

BEFORE THE STATE BOARD OF EQUALIZATION
FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
LARAMIE COUNTY ASSESSOR) **Docket No. 2024-26**
FROM A DECISION BY THE LARAMIE)
COUNTY BOARD OF EQUALIZATION)

DECISION AND ORDER

APPEARANCES

Laramie County Attorney Mark Voss appeared on behalf of Laramie County Assessor Todd Ernst.

Taxpayer Janis Gummel appeared pro se.

DIGEST

[¶ 1] Assessor appeals the Laramie County Board of Equalization’s decision reversing his valuation of Ms. Gummel’s improved residential property. The County Board determined that Assessor incorrectly rated the condition of Ms. Gummel’s property as “average,” when he should have rated it as “fair.”

[¶ 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, Assessor’s brief¹, and the parties’ oral arguments. Because the County Board’s decision is not supported by substantial evidence, we will reverse it.

ISSUES

[¶ 3] Assessor articulated one issue for our review:

Whether the CBOE’s decision in this matter was in accordance with law and supported by substantial evidence in the record, or whether it was arbitrary, capricious, and constituted an abuse of discretion. (Assessor’s Br. 6).

¹ Ms. Gummel did not file a brief.

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). The County Board issued its final decision on October 1, 2024. (R. 158). Assessor filed his appeal on October 31, 2024. (R. 159). Accordingly, the appeal is timely and we have jurisdiction.

PROCEEDINGS AND EVIDENCE BEFORE THE COUNTY BOARD

[¶ 5] Ms. Gummel owns an improved residential property in Cheyenne. (R. 59). Assessor issued a 2024 Notice of Valuation valuing that property at \$188,822. (R. 59). After Ms. Gummel questioned that appraisal, Assessor’s staff visited Ms. Gummel’s property and found that it sat on a “dug-out type cellar” rather than an actual basement. (R. 40-41). Assessor then issued an Amended Notice of Valuation reducing the valuation to \$167,996. (R. 60). Ms. Gummel again questioned the appraisal, and Assessor found another adjustment. (R. 42). He issued a second Amended Notice of Valuation further reducing the valuation to \$164,939. (R. 61). In all three valuations, Assessor rated the condition of Ms. Gummel’s property as average. (R. 66). Ms. Gummel timely appealed, and the Laramie County Board of Equalization held a hearing.

[¶ 6] In her opening statement, Ms. Gummel said that her cellar sometimes floods.² (R. 17). She spent most of her testimony comparing her property with others in the neighborhood, and alleging that her property was less valuable than those others, but appraised higher. (R. 25-29). During her case-in-chief, she did not challenge, or even acknowledge, Assessor’s determination that her home was in “average” condition. Her exhibits include real estate listings for her home and nine others. (R. 95-117). The listing for Ms. Gummel’s house is from 2021 and features a single exterior photograph measuring about two by three inches. (R. 95).

[¶ 7] Assessor’s exhibits include a single exterior photo of Ms. Gummel’s home. (R. 80). The photo measures about two-and-one-half by three inches, and doesn’t present much detail. Assessor’s direct testimony did not touch on the condition of Ms. Gummel’s property or how condition affects valuation. In response to a question from a CBOE member, Assessor testified:

² Ms. Gummel did not follow that statement up with actual testimony that her cellar floods, but we will afford her some leeway because she is a pro se litigant.

Condition, average home is maintained to the age of the house. Upgrades have been made to the house to keep them in livable condition. Anything below an average condition house, then it starts to limit. A fair house is very unattractive. It starts talking about functional - - or functional parts of the home that is no longer being used to its ability. It talks about the siding is very unattractive and starting to need replaced. And, of course, once you get to poor, then it's uninhabitable.

(R. 45-46). When that same board member asked if there were "any leeway to move the condition from average to fair[,]", Assessor answered:

If the field appraisers thought the overall condition of the house was fair, yes, we could do that. But as the field appraisers went out there, they believed the house fit the average house for a 19 - - 1943 house. It was an average condition house for a 1943 house.

(R. 49). In her rebuttal case, Ms. Gummel said, "And my home is not average. I would say that it is fair condition. It's - - it's livable, but it still needs work." (R. 50-51).

[¶ 8] When the County Board met to deliberate, one member moved to:

Change the valuation from average down to fair. The reason for this is I think that house - - I hate - - I hate to argue with staff or overcome the staff, but I think that house probably - - that old and looking at the pictures and the condition, I think - - I think lowering it one grade is probably, in my estimation, more how that house is.

(R. 134). Another board member said, "[b]ut if we assume that the comparables are average, I think she effectively demonstrated that her - - the condition of hers was less than those comparables; therefore, I think it warrants that change from average to - - excuse me - - average to fair." (R. 136). A third board member said:

I do appreciate and have looked at the pictures, and I do appreciate staff's knowledge in this and what they're sent out to do in terms of grading these properties. But I do also feel that given the information that we were given that it is appropriate to downgrade it from average to fair.

(R. 138-39). The County Board then voted 3-2 in favor of the motion to remand with instructions to change the condition rating of Ms. Gummel's home from average to fair. (R. 139-40). The County Board issued its written decision, and Assessor timely appealed to this Board. (R. 147-58; 159).

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).

[¶ 10] “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 forward³ 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

³ 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).

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.

B. The County Board’s decision is not supported by substantial evidence.

[¶ 11] All the evidence about the condition of Ms. Gummel’s property is presented above, and it’s no greater than the evidence this Board found insufficient to support a county board’s order to change a condition rating in *In re Laramie Cnty. Assessor*, 2009 WL 6314040, Docket No. 2009-112 (Wyo. State Bd. of Equalization, Mar. 30, 2009). In that case, a county board ordered an assessor to change a condition rating from average to fair. This Board reversed after considering the evidence supporting the county board decision:

The only evidence presented by Taxpayer concerning the condition of his house was his written protest and testimony in which he asserted there were needed repairs to his residence. He did not present any independent evidence, such as a property appraisal, photographs of damages, or contractor repair estimates, which addressed the condition of the residence within the applicable definitions of average and condition as presented by the Assessor. There was no other evidence of needed repairs or deferred maintenance which affected the utility of the house, and therefore shorten its life expectancy as required to support a “fair” condition. The testimony by [taxpayer], although clearly honest and sincere, was without independent corroboration, but simply his opinion. His opinion was not sufficient by itself to provide the required substantial evidence needed to overcome the presumption of validity in favor of the Assessor’s determination of “average” condition for Taxpayer’s house considering its age.

Id. at *12.

CONCLUSION

[¶ 12] The County Board received almost no evidence about the actual condition of Ms. Gummel’s home, and almost no evidence about how condition ratings are assigned. While we cannot fault the County Board members for wanting to do something to help Ms. Gummel, the evidence simply cannot overcome the rebuttable presumption that an experienced Assessor and his qualified staff got it right when they assigned the condition rating.

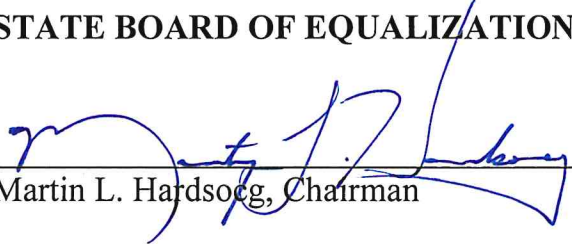
ORDER

[¶ 13] **IT IS, THEREFORE, ORDERED** that the decision of the Laramie County Board of Equalization is reversed.

[¶ 14] 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 14 day of March 2025.

STATE BOARD OF EQUALIZATION



Martin L. Hardsocg, Chairman



David L. Delicath, Vice-Chairman



E. Jayne Mockler, Board Member

ATTEST:



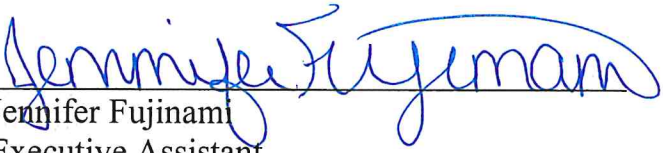
Jennifer Fujinami, Executive Assistant

CERTIFICATE OF SERVICE

I certify that on the 14 day of March 2025, 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:

Janis Gummel
505 E. 3rd Street
Cheyenne, WY 82007

Mark Voss
Laramie County Attorney
310 West 19th St., Suite 320
Cheyenne, WY 82001


Jennifer Fujinami
Executive Assistant
State Board of Equalization
P.O. Box 448
Cheyenne, WY 82003
Phone: (307) 777-6989
Fax: (307) 777-6363

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