

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
DEENA MARSHALL LOPEZ) Docket No. **2021-89**
FROM A DECISION BY THE NATRONA)
COUNTY BOARD OF EQUALIZATION)

DECISION AND ORDER

APPEARANCES

Taxpayer, Deena Marshall Lopez, appeared pro se.

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

SUMMARY

[¶ 1] Taxpayer, Deena Marshall Lopez, appeals from a Natrona County Board of Equalization decision affirming Natrona County Assessor Matt Keating's 2020 assessment of her real property. The County Board affirmed Assessor's valuation, finding that Ms. Lopez didn't present evidence sufficient to overcome the presumption favoring the valuation. We affirm because the County Board was correct: Ms. Lopez didn't carry her burden of proving that Assessor did anything wrong.

ISSUES

[¶ 2] Ms. Lopez did not submit an opening brief, opting instead to rely on her Notice of Appeal. That Notice reads, in total:

Please let me know you received this.

I'm appealing the decision on my property located at 12683 Cedar Mesa
Road Alcova WY 82620
BOE DOCKET 2020-1998
ACCOUNT ID R0004826
PARCEL ID 30832830200900

1. The bases that they are to assess your land by useable space. The lot has large ravine on both sides. Making the large part of the land unbuildable plus part of the land has to left alone for alternative septic systems if the current one fails. Building on the other side ravines is not possible because then it would be close to the property lines. In the paper work that was sent to me for my appeal there was a section about useable land. The property is not currently being valued on that and it needs to.
2. The sales used by assessor's office to value the property have city utilities, water, gas and sewer. My property has water well, septic system, rural electric. They also plow their roads my is not.
3. I have a hard time believing that a value of a bedroom only changes the valuation by approximately \$12.50.

(Notice of Appeal).¹

[¶ 3] Assessor presented this statement of the issues:

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

(Assessor's Br. 1).

JURISDICTION

[¶ 4] The State Board shall "hear appeals from county boards of equalization ... upon application of any interested person adversely affected." Wyo. Stat. Ann. § 39-11-102.1(c) (2021). An aggrieved taxpayer or assessor may file an appeal with the State Board within 30 days after a county board's final decision. Rules, Wyo. State Bd. of Equalization, ch. 2, § 5(e) (2021). The County Board issued its final decision on June 30, 2021. (R. at 79). Ms. Lopez filed her appeal on July 26, 2021. (Notice of Appeal). Accordingly, we have jurisdiction.

¹ Although the State Board has accepted Ms. Lopez's pleadings and scoured them for anything that might help us to decide this appeal, we could have chosen to disregard them because they lack cogent argument or citation to relevant authority. *Rodriguez v. State*, 2019 WY 25, ¶ 47, 435 P.3d 399, 413 (Wyo. 2019).

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Ms. Lopez owns an improved residential property in Natrona County. In 2018, Assessor's predecessor valued the property at \$175,820. (R. at 76). In 2019, Assessor valued Ms. Lopez's land at \$41,600 and her improvements at \$132,568, for a total value of \$174, 168. (*Id.*). In 2020, Assessor increased the value of Ms. Lopez's land to \$69,130 and the value of her improvements to \$168,900, for a total value of \$238,030. (*Id.* at 77). Assessor later issued an amended assessment reducing the value of the improvements to \$160,901, making the total value \$230,031. (*Id.* at 55). Ms. Lopez appealed to the County Board.

[¶ 6] The County Board held a hearing at which Ms. Lopez offered these exhibits, all of which were admitted:

1-1 A written statement that reads:

The most of houses compare have city utilities.

My house has a well, septic system, rural electric heat[.];

1-2 A document of unknown origin purporting to list properties sold and showing each property's address, sales price, # of bedrooms, # of bathrooms, house size, and lot size;

2-1 Page 2 of the Natrona County Assessor Property Profile for Ms. Lopez's property, year unknown;

2-2 Floorplan of Ms. Lopez's house;

3-1 Map of the Alcova West Ranchettes subdivision;

3-2 Unidentified map;

3-3 Photograph of Ms. Lopez's property;

3-4 Photograph of Ms. Lopez's property;

3-5 Photograph of Ms. Lopez's property;

3-6 Photograph of Ms. Lopez's property.

(R. 35-47).

[¶ 7] These exhibits from Assessor were also admitted:

A 1/1 2020 Amended Notice of Assessment for Ms. Lopez's property;

B 2020 Natrona County Assessor Property Profile for Ms. Lopez's property;

- C 1/4 August 7, 2020 Cost Breakdown Sheet for Ms. Lopez’s property;
- C 3/4 June 4, 2020 Cost Breakdown Sheet for Ms. Lopez’s property;
- D/E 1/8 Narrative description of “Eco Area 10”;
- D/E 2/8 Map of LEA 1001RES01;
- D/E 3/8 List of six properties in LEA’s 0901Res01 and 1001Res01 that sold in 2019, with a graph;
- D/E 4/8 List of seven properties in LEA’s 0901Res01 and 1001Res01 that sold in 2019, no graph;
- D/E 5/8 Unidentified map;
- D/E 6/8 & 7/8 List of 49 properties that sold in 2019;
- D/E 8/8 List of 49 properties that sold in 2019;
- F/G 1/1 Dept. of Revenue credentials issued to Assessor, Ken Burrell, Renee Berry, and Corrie Endresen-Cabral;
- H Ms. Lopez’s appeal form.

(R. at 55-75).

[¶ 8] Ms. Lopez testified briefly about the characteristics of her property. (Hr’g Rec. at 2:59). She also contended that the sales that Assessor used to apply the comparable sales method were not truly comparable with her property. (*Id.*). Ms. Lopez didn’t call any other witnesses.

[¶ 9] Assessor’s sole witness was Renee Berry. She testified about Computer Assisted Mass Appraisal and the process used to value Ms. Lopez’s property. The County Board later issued a brief decision finding that “Petitioner did not present sufficient evidence to overcome the presumption of validity of the Assessor’s evaluation or show by a preponderance of the evidence that Assessor’s valuation was incorrect or unlawful.” (R. at 78).

CONCLUSIONS OF LAW

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

[¶ 10] This Board reviews county board decisions as an intermediate appellate body and treats the county board as the finder of fact. *Town of Thermopolis v. Deromedi*, 2002 WY 70, ¶ 11, 45 P.3d 1155, 1159 (Wyo. 2002). Our standard for reviewing a county board

decision is nearly identical to the Wyoming Administrative Procedure Act standard, found at Wyoming Statutes section 16-3-114(c)(ii) (2021), that a district court must apply in reviewing such decisions. Our review is limited to determining whether a county board's action is:

- (a) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
- (b) In excess of statutory jurisdiction, authority or limitations or lacking statutory right;
- (c) Without observance of procedure required by law; or
- (d) Unsupported by substantial evidence.

Rules, Wyo. State Bd. of Equalization, ch. 3 § 9(a)-(d) (2021). “Substantial evidence is relevant evidence which a reasonable mind might accept in support of the [County Board’s] conclusions. It is more than a scintilla of evidence.” *In re Lysne*, 2018 WY 107, ¶ 12, 246 P.3d 290, 294-95 (Wyo. 2018) (quoting *Walton v. State ex rel. Wyo. Workers’ Safety & Comp. Div.*, 2007 WY 46, ¶ 9, 153 P.3d 932, 935 (Wyo. 2007)).

[¶ 11] We review questions of law de novo and will affirm a county board’s conclusions of law “only if they are in accord with the law.” *Maverick Motorsports Grp., LLC v. Dep’t of Revenue*, 2011 WY 76, ¶ 12 253 P.3d 125, 128 (Wyo. 2011) (quoting *Bowen v. State Dep’t of Transp.*, 2011 WY 1, ¶ 7, 245 P.3d 827, 829 (Wyo. 2011)).

[¶ 12] We also apply de novo review to a county board’s ultimate findings of fact:

When an agency’s determinations contain elements of law and fact, we do not treat them with the deference we reserve for findings of basic fact. When reviewing an “ultimate fact,” we separate the factual and legal aspects of the finding to determine whether the correct rule of law has been properly applied to the facts. We do not defer to the agency’s ultimate factual finding if there is an error in either stating or applying the law.

Basin Elec. Power Coop., Inc. v. Dep’t of Revenue, State of Wyo., 970 P.2d 841, 850-51 (Wyo. 1988) (quoted in *Chevron U.S.A., Inc. v. Dep’t of Revenue*, 2007 WY 79, ¶ 10, 159 P.3d 131, 134 (Wyo. 2007)).

[¶ 13] “A strong presumption favors the Assessor’s valuation. ‘In the absence of evidence to the contrary, we presume that the officials charged with establishing value exercised honest judgment in accordance with the applicable rules, regulations, and other directives that have passed public scrutiny, either through legislative enactment or agency rule-making, or both.’ ” *Britt v. Fremont Cty. Assessor*, 2006 WY 10, ¶ 23, 126 P.3d 117, 1125 (Wyo. 2006) (quoting *Amoco Prod. Co. v. Dep’t of Revenue*, 2004 WY 89, ¶ 7, 94 P.3d

430, 435 (Wyo. 2004)); see also, Rules, Wyo. State Bd. of Equalization, ch. 7, § 14(a) (2021) (“There is a presumption that the assessor’s property valuation is valid, accurate, and correct.”). “Petitioner may present any credible evidence to rebut the presumption in favor of the assessor’s valuation.” *Id.* at § 14(b). “[A] mere difference of opinion as to value” is not sufficient to overcome the presumption. *Britt*, at ¶¶ 28, 34, 126 P.3d 117 at 126-27.

B. Applicable law

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

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

[¶ 15] As the County Board recognized, Ms. Lopez did not produce evidence of reversible error. Before the County Board, Ms. Lopez was tasked with rebutting the presumption that Assessor’s valuation was correct. Rules, Wyo. State Bd. of Equalization, ch. 7, § 14(a) (2021). Ms. Lopez testified that she disagreed with Assessor’s valuation, but she didn’t present evidence that the valuation was incorrect or unlawful. Presented with a mere difference of opinion, the County Board correctly determined that Ms. Lopez had not carried her burden of proof. *Supra.* ¶ 13.

CONCLUSION

[¶ 16] Ms. Lopez did not present evidence sufficient to overcome the mandatory presumption that Assessor’s valuation is correct.

ORDER

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

[¶ 18] 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 4 day of January 2022.

STATE BOARD OF EQUALIZATION



E. Jayne Mockler, Chairman



Martin L. Hardsocg, Vice Chairman



David L. Delicath, Board Member

ATTEST:



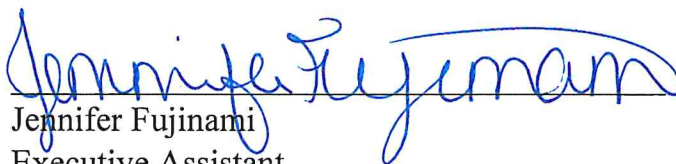
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 4 day of **January 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:

Deena Marshall Lopez
P.O. Box 50223
Casper, WY 82605

Charmaine Reed
Natrona County Attorney's Office
200 North Center St. Suite 300
Casper, WY 82601



Jennifer Fujinami
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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