

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
NATRONA COUNTY ASSESSOR) **Docket No. 2024-06**
FROM A DECISION BY THE NATRONA)
COUNTY BOARD OF EQUALIZATION)

IN THE MATTER OF THE APPEAL OF)
TULKINGHORN COMPANY) **Docket No. 2024-06**
SCHWARTZ BON, WALKER, AND STUDER, LLC.)
CONROY ENTERPRISES/CHRIS SMITH)
FROM A DECISION BY THE NATRONA)
COUNTY BOARD OF EQUALIZATION)

DECISION AND ORDER

APPEARANCES

Karen Brent, of Brent Law, APC, appeared on behalf of Natrona County Assessor Tammy Saulsbury.

Cameron Walker, of Schwartz, Bon, Walker & Studer, LLC, appeared on behalf of Taxpayers Conroy Enterprises/Chris Smith; Schwartz, Bon, Walker & Studer, LLC; and the Tulkingshorn Company.

DIGEST

[¶ 1] Assessor appeals the Natrona County Board of Equalization’s decision reversing her valuations of three condominiums owned by Taxpayers. The County Board determined that “Petitioners presented credible evidence that rebutted the strong presumption that the Assessor’s valuation was valid, accurate, and correct.” It also determined that “Petitioners proved by a preponderance of the evidence that the Natrona County Assessor did not utilize Wyo. Stat. Ann. § 34-20-104(a) when valuing the Petitioners’ condominiums.” The County Board did not explain what evidence it relied on in determining either of those things, nor did it recount, even summarily, the evidence that was presented at the hearing. Accordingly, we cannot truly “review” the County Board’s decision.

[¶ 2] The Wyoming State Board of Equalization, Chairman Martin L. Hardsocg, Vice-Chairman David L. Delicath, and Board Member E. Jayne Mockler, considered the County Board record, the parties’ briefs, and oral argument. Because the County Board’s decision is so deficient that we cannot meaningfully review it, we will remand for a new decision.

ISSUES

[¶ 3] Both parties articulated issues for our review, but we believe a threshold issue requires resolution: Did the County Board make sufficient findings of fact and conclusions of law for us to review its decision?

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) (2023). An aggrieved taxpayer or assessor may file an appeal with this Board within 30 days of the County Board’s final decision. Rules, Wyo. State Bd. of Equalization, ch. 3 § 2(a) (2021). Any other party may file a cross-appeal within 15 days after the first notice of appeal is filed. Rules, Wyo. State Bd. of Equalization, ch. 3, § 2(c) (2021). The County Board issued its final decision on March 8, 2024. (R., Vol. I, 6). Assessor filed her appeal on April 1, 2024, and Taxpayers filed their cross-appeal on April 5, 2024. Accordingly, the appeal and cross-appeal are both timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE BEFORE THE COUNTY BOARD

[¶ 5] Taxpayers each own one floor of a Casper condominium known as the Conroy Building. (R., Vol. I, 4). All three Taxpayers appealed their 2023 valuations to the County Board, which held a hearing. *Id.* Paul Wilhelm of Onyx Group Realty testified on behalf of Taxpayers, while Assessor and her deputy testified on behalf of Assessor. *Id.* at 5. The hearing officer admitted multiple exhibits from each party. *Id.* at 4-5.

CONCLUSIONS OF LAW

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

[¶ 6] 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).

[¶ 7] “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 Cnty. 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 weigh 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 forward¹ 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.* “A mere difference of opinion as to value” is not sufficient to overcome the presumption. *Britt*, at ¶ 34, 126 P.3d at 127.

¹ The burden of going forward, also called the burden of production, is “[a] party’s duty to introduce enough evidence on an issue to have the issue decided by the fact-finder, rather than decided against the party in a peremptory ruling such as a summary judgment or a directed verdict.” *Burden of Production*, *Black’s Law Dictionary*, 236 (10th ed. 2014).

B. The County Board’s decision is not sufficient to allow meaningful review.

[¶ 8] “An agency must make findings of basic fact on all material issues before it and upon which ultimate findings of fact or conclusions are based in order to enable the reviewing court to determine whether the evidence was considered on a reasonable and proper basis.” *Rodgers v. State, ex rel., Wyo. Workers’ Safety & Comp. Div.*, 2006 WY 65, ¶ 36, 135 P.3d 568, 580-81 (Wyo. 2006)(citing *Pan Am. Petroleum Corp. v. Wyo. Oil & Gas Conservation Comm’n*, 446 P.2d 550, 555 (Wyo. 1968)); see also, *In re Balkanski*, 2018 WL 1583520, Docket No. 2017-61 (Wyo. State Bd. of Equalization, March 22, 2018); *In re Teton Cnty. Assessor*, 2018 WL 1703446, Docket No. 2018-03 (Wyo. State Bd. of Equalization, March 22, 2018). What the County Board presents as its findings of fact would be more accurately characterized as a summary of the course of proceedings. At best, the findings of fact summarize a tiny portion of the testimony, but tell us nothing about the exhibits. We also know nothing about what the County Board found to be true, or what evidence led it to so find.

[¶ 9] The heart of the County Board’s opinion consists of three sentences:

4. The Petitioners presented credible evidence that rebutted the strong presumption that the Assessor’s valuation was valid, accurate, and correct. *But the County Board didn’t tell us what that evidence was, why it was persuasive, or how it overcame the presumption.*

5. Wyo. Stat. Ann. § 34-20-104(a) applies to the cases at bar. *But the County Board didn’t discuss that statute or explain what it requires in this case.*

6. Petitioners proved by a preponderance of the evidence that the Natrona County Assessor did not utilize Wyo. Stat. Ann. § 34-20-104(a) when valuing the Petitioners’ condominiums. *Again, we aren’t told what the evidence is or how it proved anything.*

(R. Vol. I., 6).

[¶ 10] The County Board is required to “make specific written findings and conclusions as to the evidence presented[.]” Wyo. Stat. Ann. § 39-13-109(b)(i) (2023). “It is impossible to apply the ‘substantial evidence’ standard to an agency’s factual findings when we do not know what those findings are.” *Teton Cnty. Assessor v. Aspen S, LLC*, 2024 WY 30, ¶ 12, 545 P.3d 427, 430 (Wyo. 2024). The County Board’s failure to present specific findings and conclusions renders its decision arbitrary and capricious. *Rogers, Supra.* ¶ 8.

CONCLUSION

[¶ 11] The County Board’s Decision does not include findings of fact, legal analysis, or legal conclusions necessary for our review. That Decision is, therefore, arbitrary and capricious. Accordingly, we must reverse and remand for a decision setting forth the factual and legal basis of the County Board’s determination.

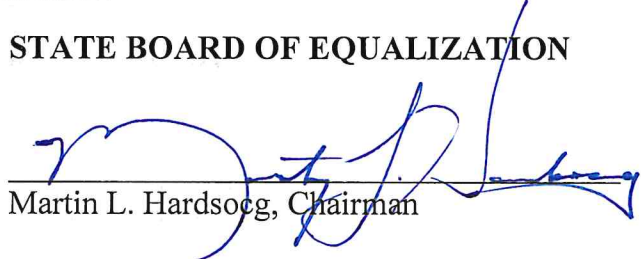
ORDER

[¶ 12] **IT IS, THEREFORE, ORDERED** that the decision of the Natrona County Board of Equalization is reversed and remanded for issuance of a revised decision compliant with the guidance provided above.

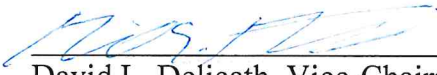
[¶ 13] Pursuant to Wyoming Statutes section 16-3-114 (2023) and Rule 12, Wyoming Rules of Appellate Procedure, any taxpayer aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date of this decision.

DATED this 10 day of December 2024.


STATE BOARD OF EQUALIZATION



Martin L. Hardsocg, Chairman

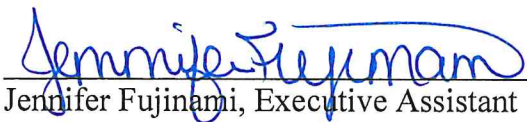


David L. Delicath, Vice-Chairman



E. Jayne Mockler, Board Member

ATTEST:



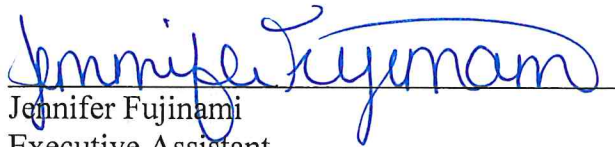
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 10 day of December 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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Casper, WY 82601

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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 – Natrona County
State Library