

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
CROOK COUNTY ASSESSOR) **Docket No. 2023-44**
FROM A DECISION BY THE CROOK)
COUNTY BOARD OF EQUALIZATION)

DECISION AND ORDER

APPEARANCES

Crook County Attorney Joseph M. Baron appeared on behalf of Crook County Assessor Daniel Thomas.

Taxpayers Robert Dracy and Joyce Dracy appeared pro se.

SUMMARY

[¶ 1] Assessor appeals from the Crook County Board of Equalization’s decision reversing Assessor’s 2023 assessment of residential real property belonging to Robert and Joyce Dracy (collectively Dracy). The County Board found that Assessor erred by including Dracy’s property in “an overly-simplistic LEA [Land Economic Area] definition” and by using inappropriate comparable sales in his analysis. The County Board also determined that Dracy presented evidence sufficient to show that Assessor violated “applicable statutes, rules, and regulations when valuing the Taxpayer’s property for 2023.” It ordered Assessor to re-value Dracy’s property in a different LEA and using different comparable sales. The parties didn’t request oral argument, so the Wyoming State Board of Equalization, Chairman Martin L. Hardsocg, Vice-Chairman David L. Delicath, and Board Member E. Jayne Mockler, have decided this appeal based on the County Board record and the parties’ submissions. Because the County Board exceeded its authority, we reverse its decision.

ISSUES

[¶ 2] Assessor did not file a brief, electing instead to rely on his Notice of Appeal. In that notice, Assessor articulated two issues:

A. Whether the County Board of Equalization action entering an Order to remand the matter to the Assessor to reevaluate and recalculate the Taxpayer's assessments by correcting the comparable sales and broadly defined LEA used in the formula was:

- (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.

B. Whether the County Board of Equalization action entering an Order finding the Taxpayer presented sufficient evidence overcoming the presumption that the Assessor complied with all applicable statutes, rules, and regulations when valuing the Taxpayer's property for 2023 was:

- 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.

(Notice of Appeal 3-4).

[¶ 3] Dracy filed a one-page "response brief" that identified no issues and stated only that Darcy "will also rely on the County Board of Equalization's record of their appeal[.]" (Dracy 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 this 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 October 2, 2023.

(R. 306). Assessor filed his appeal on November 1, 2023. (Notice of Appeal). Accordingly, the appeal is timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE PRESENTED TO THE COUNTY BOARD

[¶ 5] Dracy owns a residential property in Crook County consisting of land and residential improvements. In 2022, Assessor’s predecessor valued Dracy’s land at \$126,501 and residential improvements at \$332,872, for a total of \$459,373. [R. 269]. In 2023, Assessor initially valued Dracy’s land at \$235,754 and residential improvements at \$485,326, for a total of \$721,080. [R. 76]. After a discussion with Dracy, Assessor reduced the value of the residential improvements to \$465,417, which reduced the total valuation to \$692,171. [R. 57-58, 60]. Dracy timely appealed that valuation to the Crook County Board of Equalization. [R. 1-5].

[¶ 6] Both parties offered exhibits at the hearing, and they were all admitted. [R. 195]. Mr. Dracy and Bret Assmus (the owner of another parcel in the same area) testified on behalf of Dracy. Assessor’s only witness was himself. Assessor testified that he assigned Dracy’s property to Land Economic Area¹ (LEA) 1870 based on topography and vegetation. [R. 226]. Assessor testified that no other LEA in Crook County is suitable for Dracy’s property. [R. 227].

[¶ 7] Dracy attempted to show that Assessor grouped Dracy’s property into an LEA with properties that are physically different and more valuable. The County Board agreed with Dracy, finding:

Three comparable sales located North of Hulett identified as parcel #R0014158, parcel #R0014118, and parcel #R0014120 should not have been used based on their distinguishing features making them higher valued properties. * * * The overly-broad and simplistic definition of “residential lots with hills and trees” used for LEA 1870 did not account for the complex features and characteristics that distinguished these comparable sales from the subject tract.

[R. 189]. The County Board also determined that Dracy “presented sufficient evidence overcoming the presumption that the Assessor complied with all applicable statutes, rules, and regulations.” [R. 188]. Based on those findings, the County Board ordered Assessor to

¹ A Land Economic Area is “[a] geographic area that may encompass a group of neighborhoods, defined on the basis that the lands within its boundaries are more or less equally subject to a set of one or more economic forces that largely determine the value of the lands within this area.” Rules, Wyo. Dep’t of Revenue, ch. 9, § 4(xix) (2016).

“reevaluate and recalculate the assessment by correcting the comparable sales and broadly defined LEA used in the formula.” [R. 189].

[¶ 8] Assessor timely appealed to this Board. [Notice of Appeal].

CONCLUSIONS OF LAW

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

[¶ 9] 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) (2023), 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). Subsection (b) will be the dispositive provision in this appeal.

B. The County Board exceeded its authority in ordering Assessor to re-arrange LEA’s.

[¶ 10] The County Board reasoned that:

The Assessor used comparable sales that resulted in an incorrect valuation of the Dracy property. At a minimum, three of the comparable sales had features and characteristics that are not present on the Dracy property, and ultimately skewed the formula resulting in an excessive increase in the fair value of the property. These comparable sales varied significantly from the subject tract, and were included in an overly-simplistic LEA definition that did not consider property features like location, access, and surrounding amenities or property features among other value-adding characteristics.

[R. 189].

[¶ 11] Assessor contends, correctly, that we should reverse because the County Board exceeded its authority. He looks to one of our opinions for support:

Wyoming Statutes section 39-13-102(d) (2021) provides that “the county board of equalization has no power to and shall not set tax policy nor engage in any administrative duties concerning assessments which are delegated to the board, the department or the county assessor.” A decade ago, this Board decided an appeal in which taxpayers contended that “the LEA the Assessor utilized was incorrect and should be changed to similar properties as theirs located only on tributaries or as a specific radius from their property.” *In re Fremont Cty. Assessor*, 2011 WL 7910749, *12, Docket No. 2010-126, ¶ 59 (Wyo. State Bd. of Equalization, Sept. 9, 2011). Based on Subsection 39-13-102(d), we held that “[i]nstructions to re-stratify the LEA, or use other comparable properties for sales comparison would be inappropriate.” *Id.* at *14, ¶ 72. Accordingly, we find that the County Board lacked authority to re-arrange LEA’s[.]

In re Kleiner, 2021 WL 5570259, *6, Docket Nos. 2021-77 & 2021-78, ¶ 24 (Wyo. State Bd. of Equalization, Nov. 22, 2021).

[¶ 12] The County Board exceeded its authority, and in doing so it ran afoul of at least two of this Board’s prior opinions: *Fremont Cty. Assessor* and *Kleiner*.

C. We need not determine whether the County Board erred in concluding that Dracy presented sufficient evidence to overcome the presumption that Assessor complied with all applicable statutes, rules, and regulations.

[¶ 13] The County Board concluded that “The Dracy’s [sic] presented sufficient evidence overcoming the presumption that the Assessor complied with all applicable statutes, rules, and regulations when valuing their property for 2023.” [R. 188]. The County Board did not, however, explain which “statutes, rules, and regulations” Assessor failed to comply with, or what evidence demonstrated such noncompliance. Our resolution of the first issue makes it unnecessary for us to decide this one, but we take this opportunity to remind all county boards of equalization that their appellate decisions should include information and detail sufficient to allow us to understand and review their reasoning.

CONCLUSION

[¶ 14] The County Board’s decision is in excess of its statutory jurisdiction, authority, or limitations, and thus runs afoul of our rules. [*supra*, ¶ 9].

ORDER

[¶ 15] **IT IS, THEREFORE, ORDERED** that the decision of the Crook County Board of Equalization is **REVERSED AND REMANDED FOR A DECISION AFFIRMING ASSESSOR’S 2023 AMENDED VALUATION OF DRACY’S PROPERTY.**

[¶ 16] 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 16 day of February 2024.

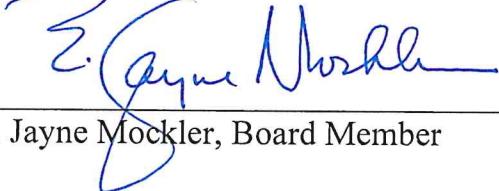
STATE BOARD OF EQUALIZATION



Martin L. Hardsocg, Chairman



David L. Delicath, Vice-Chairman



E. Jayne Mockler, Board Member

ATTEST:



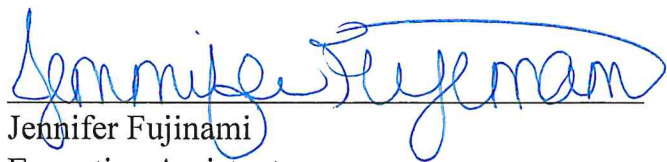
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 16 day of **February 2024** 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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Moorcroft, WY 82721

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cc: Brenda Henson, Director, Dep't of Revenue
Kenneth Guille, Property Tax Div., Dep't of Revenue
Commissioners/Treasurer/Clerk/Assessor – Crook County
ABA State and Local Tax Reporter
State Library