

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

IN THE MATTER OF THE APPEAL OF	)	
<b>LAWRENCE R. GREENE</b>	)	<b>Docket No. 2023-07</b>
FROM A DECISION BY THE NATRONA	)	
COUNTY BOARD OF EQUALIZATION	)	

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**DECISION AND ORDER**

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**APPEARANCES**

Lawrence R. Greene, Pro Se (Greene).

Amanda F. Esch and Catherine M. Young of Davis & Cannon, LLP, attorneys for Natrona County Assessor Tammy Saulsbury (Assessor).

**DIGEST**

[¶ 1] Greene appealed the 2022 assessed value of his rural, unimproved parcel of land in Natrona County. Approximately a month later, Assessor issued an Amended Assessment, reducing significantly the taxable value of Greene’s land. Greene did not appeal the Amended Assessment. The Natrona County Board of Equalization (County Board) conducted a contested case hearing, but the parties did not challenge or discuss Greene’s failure to appeal the Amended Assessment. The County Board stated that Greene’s appeal was timely. It affirmed the Amended Assessment, after which Greene appealed to the Wyoming State Board of Equalization (State Board).

[¶ 2] The State Board, Chairman Martin L. Hardsocg, Vice-Chairman David L. Delicath, and Board Member E. Jayne Mockler, considered the evidentiary record before the County Board, briefs each party submitted on appeal to this Board, and oral argument. Finding the County Board possibly lacked subject matter jurisdiction because Greene did not appeal the Amended Assessment, we **reverse** and **remand** the appeal to the County Board for a determination of whether good cause excused Greene’s failure to appeal, consistent with the State Board’s procedural rules.

## ISSUES

[¶ 3] Greene identifies no issues, but we infer from his arguments the following questions:

i. Whether Assessor selected appropriate comparable properties, the sales of which were used as the basis for valuing Greene's property?

ii. Whether Assessor properly adjusted Greene's property valuation to account for differences between his property and the comparable properties?

(Greene's Br., Introductory page).

[¶ 4] Assessor identifies the following issues:

- 1) Does the Wyoming State Board of Equalization have jurisdiction over this appeal?
- 2) Was the decision of the Natrona County Board of Equalization supported by substantial evidence, in observance of procedure required by law, and not arbitrary or capricious, an abuse of discretion or in excess of statutory jurisdiction, authority, limitation, and rights?

(Assessor's Br., p. 1).

## EVIDENCE PRESENTED BEFORE COUNTY BOARD

[¶ 5] Greene claimed that Assessor overvalued his rural Arminto (an unincorporated community in Natrona County) property located approximately 50 miles outside of Casper, Wyoming, at \$48,751. (R. at 1-2). Greene appealed the 2022 assessment to the County Board on May 31, 2022. *Id.*

[¶ 6] Assessor, newly elected, issued a 2022 Amended Notice of Assessment on June 7, 2022, lowering the property's taxable valuation to \$20,475. (R. at 13; Hr'g Rec. at 20:20-29:50). Greene confirmed that he received the Amended Notice of Assessment. (Hr'g Rec. at 10:00-10:40). Greene did not appeal the Amended Notice of Assessment, which contained the same generic notice as the initial assessment, warning him that he was required to file a "statement" within 30 days to contest the valuation. (R. at 12-13).

[¶ 7] Neither prior to, nor during, the contested case hearing, did Assessor raise Greene's failure to separately appeal from the Amended Notice of Assessment. The County Board did not inquire on its own. During the hearing, the County Board asked whether Greene

continued to disagree with Assessor's revaluation, which substantially reduced taxable value. *See supra* ¶¶ 5-6. Green answered that he continued to disagree with Assessor's appraised value, notwithstanding that Assessor reduced his property's taxable value. (Hr'g Rec. at 10:00-10:40).

[¶ 8] Greene directed the County Board to the comparable land sales Assessor grouped, and adjusted, as the basis for her valuation of Greene's rural parcel. (Hr'g Rec. at 8:30-10:00, 10:30-16:50, 20:00-23:00; 35:00-35:50; R. at 15-28). Greene objected to the comparability of the sales for reasons ranging from the comparable properties' location, to the different services or amenities benefitting the comparable properties relative to his own. *Id.*

[¶ 9] The County Board affirmed Assessor's Amended Assessment without addressing whether Greene was required to file a separate appeal. (Hr'g Rec. at 34:00-38-35).

[¶ 10] Greene appealed the County Board's decision to the State Board.

## CONCLUSIONS OF LAW

[¶ 11] 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.*

[¶ 12] 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) (2023), 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).

[¶ 13] Assessor questions the County Board’s subject matter jurisdiction—the County Board’s “power to hear and determine the matter in controversy between the parties.” *Brush v. Davis*, 2013 WY 161, ¶ 8, 315 P.3d 648, 651 (Wyo. 2013) (quoting *McGuire v. McGuire*, 608 P.2d 1278, 1290 (Wyo. 1980)). Because a court’s subject matter jurisdiction must exist before the court may proceed, it may be raised as an issue any time by any party, or by the court on its own motion. *Id.*; see e.g., *In re Appeal of Edward M. and Kaye M. Covenly*, 1989 WL 234667, \*1 (Wyo. St. Bd. of Equalization, Aug. 1, 1989) (Board, on its own motion, questioning its jurisdiction because of untimely appeal). The State Board does not have jurisdiction, Assessor argues, given Greene’s failure to timely appeal before the County Board. (Assessor’s Br., pp. 6-8).

[¶ 14] By statute, a taxpayer’s dispute and timely appeal triggers a county board’s subject matter jurisdiction:

(b) Appeals. The following shall apply:

(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 properly sent pursuant to W.S. 39-13-103(b)(vii), a statement with the county assessor specifying the reasons why the assessment is incorrect. For purposes of this paragraph, if a statement of reasons is mailed or sent by electronic transmission by the person assessed, it shall be deemed timely filed if it is postmarked or transmitted not later than thirty (3) days after the mailing or the electronic transmission of the notification of the assessment schedule.** 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 appeal may be dismissed if any person willfully neglects or refuses to attend a meeting of a county board of equalization and be examined or answer any material question upon the board’s request. The state board of equalization shall adopt rules to be followed by any county board of equalization when conducting appeals under this subsection. All hearings shall be conducted in accordance with the rules adopted by the state board of equalization. Each hearing shall be recorded electronically or by a court reporter or a qualified stenographer or

transcriptionist. 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 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) (2023) (emphasis added).

[¶ 15] This Board's rules governing taxpayer appellate practice direct that county boards shall "dismiss any statement otherwise not timely filed, unless it determines that good cause exists to toll or extend the filing deadline." Rules, Wyo. State Bd. of Equalization, Ch. 7 § 6(b), (d) (2021).

[¶ 16] Although the County Board identified both assessments in its decision, it did not consider whether Greene was required to separately appeal from the Amended Assessment. (R. at 38). Rather, the County Board concluded that Greene's appeal was timely, likely assuming that Greene's initial appeal sufficed, allowing him to challenge valuation changes contained in subsequent assessment decisions. *Id.* This was incorrect.

[¶ 17] The amended assessment, as issued, did not revise the previous assessment. Rather, it supplanted the first assessment and was a separate appealable decision. Upon issuing the Amended Assessment, nothing of the initial assessment remained, and Greene's challenge of the initial assessment became moot.

[¶ 18] Because neither the parties nor County Board raised the question of whether Greene filed an appeal, neither did they address the question of whether good cause existed for Greene's omission. *See supra* ¶ 15. That is a question that the County Board was obliged to resolve. If the County Board finds that good cause did not excuse Greene's failure to appeal, then it must dismiss Greene's appeal for lack of subject matter jurisdiction, and may take no further action. If the County Board finds that Greene's failure to appeal was excused, and the appeal deadline was tolled, it must state the basis of those findings and proceed with an appeal Greene has yet to pursue. Green would be permitted to appeal within a time the County Board would set, and his appeal would again be adjudicated.

## CONCLUSION

[¶ 19] The County Board incorrectly deemed Greene's appeal timely filed. The County Board must assure it had jurisdiction to hear the appeal. On remand, the County Board must determine whether Greene's failure to appeal from the Amended Assessment was excused and, if so, explain such, and allow Greene additional time to file a timely appeal from the Amended Assessment.<sup>1</sup> In the event no cause exists, it must dismiss Greene's appeal for lack of subject matter jurisdiction.

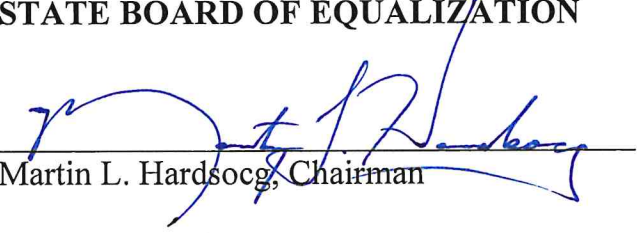

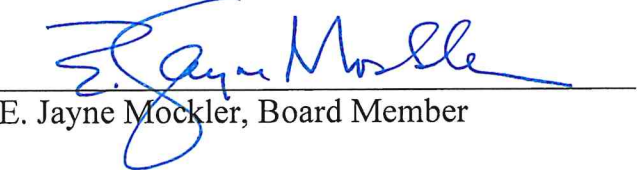
## ORDER

[¶ 20] **IT IS, THEREFORE, ORDERED** that the decision of the Natrona County Board of Equalization is **REVERSED and REMANDED** for a determination of whether the County Board had subject matter jurisdiction to adjudicate Greene's appeal.

[¶ 21] **Pursuant to Wyoming Statutes section 16-3-114 (2023) 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 13 day of September 2023.

### STATE BOARD OF EQUALIZATION

  
\_\_\_\_\_  
Martin L. Hardsocg, Chairman  
\_\_\_\_\_  
David L. Delicath, Vice-Chairman  
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E. Jayne Mockler, Board Member

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<sup>1</sup> The County Board, if it determines good cause excused Greene's failure to appeal, may incorporate the evidence submitted in the contested case since it pertained to the Amended Assessment. It may, but is not required to, conduct an additional evidentiary hearing to resolve whether good cause existed.



**ATTEST:**


  
Jennifer Fujinami, Executive Assistant

**CERTIFICATE OF SERVICE**

I certify that on the 13 day of September 2023, 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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cc: Commissioners/Treasurer/Clerk/Assessor – Natrona County