

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

IN THE MATTER OF THE APPEAL OF)
TERENCE A. DYE LIVING TRUST) **Docket No. 2022-04**
FROM A DECISION BY THE NATRONA)
COUNTY BOARD OF EQUALIZATION)

DECISION AND ORDER

APPEARANCES

Beverly and Terrence Dye, appeared on behalf of the Terrence A. Dye Living Trust.

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

SUMMARY

[¶ 1] Taxpayer, Terence A. Dye Living Trust, appeals from the Natrona County Board of Equalization’s decision affirming Assessor’s valuation of residential property owned by the Trust. On appeal, the Trust contends that the County Board erred by affirming Assessor’s valuation. The Wyoming State Board of Equalization, Chariman E. Jayne Mockler, Vice-Chairman Martin L. Hardsocg, and Board Member David L. Delicath, have reviewed the County Board record, read the parties written submissions, and heard oral arguments. Because the Trust’s case amounts to no more than a difference of opinion and doesn’t overcome the presumption favoring Assessor’s valuation, we affirm.

ISSUES

[¶ 2] The Trust did not include a statement of issues, per se, but it contends that, “errors were made by the Assessor’s office when determining the property value of 3386 Cattle Trail Drive.” (Trust Br. 1).

[¶ 3] Assessor articulated one issue:

Was the Natrona County Board of Equalization (“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. 98). The Trust filed its appeal on January 28, 2022. (Notice of Appeal). Accordingly, the appeal is timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] The Trust owns an improved, residential property in Natrona County. (R. 52). In 2019, Assessor valued that property (land and improvements) at \$514,636. (R. 49). In 2020, Assessor valued the land at \$19,715 and the improvements at \$472,284, for a total of \$491,999. *Id.* In 2021, Assessor initially valued the land at \$17,724 and the improvements at \$641,071, for a total of \$658,796. (R. 48). The Trust appealed that valuation on May 11, 2021. The next month, Assessor issued an Amended Notice of Assessment reducing the land value to \$17,703 and the improvements to \$640,293, for a total of \$657,996. (R. 20). A month later, Assessor issued a second Amended Notice of Assessment keeping the land value at \$17,703 and reducing the improvements to \$558,582, for a total of \$576,285. (R. 47). Two months after that, Assessor issued a Taxroll Correction reducing the total value to \$570,903. (R. 45).

[¶ 6] The County Board held a hearing and affirmed Assessor's corrected valuation. (R. 90-92). The Trust appealed to this Board, but upon receiving the County Board record, we learned that there was no transcript or audio recording of the County Board hearing. (R. 93-94). We remanded the case to the County Board with instructions to hold a new hearing and issue a new decision. *Id.*

[¶ 7] At the second hearing, the Trust argued that the 2020 valuation was too high. The Trust didn't contend that Assessor used an unauthorized methodology, applied a methodology incorrectly, or got the arithmetic wrong. Instead, it argued that Assessor's method was flawed and that the properties in Land Economic Area (LEA) 1502Res01 are

too dissimilar for meaningful comparison, especially because some of them are vacant land. (H'rg Rec. 2:30; 6:00).

[¶ 8] The Trust presented evidence that other properties in their area sold for less than their valuation, and concluded therefrom that its property would too. (H'rg Rec. 8:45). The Trust also contended that bigger, nicer homes in their area were valued less than the Trust's property. (H'rg Rec. 15:30).

[¶ 9] Renee Berry, an employee of Assessor's office, testified that some of the "comparable" properties on which the Trust based its contentions were not in the same LEA as the Trust's property. (H'rg Rec. 23:15). She also explained that land and improvements are valued differently, so the inclusion of vacant land in the same LEA as the Trust's improved property didn't influence the valuation of the Trust's improvements. (H'rg Rec. 24:35).

[¶ 10] The County Board voted 3-1 to affirm Assessor's valuation. (H'rg Rec. 1:00:20). The Board issued a written decision, which the Trust timely appealed to us. (R. 96-98; Notice of Appeal).

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 of review of 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] “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). If a taxpayer presents credible evidence sufficient to rebut the presumption, the county board must then “equally weight 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 burden of going forward would then shift to Assessor, but the ultimate burden of persuasion would remain with the taxpayer to prove, by a preponderance of the evidence, that Assessor’s valuation wasn’t derived in compliance with constitutional or statutory requirements. *Id.*

[¶ 13] “[T]he burden of proof with respect to tax valuation is on the party asserting an improper valuation.” *Williams Prod. RMT Co. v. State Dep’t of Revenue*, 2005 WY 28, ¶ 7, 107 P.3d 179, 183 (Wyo. 2005). More specifically:

Except as specifically provided by law or in this section, the Petitioner shall have the burden of going forward and the ultimate burden of persuasion, which burden shall be met by a preponderance of the evidence. If Petitioner provides sufficient evidence to suggest the Department determination is incorrect, the burden shifts to the Department to defend its action.

Rules, Wyo. State Bd. of Equalization, ch. 2 § 20 (2021).

B. The Trust did not meet its burden of showing reversible error in the County Board’s decision.

[¶ 14] As the County Board recognized, the Trust did not produce evidence of reversible error. At the County Board hearing, the Trust had the burden of rebutting the presumption that Assessor’s valuation was correct. Rules, Wyo. State Bd. of Equalization, ch. 7, § 14(a) (2021). The Trust disagreed with Assessor’s valuation, but didn’t present evidence that the

valuation was incorrect or unlawful. Presented with a mere difference of opinion, the County Board correctly determined that the Trust had not carried its burden of proof.

CONCLUSION

[¶ 15] The Trust did not present evidence sufficient to overcome the mandatory presumption that Assessor's valuation is correct.


ORDER

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

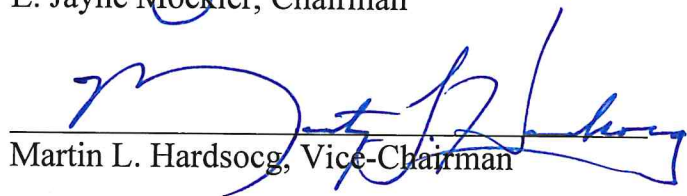
[¶ 17] Pursuant to Wyoming Statutes section 16-3-114 (2021) and Rule 12, Wyoming Rules of Appellate Procedure, any taxpayer aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date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

DATED this 10th day of August 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 10th day of **August 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:

Terrence & Beverly Dye
Terence A. Dye Living Trust
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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