:00 – 00:15:30; 2021-69 R. at 203-207; 2021-70 R. at 229-233; 2021-71 R. at 215-219; 2021-74 R. at 202-205). She explained that the sales supported a land value at \$11 per square foot. *Id.* Referring then to the value of improvements, valued separately from the land, the Assessor’s Office used cost tables to determine each improvement’s Replacement Cost New Less Depreciation. The Office used Marshall and Swift cost tables, part of Wyoming’s Computer Assisted Mass Appraisal system, to calculate the depreciated replacement costs. *Id.* The value of the improvements, Ms. Berry explained, were added back to the land values. *Id.* The office then reanalyzed the combined values to gauge compliance with Department of Revenue guidelines. *Id.*

[¶ 14] Ms. Berry reviewed each property’s condition and quality, commenting on determinative characteristics that influenced the valuations, such as property conditions warranting additional depreciation. (Hr’g Audio 10, 00:14:45 – 00:16:30; 2021-69 R. at 203-207; 2021-70 R. at 229-233; 2021-71 R. at 215-219; 2021-74 R. at 202-205). Each property, Ms. Berry added, received a “neighborhood adjustment” of .91, or a 9% reduction in value. (Hr’g Audio 10, 00:09:30 – 00:10:30, 00:16:40 – 00:17:00). Ms. Berry did not explain why Assessor applied this adjustment to the entire neighborhood.

[¶ 15] Assessor answered questions about a taxpayer’s access to valuation information, responding that his office communicated with taxpayers in myriad ways. (Hr’g Audio 10, 00:20:00 – 00:24:30). Ms. Barlow argued, through questioning, that taxpayers could not understand their valuations through the type of information offered, or in light of the manner it was offered.<sup>8</sup> *Id.*

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definitional explanation or context. Parties assume, at their peril, that County Board members fully understand mass appraisal and are conversant with these statistical calculations. *See* Rules, Wyo. State Board of Equalization, Ch. 5 §§ 6-7 (2021); Rules, Wyo. Dep’t of Revenue, Ch. 9 § 4(a)(viii), (xix), (xx) (2016).

<sup>7</sup> “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 (IAAO) (April 2013).

<sup>8</sup> In several appeals led by Mr. Carpenter, including these, Assessor objected to Ms. Barlow acting as both the taxpayers’ “agent” and expert witness. She basically alternated from questioner on behalf of the Taxpayers, to their expert witness in challenging the assessments. The hearing officer overruled the objections when raised during the hearing. (Hr’g Audio 10, 00:24:00 – 00:25:00). Although Assessor prevailed before the County Board, he complains to this Board that Ms. Barlow should not have been

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[¶ 16] Without breaking from her questioning of Assessor, Ms. Barlow transitioned into her testimony about Assessor's inadequate disclosure of valuation information, and identified questionable aspects of the valuations. (Hr'g Audio 10, 00:26:00 – 00:28:30). She challenged Assessor's "rounding of a number" without support of property sales, referring to Assessor's rounding of land values from \$10.74 to \$11.00 per square foot. *Id.*; *see supra* ¶ 12. She disagreed that Assessor had the requisite confidence in the quality of all aspects of the valuations to apply the "abstraction" technique. On this point, however, her testimony was conclusory and of little assistance.

[¶ 17] The County Board affirmed the four valuations, concluding that Taxpayers did not carry their burden of proof. (2021-69 R. at 229-231; 2021-70 R. at 255-257; 2021-71 R. at 241-243; 2021-74 R. at 227-227). The County Board found that Assessor adequately explained his valuation of the properties. *Id.* The County Board offered no legal determination as to whether Assessor failed to afford access to underlying valuation information upon request, merely reciting Taxpayers' allegation. *Id.* The County Board, therefore, implicitly affirmed the hearing officer's disposition of all prehearing motions and evidentiary issues. *Id.*

## **CONCLUSIONS OF LAW**

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

[¶ 18] 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.*

[¶ 19] The State Board's standard of review of a county board decision is, by rule, nearly

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permitted to act as both "agent" and expert witness, citing Wyoming's Rules of Professional Conduct for attorneys, among other authorities. *See* Assessor's Reply Briefs in each of these appeals. Assessor's objection is misplaced, and the Rules of Professional Conduct applicable to attorneys do not apply to non-attorneys. The reason an attorney may not generally act as a witness in a case for which the attorney is representing a party, is the attorney may be questioned about communications or client-privileged information, and the attorney's dual role as counselor and witness may also confuse the trial process for decision-makers. Indeed, an attorney is generally required to discontinue representing a client in a litigation when the attorney may be called as a fact witness in that litigation, especially if the evidence is not otherwise available to the parties. *See* Rule 3.7, Wyoming Rules of Professional Conduct. Here, no rule or legal doctrine prohibited Ms. Barlow from acting as Taxpayers' representative and expert witness, and the hearing officer correctly denied Assessor's objection. *Id.*

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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).

[¶ 20] 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).

[¶ 21] 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)).

[¶ 22] "A strong presumption favors the Assessor's valuation. 'In the absence of evidence  
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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.

[¶ 23] 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

[¶ 24] 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).

[¶ 25] 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

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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).

[¶ 26] 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

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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

[¶ 27] 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 information 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 statements were not organized or reasonably limited to those that Assessor used to value the properties in question. (Taxpayers' Br., p. 5; 2021-69 R. at 87-89 and 105-110; 2021-70 R. at 118-120 and 137-143; 2021-71 R. at 102-104 and 119-125; 2021-74 R. at 81-83 and 100-105). 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. (2021-69 R. at 229-231; 2021-70 R. at 255-257; 2021-71 R. at 241-243; 2021-74 R. at 227-227). 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. *Supra* ¶¶ 11, 15.

[¶ 28] 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?<sup>9 10</sup> We hold

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<sup>9</sup> 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).

<sup>10</sup> Taxpayers also complain that the hearing officer erred when she did not enforce pretrial discovery orders, *In re Appeals of Carpenter Co., LLC*, Doc. Nos. 2021-69 and 2021-70  
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that Taxpayers proved 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 it now must rehear the appeal after Taxpayers have had an opportunity to understand the assessment.

[¶ 29] We have 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 their 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.).

[¶ 30] 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*

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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).

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*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).

[¶ 31] 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 not only provide access to the SOC’s, but to also identify those documents specifically used to value the properties in question. We correspondingly disagree that Assessor could merely turn over three years of SOC’s for the entire county, in no identifiable order. Rather, Taxpayers were entitled to the particular SOC’s that Assessor relied upon, and any other specific information used to appraise the properties.

[¶ 32] 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, *supra* ¶ 9, was beside the point and should not have sufficed to resolve the matter without some type of corrective remedy for the Taxpayers.

[¶ 33] 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>11</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 ... .”).

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<sup>11</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.

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[¶ 34] However, our review in this case is limited to the County Board's actions 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) and the Board of Equalization's Chapter Seven rules.

[¶ 35] 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 upon them.

[¶ 36] The County Board in these appeals struggled with how to proceed in light of the Taxpayers' strenuous objections that Taxpayers had not been given a 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**

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


## ORDER


[¶ 38] **IT IS HEREBY ORDERED** that the Natrona County Board of Equalization's Findings of Fact, Conclusions of Law, and Orders challenged in Docket No's. 2021-69, 2021-70, 2021-71, and 2021-74, are **reversed** and **remanded** to the County Board for a new hearing, following Assessor's disclosure of all required valuation data to Taxpayers.

[¶ 39] 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

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*In re Appeal of Christensen Barnhart, LLC, Doc. No. 2021-74*

## 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  
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

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