

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

IN THE MATTER OF THE APPEAL OF)	
AUSTIN SCHAFF)	Docket No. 2022-03
FROM A DECISION BY THE NATRONA)	
COUNTY BOARD OF EQUALIZATION)	
(2021 Property Valuation))	

DECISION AND ORDER

APPEARANCES

Sarah Schaff appeared on behalf of Taxpayers, Sarah and Austin Schaff.

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

SUMMARY

[¶ 1] Taxpayers, Austin and Sarah Schaff (collectively Schaff), appeal from the Natrona County Board of Equalization's decision affirming Assessor's valuation of a residential vacant property. Neither party requested oral argument, so the Wyoming State Board of Equalization, Chairman E. Jayne Mockler, Vice-Chairman Martin L. Hardsocg, and Board Member David L. Delicath, considered their written submissions and the County Board record. Finding no reversible error, we will affirm.

ISSUES

[¶ 2] Schaff did not identify specific issues, but expresses dissatisfaction with the County Board decision in four paragraphs that we paraphrase as:

1. Schaff's one-acre improved lot was valued at \$105,983, while their .95 acre vacant lot was valued at \$100,364, despite having no utilities.
2. A neighboring 1.95 acre lot was valued at \$63,803 per acre, while Schaff's .95 acre lot was valued at \$100,364 (or \$105,646 per acre).
3. Schaff's valuation should be adjusted to account for an overgrown, derelict, neighboring lot with an abandoned trailer full of raccoons.

4. The valuation system should be changed so that more desirable properties are valued higher than less desirable ones.

(Schaff Opening Br. 1-2).

[¶ 3] Assessor articulated a single issue:

Was the CBOE decision affirming Assessor's 2021 valuation of the subject property arbitrary, capricious, an abuse of its discretion, or otherwise not in accordance with law?

(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 January 25, 2022. (R. 49). Schaff filed an appeal five days later. (Notice of Appeal). Accordingly, the appeal is timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Schaff owns two residential lots in Natrona County. One is an improved property that Assessor identifies as Account # R0039163 and "Forbes Lot 9 Acre #1." (R. 10). The 2021 valuation for that property was \$208,778. *Id.* The other property is a vacant lot that Assessor identifies as Account # R0049180 and "Jackie Simple Lot 1." (R. 30). The 2021 valuation for that property was \$100,364. *Id.*

[¶ 6] Schaff appealed the 2021 valuations of both properties. The County Board affirmed them both, and Schaff appealed to us. (R. 45-47). We remanded for a new hearing because there was no transcript or audio recording of the hearing. *Id.*

[¶ 7] At the second hearing, Sarah Schaff was Schaff's only witness and stated that Schaff no longer contested the value of the improvements, and wanted to focus on the land value of both properties. (Hr'g Audio 3:30). She presented evidence and argued that properties more valuable than hers were valued lower.

[¶ 8] Erin Berry was the only witness Assessor called to testify – although Assessor himself was at the hearing and occasionally offered explanations and answered questions

from the County Board members. Ms. Berry testified about valuation practices. She also testified that Schaff's property is outside city limits but within the Metropolitan Planning Organization area. Properties in that area are divided into two Land Economic Areas (LEA's): one for properties smaller than an acre, and another for properties of an acre or more. (Hr'g Audio 13:50-14:55; 20:50-21:15).

[¶ 9] The County Board (incorrectly) found that "Petitioner testified that she no longer disagreed [with] the assessment for the property for Account ID R0039163, but that she disagreed with the Assessor's value for property in Account ID R0049180[.]" (R. 49). The County Board affirmed Assessor's valuation of the vacant property. (R. 48-50).

[¶ 10] Schaff appealed the County Board's decision to us. (Notice of Appeal). Schaff has not taken issue with the County Board's finding that Schaff contested only the value of the vacant property. Schaff's notice of appeal specifies that it applies only to the vacant property. (Notice of Appeal, 1).

CONCLUSIONS OF LAW

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

[¶ 11] 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, 426 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)).

[¶ 12] 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)).

[¶ 13] 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. 1998) (quoted in *Chevron U.S.A., Inc. v. Dep't of Revenue*, 2007 WY 79, ¶ 10, 158 P.3d 131, 134 (Wyo. 2007)).

[¶ 14] "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)); 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 ¶ 34, 126 P.3d at 127.

B. The County Board did not err in affirming Assessor's valuation.

[¶ 15] We generally agree with Assessor's contention that Schaff did not present evidence sufficient to overcome the presumption favoring Assessor's valuation. We will briefly address the four "issues" paraphrased above from Schaff's opening brief.

1. *Schaff's one-acre improved lot was valued at \$105,983, while Schaff's .95 acre vacant lot was valued at \$100,364, despite having no utilities.*

[¶ 16] Ms. Berry testified that Schaff's lots are in different LEA's because of their sizes, and therefore have different per-acre land values. (Supra, ¶ 14; Hr'g Audio 14:05). Schaff didn't prove, or even allege, that Assessor violated any statute or rule, or otherwise did

anything wrong. This appeal presents a difference of opinion, which cannot overcome the presumption in favor of Assessor's valuation. (*Supra*, ¶ 14).

2. *A neighboring 1.95 acre lot was valued at \$63,803 per acre, while Schaff's .95 acre lot was valued at \$100,364 (or \$105,646 per acre).*

[¶ 17] Again, the neighboring property is in a different LEA because it's larger than an acre. (*Supra*, ¶ 8). Ms. Berry explained why those LEA's have different per-acre values. *Id.* Again, this is only a difference of opinion, which can't overcome the presumption favoring Assessor's valuation.

3. *Schaff's valuation should be adjusted to account for an overgrown, derelict, neighboring lot with an abandoned trailer full of raccoons.*

[¶ 18] Schaff hasn't demonstrated, or even alleged, that Assessor violated any applicable statute or rule by not adjusting the property's value to account for an unsightly neighboring property. In fact, Schaff didn't actually present evidence showing that Assessor failed to adjust the property value.

4. *The valuation system should be changed so that more desirable properties are valued higher than less desirable ones.*

[¶ 19] Here, Schaff does not assert a reviewable claim of error, but instead complains that the law should be changed. This Board, and the County Board, lack authority to grant Schaff's request.

CONCLUSION

[¶ 20] The County Board correctly recognized that Schaff simply did not present evidence sufficient to overcome the presumption favoring Assessor's valuation. Schaff did not show that Assessor violated any statute, rule, or principle of mass appraisal, or that Assessor performed any aspect of his job incorrectly. In short, this appeal presents a paradigmatic "difference of opinion as to value," and cannot carry the day for Schaff.


ORDER

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

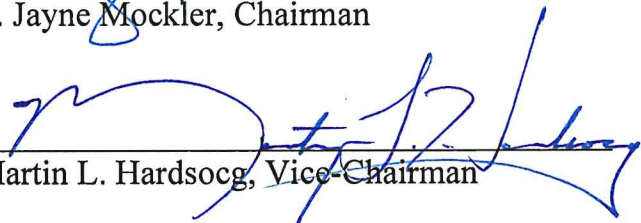
[¶ 22] Pursuant to Wyoming Statutes section 16-3-114 (2021) and Rule 12, Wyoming Rules of Appellate Procedure, any person aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date of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

DATED this 20 day of May 2022.

STATE BOARD OF EQUALIZATION



E. Jayne Mockler, Chairman



Martin L. Hardsocg, Vice-Chairman



David L. Delicath, Board Member

ATTEST:



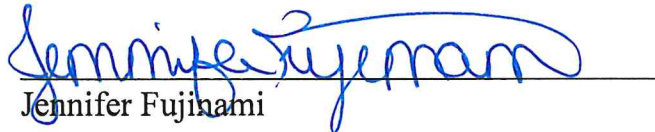
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 20 day of May 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:

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State Library