IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
May 16, 2023 Session

AMERICAN BUSINESS SUPPLY, INC. ET AL v. TENNESSEE STATE BOARD OF EQUALIZATION

Appeal from the Chancery Court for Davidson County
No. 20-1098-IV Russell T. Perkins, Chancellor

No. M2022-01411-COA-R3-CV

This case concerns the procedure used by the Tennessee State Board of Equalization when it determined the 2018 appraisal ratio for Shelby County. In 2017, Shelby County real property was reappraised. Accordingly, the Board of Equalization set the County's 2017 appraisal ratio at 1.000. In 2018, the Board of Equalization used the 2017 reappraisal to set the Shelby County 2018 appraisal ratio at 1.000. Appellants—owners of commercial tangible personal property in Shelby County—challenged the Board's methodology as violative of Tennessee Code Annotated sections 67-5-1605 and 67-5-1606 and unsupported by substantial and material evidence. Following review under the Uniform Administrative Procedures Act, the trial court determined that: (1) the Board did not violate Tennessee Code Annotated sections 67-5-1605 and 67-5-1606 when it set the County's appraisal ratio at 1.000 in 2018; (2) the Board's decision was supported by substantial and material evidence; and (3) the Board's decision was not arbitrary or capricious. Discerning no error, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed and Remanded

KENNY ARMSTRONG, J., delivered the opinion of the court, in which FRANK G. CLEMENT, JR., P.J, M.S., and J. STEVEN STAFFORD, P.J., W.S., joined.

Caren B. Nichol, Andrew H. Raines, Andrew M. Raines, William H. Raines, David C. Scruggs, Memphis, Tennessee, for the appellants, American Business Supply, Inc., d/b/a American Business Solutions, Inc., Carpet Tech, Inc. d/b/a Artisent Floors, and Continental Awards & Trophies, Inc.

Jonathan Skrmetti, Andrée Sophia Blumstein, Joseph R. Longenecker, Nashville, Tennessee, for the appellee, Tennessee State Board of Equalization.

OPINION

I. FACTS AND PROCEDURAL HISTORY

The gravamen of this lawsuit is whether, under Tennessee Code Annotated sections 67-5-1605 and 67-5-1606, the Tennessee State Board of Equalization (the "Board") erred by setting the 2018 appraisal ratio for Shelby County (the "County") at 1.000 based on the County's 2017 reappraisal. The relevant facts are not disputed.

On April 19, 2018, the Board met to determine county appraisal ratios, *i.e.*., the ratio of the appraised value to the current market value of real property, for each Tennessee county. The Board based its determinations on the recommendations of the Division of Property Assessments (the "DPA"), which derived the ratios from each county's most recent reappraisal or appraisal-ratio study. In counties where an appraisal-ratio study was conducted in 2018, the ratio was set as determined by the study. A ratio of 1.000 was set for all counties where property was reappraised in 2018. In counties that conducted a reappraisal or appraisal-ratio study in 2017 but not in 2018, the DPA relied on the 2017 results and carried over the 2017 ratio. According to the Board, "[t]his reliance on the most recent reappraisal or appraisal ratio study is a standard operating procedure" and, because real property is not reappraised annually, "[d]ivergence between appraised value and market value of real property is expected[.]" Other classes of property—including commercial and industrial tangible personal property—are reappraised annually.[1] In

[1] Tennessee Code Annotated section 67-5-903 provides, in relevant part:

> (a) All partnerships, corporations, other business associations not issuing stock and individuals operating for profit as a business or profession, including manufacturers, except those whose property is entirely assessable by the comptroller of the treasury, shall be furnished by the assessor not later than February 1 of each year, a schedule requiring the taxpayer to list in detail all tangible personal property owned by the taxpayer and used or held for use in such business or profession, including, but not limited to, furniture, fixtures, machinery and equipment, all raw materials, supplies, but excluding all finished goods in the hands of the manufacturer and the inventories of merchandise held for sale or exchange, such schedule to be approved by the director of property assessments. Failure of the assessor to send a schedule or failure of the taxpayer to receive a schedule shall not relieve or excuse any taxpayer from filing such schedule by March 1, nor shall it prevent the assessor from issuing a forced assessment against the taxpayer.
>
> (b) It is the duty of the taxpayer to list fully such tangible personal property used, or held for use, in the taxpayer's business or profession on such schedule, including such other information relating thereto as may be required by the assessor, place its correct value thereon, sign the schedule, and return it to the assessor on or before March 1 of each year. In lieu of detailing acquisition cost on the reporting schedule, the taxpayer may certify that the depreciated value of tangible personal property otherwise reportable on the form is one thousand dollars ($1,000) or less. The assessor shall accept the certification, subject to audit, and fix the value of tangible personal property assessable to the taxpayer pursuant to

conformance with Tennessee Code Annotated section 67-5-1509, the Board uses the real property appraisal ratios to equalize the annually-appraised personal property with the less-frequently appraised real property.[2] The purpose of this procedure "is to ensure that within each taxing jurisdiction all properties of all types are valued on the same basis." Tenn. Op. Att'y Gen. No. 20-10 (May 20, 2020). As explained by the Board:

> For example, if the Board determines that the appraised value of real property in a county is 92% of its current market value, the appraisal ratio will be .9200 and annually-appraised property in that county will be taxed based on only 92% of its appraised value.

The County is on a four-year reappraisal cycle, and a reappraisal was conducted in 2017. Accordingly, the County's appraisal ratio for 2017 was set at 1.000 (or 100 percent). Because the County did not conduct a reappraisal or appraisal-ratio study in 2018, the Board carried over the County's 2017 appraisal ratio of 1.000 to 2018.

> the schedule, at one thousand dollars ($1,000). This value shall be subject to equalization pursuant to § 67-5-1509. The certification stated on the schedule shall warn the taxpayer that it is made subject to penalties for perjury and subject to statutory penalty and costs if proven false. The taxpayer shall designate on the schedule one (1) or more individuals as owner or owners of the business, or responsible person or persons in the event of dissolution of a corporate or limited liability entity, for the purposes of § 67-5-513(a).

[2] Tennessee Code Annotated section 67-5-1509 provides:

> (a) Upon its consideration of reports made to it, together with the evidence submitted with a report or other information available, the state board shall take whatever steps it deems are necessary to effect the assessment of property in accordance with the constitution and the laws of this state. The board shall by order or rule direct that commercial and industrial tangible personal property assessments be equalized using the appraisal ratios adopted by the board in each jurisdiction; provided, that an equalization factor for purposes of this section does not exceed a factor of one (1.000). The equalization described is available only to taxpayers who have timely filed the reporting schedule required by law.
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> (b) Equalization may be made by the board by reducing or increasing the appraised values of properties within a taxing jurisdiction, or any part of the jurisdiction, in such manner as is determined by the state board of equalization will enable the board to justly and equitably equalize assessments in accordance with law.
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> (c) If the state board of equalization deems it necessary to increase or decrease appraised values of properties of a taxing jurisdiction, or any part of the jurisdiction, in a manner that affects properties in general rather than individual properties, it is not necessary that the state board notify each individual property owner as provided in § 67-5-1510; provided, that the board shall cause to be published at least once, in a newspaper of general circulation within the taxing jurisdiction affected by the action of the board, a notice of the action of the state board.

In the meantime, the Board received a petition dated April 12, 2018. Acting through legal counsel associated with Evans Petree, P.C. ("Evans Petree"), the "Taxpayers' Petition for Equalization in Shelby County" did not name any specific taxpayers or allege a specific incorrect assessment. However, it asserted that "the presumed 1.000 ratio [was] insufficient to effect the equalization of assessments in Shelby County[]" and requested a .8800 equalization ratio or, in the alternative, a formal sales-ratio study by the DPA. The unnamed petitioners asserted that "[i]n reviewing the tax assessments of Petitioners for tax year 2017, Evans Petree[,] PC found that a significant number of the properties reviewed were undervalued by more than 10%." The petition relied on a study conducted by Chandler Reports, "a real estate information provider based out of [the County]," which determined that the median appraised value of combined commercial and residential property was 88 percent. The petition also relied on a *Memphis Daily News* article stating that the County expected to have a revenue surplus of $18 million to $25 million at the end of the fiscal year. The article stated that, according to the County's chief administrative officer, the unexpected surplus was "largely the result of fewer appeals of property tax assessments than anticipated following the [2017] reappraisal[.]" The County administrator cited "a 40 percent drop in appeals from prior reappraisal years[.]" After hearing arguments from an attorney with Evans Petree, the assistant director of the DPA, and the DPA state valuation manager, the Board voted unanimously to use the 1.000 appraisal ratio for the County based on the 2017 reappraisal.[3]

Following the Board's April 2018 decision, Evans Petree compiled a "sales file" based on real property transactions from January 1, 2017, through December 31, 2017.[4] Based on the file, in June 2018, real estate expert Dr. Mark Sunderman performed an independent sales-ratio study.[5] Dr. Sunderman concluded that the County's 2018 sales ratio was .9440. In August 2018, Evans Petree filed an action in the Davidson County Chancery Court seeking review of the Board's decision as a "contested case." American

[3] Board members present at the meeting were:

The Honorable David Lillard, State Treasurer (Vice-Chair)
The Honorable Betty Burchett of Clarksville
The Honorable Tre Hargett, Secretary of State
The Honorable David Gerregano, Commissioner of Revenue
The Honorable Dwight Tarwater, Governor's designee
The Honorable Justin Wilson, Comptroller of the Treasury

[4] From the record, it appears that Evans Petree obtained the sales transaction information necessary to produce the sales file through a public records request submitted to the County assessor.

[5] Dr. Mark A. Sunderman is a professor at the University of Memphis and holds the University's Morris Fogelman Real Estate Chair of Excellence. In his June 2018 study, Dr. Sunderman stated that he reduced the material provided by Evans Petree to include only material necessary to complete the study.

Business Supply, Inc., d/b/a American Business Solutions, Inc., Carpet Tech, Inc. d/b/a Artisent Floors, and Continental Awards & Trophies, Inc. (collectively, "Appellants"), entities that own commercial and/or industrial tangible personal property in the County and appealed their tax assessments to the Board, were named as petitioners.[6] In September 2018, the trial court dismissed the action for lack of subject-matter jurisdiction. Specifically, the trial court held that the action was not a "contested case" under Tennessee Code Annotated sections 4-5-102 or 4-5-322 because the "Taxpayers' Petition" submitted to the Board did not identify any aggrieved party.[7] In its order, the trial court stated that

> to the extent Petitioners were affected by the Board's April 19, 2018 Resolution and Order, they could arguably have filed a Petition with the Board under Tenn. Code Ann. § 4-5-223, requesting a declaratory order

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[6] Calcote Tennessee Real Estate, LLC was also named as a petitioner. However, it was not named as a party in the subsequent petition for review filed in the trial court in November 2020, and it is not a party to this appeal.

According to Appellants' August 2018 amended petition for review in the trial court, American Business Supplies, Inc., d/b/a American Business Solutions, Inc., owns commercial and industrial tangible personal property in the County that was appraised by the County Assessor at $65,500 for the 2018 tax year. This appraisal represents at least 100% of market value. The Board's 1.000 appraisal ratio resulted in 2018 property taxes of $1,423.84. An appraisal ratio of .944 would reduce the 2018 property taxes to $1,344.10.

Carpet Tech, Inc., d/b/a Artisent Floors, owns commercial and industrial tangible personal property that was appraised by the County Assessor at $154,400 for tax year 2018. This appraisal represents at least 100% of market value and, at the 1.000 appraisal ratio, resulted in 2018 property taxes of $3,356.34. An appraisal ratio of .944 would reduce the 2018 property taxes to $3,168.38.

Continental Awards & Trophies, Inc., owns commercial and industrial tangible personal property that was appraised by the County Assessor at $447,900 for tax year 2018. This appraisal represents at least 100% of market value. The 1.000 appraisal ratio resulted in 2018 property taxes of $7,900.96. An appraisal ratio of .944 would reduce the 2018 property taxes to $7,458.51.

[7] The trial court concluded:

> [T]he Equalization Petition did not name a specific taxpayer and did not identify specific property at issue. See Tenn. Comp. R. & Regs. 0600-01-.03(1)(c). Additionally, the Equalization Petition was not signed nor sworn to by an identified party, and it did not include a pertinent notice or decision by the county board. See Tenn. Comp. R. & Regs. 0600-01-.03(2). Objectively, there was no indication to the Board that a contested case was being pursued at the time the Equalization Petition was filed and Petitioners' counsel's presentation was heard. Each of these concerns militate against the Equalization Petition constituting a valid method of initiating a contested case before the Board.
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> . . .
>
> Without an aggrieved party, there can be no contested case at the administrative level under Tenn. Code .Ann. § 4-5-102(3). Anonymous taxpayers are not parties with ascertainable legal rights, duties, or privileges.

> regarding the Resolution and Order given that the determination of each county's appraisal ratio may be "within the primary jurisdiction of the agency" under Tenn. Code Ann. § 67-5-1606. (footnotes omitted)

In October 2018, Appellants filed a petition for a declaratory order with the Board. In their petition, Appellants challenged the 1.000 appraisal ratio and requested that the Board declare its April 2018 order to be invalid. Appellants asserted that Dr. Sunderman's study indicated a ratio of .9440, and they attached Dr. Sunderman's study and the April Taxpayers' Petition to their petition. Appellants requested an appraisal ratio "based on evidence" or, in the alternative, that the matter be referred to an administrative law judge ("ALJ"). In November 2018, the Board referred the petition to an ALJ; the ALJ heard the matter in April 2019.

In August 2019, the ALJ entered its order. The ALJ noted that Appellants challenged the 1.000 ratio and asserted that the .9440 ratio determined by Dr. Sunderman should be adopted by the Board. The ALJ found that nothing in the record suggested that Dr. Sunderman's study was flawed and that, "[o]n the contrary, Dr. Sunderman appears to have closely followed the methodology of the [DPA] in preparing his study." The ALJ also noted Dr. Sunderman's testimony that he had never seen a sales-ratio study that found a ratio of exactly 1.000. The ALJ determined that the Board fulfilled its statutory duty at the April 2018 meeting and validly adopted a sales ratio of 1.000. Appellants filed an appeal to the Board. In September 2020, the Board entered its final order, wherein it declined review.

In November 2020, Appellants filed a petition for review in the trial court. In their petition, Appellants asserted that the Board acted without statutory authority when it adopted a 1.000 appraisal ratio for the 2018 tax year based on the 2017 reappraisal, to-wit:

> Although the DPA is only required to perform these appraisal ratio studies a minimum of once every two years, Tenn. Code Ann. § 67-5-1606(a) requires the State Board to determine the appropriate appraisal ratios for each county every single year "[b]ased upon the appraisal ratio studies *and other pertinent information*." [emphasis added]. This provision requires that the State Board must review pertinent information and determine the appraisal ratios every year. The State Board is not permitted to simply adopt the previous year's ratio as a matter of course.

In their prayer for relief, Appellants requested modification of the Board's declaratory order. They prayed for a determination that the Board's adoption of a 1.000 appraisal ratio for 2018 was "in contradiction of all available evidence" and "violated the State Board's responsibility in Tenn. Code Ann. § 67-5-1606(a) to 'annually determine the overall ratio of appraisal for property in each county of the state.'" Appellants sought remand to the Board "to determine the appropriate 2018 appraisal ratio for Shelby County as required by

Tenn. Code Ann. § 67-5-1606 based upon substantial and material evidence, including the appraisal ratio study submitted by [Appellants] indicating a ratio of 94.4%[.]"

Following a hearing on September 29, 2021, the trial court determined that the Board did not violate Tennessee Code Annotated sections 67-5-1605 or 67-5-1606 when it used the County's 2017 reappraisal study to set its 2018 appraisal ratio at 1.000. The trial court found that the Board acted in conformity with its established practices and concluded that the Board's decision was not arbitrary or capricious. The trial court also found that the Board considered all "pertinent information presented to it" as required by section 67-5-1606 and determined that the Board's decision was supported by substantial and material evidence. On September 9, 2022, the trial court entered its final order, and Appellants filed a timely notice of appeal.

II. ISSUES

Appellants raise the following issues for review, as stated in their brief:

> 1. Whether the [t]rial Court erred in holding that the actions of the Tennessee State Board of Equalization ("State Board") were not in violation of statutory provisions, including Tennessee Code Annotated §§ 67-5-1605 & 1606.
>
> 2. Whether the [t]rial [c]ourt erred in holding that the State Board's decision was supported by substantial and material evidence and was, therefore, not arbitrary or capricious.

III. STANDARD OF REVIEW

The Uniform Administrative Procedures Act ("UAPA"), Tennessee Code Annotated §§ 4-5-101, *et seq*., governs judicial review of an administrative agency's decision.[8] Tenn. Code Ann. § 4-5-322(a)(1). Our review under the UAPA is the same as the trial court's. ***Terminix Int'l Co., L.P. v. Tennessee Dep't of Labor***, 77 S.W.3d 185, 191 (Tenn. Ct. App. 2001). The UAPA provides a standard of review that is "more narrowly circumscribed" than the standard generally applied in civil appeals. ***Moss v. Shelby Cnty. Civ. Serv. Merit Bd.***, 665 S.W. 433, 440 (Tenn. 2023) (citations omitted). Under the UAPA,

> [t]he court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative

[8] The Board is an "agency" as defined in the Uniform Administrative Procedures Act ("UAPA"). ***Colonial Pipeline Co. v. Morgan***, 263 S.W.3d 827, 841 (Tenn. 2008).

findings, inferences, conclusions or decisions are:

(1) In violation of constitutional or statutory provisions;

(2) In excess of the statutory authority of the agency;

(3) Made upon unlawful procedure;

(4) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(5)(A)(i) Except as provided in subdivision (h)(5)(B), unsupported by evidence that is both substantial and material in the light of the entire record;

(ii) In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact[.]

Tenn. Code Ann. § 4-5-322(h).[9] Additionally,

> [n]o agency decision pursuant to a hearing in a contested case shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

Tenn. Code Ann. § 4-5-322(i).[10] This well-settled standard of review ""reflects the general

[9] Effective May 18, 2021, Tennessee Code Annotated section 4-5-322(h)(5) was amended to provide an exception for decisions made by boards or agencies created pursuant to Title 63–Professions of the Healing Arts.

[10] With limited exceptions, the UAPA restricts the court's review to the administrative record. Tenn. Code Ann. § 4-5-322(g). However, this Court has noted that "a growing body of case law has clarified that the review applicable in real estate tax classification matters decided by the State Board of Equalization permits 'a new hearing in the chancery court based upon the administrative record *and* any additional or supplemental evidence which either party wishes to adduce relevant to any issue.'" ***Sevier Cnty. v. Tennessee State Bd. of Equalization***, No. E2022-00777-COA-R3-CV, 2023 WL 3298376, at *3 (Tenn. Ct. App. May 8, 2023) (quoting Tenn. Code Annotated § 67-5-1511(b) (emphasis added)); (citing ***see generally Cress v. Tennessee State Bd. of Equalization***, No. E2021-00093-COA-R3-CV, 2021 WL 5148088, at *4-5 (Tenn. Ct. App. Nov. 5, 2021) (providing that a court may consider additional evidence, along with the administrative record, in its review of a State Board of Equalization decision)). "Regardless of whether new evidence is adduced at the hearing, the reviewing court must then make its determination within the parameters of Section 4-5-322(h) of the UAPA[.]" ***Id.***

principle that courts should defer to decisions of administrative agencies when they are acting within their area of specialized knowledge, experience, and expertise."" ***Moss***, 665 S.W.3d at 441 (quoting ***StarLink Logistics Inc. v. ACC, LLC***, 494 S.W.3d 659, 669 (Tenn. 2016) (citing ***Tenn. Env't Council, Inc. v. Tenn. Water Quality Control Bd.***, 254 S.W.3d 396, 401-402 (Tenn. Ct. App. 2007); ***Wayne Cnty. v. Tenn. Solid Waste Disposal Control Bd.***, 756 S.W.2d 274, 279 (Tenn. Ct. App. 1988); ***CF Indus. v. Tenn. Pub. Serv. Comm'n***, 599 S.W.2d 536, 540 (Tenn. 1980); ***Metro. Gov't of Nashville & Davidson Cnty. v. Shacklett***, 554 S.W.2d 601, 604 (Tenn. 1977))).

As the Tennessee Supreme Court recently reiterated:

> "A decision of an administrative agency is arbitrary or capricious when there is no substantial and material evidence supporting the decision." ***StarLink Logistics***, 494 S.W.3d at 669 (citing ***Pittman v. City of Memphis***, 360 S.W.3d 382, 389 (Tenn. Ct. App. 2011); ***Jackson Mobilphone Co. v. Tenn. Pub. Serv. Comm'n***, 876 S.W.2d 106, 110 (Tenn. Ct. App. 1993)); ***see also Watts v. Civ. Serv. Bd. for Columbia***, 606 S.W.2d 274, 277 (Tenn. 1980) ("Whether or not there is any material evidence to support the action of the agency is a question of law to be decided by the reviewing court upon an examination of the evidence introduced before the agency."). "[S]ubstantial and material evidence" is "less than a preponderance of the evidence and more than a 'scintilla or glimmer' of evidence." ***StarLink Logistics***, 494 S.W.3d at 669 (citation omitted) (quoting ***Wayne Cnty.***, 756 S.W.2d at 280). "A decision with evidentiary support can be arbitrary or capricious if it amounts to a clear error in judgment," ***id.*** at 669 (citing ***City of Memphis v. Civ. Serv. Comm'n of Memphis***, 216 S.W.3d 311, 316 (Tenn. 2007)), and "is not based on any course of reasoning or exercise of judgment, or ... disregards the facts or circumstances of the case without some basis that would lead a reasonable person to reach the same conclusion[.]" ***Id.*** at 669–70 (alteration in original) (quoting ***Civ. Serv. Comm'n of Memphis***, 216 S.W.3d at 316).

Id. However,

> [i]f there is room for two opinions, a decision is not arbitrary or capricious if it is made honestly and upon due consideration, even though [a reviewing court] think[s] a different conclusion might have been reached. The "arbitrary or capricious" standard is a limited scope of review, and a court will not overturn a decision of an agency acting within its area of expertise and within the exercise of its judgment solely because the court disagrees with an agency's ultimate conclusion.

Id. (quoting ***StarLink Logistics Inc. v. ACC, LLC***, 494 S.W.3d 659, 670 (Tenn. 2016)

(alterations in original) (internal citations and quotation marks omitted) (quoting ***Bowers v. Pollution Control Hearings Bd.***, 103 Wash. App. 587, 13 P.3d 1076, 1083 (2000))).

IV. ANALYSIS

Appellants argue that the Board acted in contravention of Tennessee Code Annotated sections 67-5-1605 and 67-5-1606 when it used the County's 2017 reappraisal to set the County's 2018 appraisal ratio at 1.000.[11] They contend that the Board violated

[11] We note that Appellants do not designate any section as an Argument section in their brief. Their "argument" is contained in a section designated "Statement of the Case."

> Rule 27(a) of the Tennessee Rules of Appellate Procedure provides:
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> **(a) Brief of the Appellant.** The brief of the appellant shall contain under appropriate headings and in the order here indicated:
>
> (1) A table of contents, with references to the pages in the brief;
>
> (2) A table of authorities, including cases (alphabetically arranged), statutes and other authorities cited, with references to the pages in the brief where they are cited;
>
> (3) A jurisdictional statement in cases appealed to the Supreme Court directly from the trial court indicating briefly the jurisdictional grounds for the appeal to the Supreme Court;
>
> (4) A statement of the issues presented for review;
>
> (5) A statement of the case, indicating briefly the nature of the case, the course of proceedings, and its disposition in the court below;
>
> (6) A statement of facts, setting forth the facts relevant to the issues presented for review with appropriate references to the record;
>
> (7) An argument, which may be preceded by a summary of argument, setting forth:
>
> (A) the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on; and
>
> (B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);
>
> (8) A short conclusion, stating the precise relief sought.

However, the brief is not so deficient as to justify waiver, and we exercise our discretion under Rule 2 to consider Appellants' argument.

section 67-5-1606(a) because: (1) the County's 2018 appraisal ratio was not based on an appraisal-ratio study; and (2) the Board failed to fulfill its duty to determine the appraisal ratio annually. Appellants also argue that the Board abdicated its statutory responsibility to "determine" the appropriate appraisal ratio and simply adopted the ratios suggested by the DPA. Furthermore, Appellants assert that there was no substantial or material evidence to support the Board's determination of the 2018 ratio and argue that the decision, therefore, was arbitrary and capricious.

The Board counters that the statutes "vest discretion as to the efficient and accurate determination of appraisal ratios in the Board." It submits that the trial court correctly found that the Board set the 2018 County appraisal ratio "in conformity with the Board's established approach and statutory principles[]"; therefore, the Board maintains that its decision was neither arbitrary nor capricious. We first turn to whether the Board acted in violation of sections 67-5-1605 and 67-5-1606 when it set the 2018 County appraisal ratio at 1.000 based on the County's 2017 reappraisal.

A. The Statutes

As the Board states in its brief, "[t]he proper method for annually determining appraisal ratios for the counties of Tennessee is the central issue in this appeal." Appellants submit that section 67-5-1605 requires the DPA to provide the Board with an appraisal ratio "at least every two (2) years," and section 67-5-1606 requires the Board to base county appraisal ratios, "at least in part," on appraisal-ratio studies. Appellants contend that the DPA did not perform an appraisal-ratio study for the County in 2017 or 2018 as required by the statute. They argue that "[w]hile Section 1606(a) does allow the State Board to consider 'other pertinent information' in determining appraisal ratios, it specifically requires the State Board to base its determination, in part, on an appraisal ratio study." Accordingly, Appellants argue that the Board acted in contravention of section 67-5-1606 because it "did not utilize any appraisal ratio study in adopting its appraisal ratio of 100%" for the County in 2018.

As the Board notes, Appellants "fundamentally . . . challenge[]" the Board's procedure for determining the appraisal ratio. The Board contends that its procedure was consistent with the statutory framework and relies on Tennessee Code Annotated section 67-5-1501 for the proposition that it has broad jurisdiction over the valuation and assessment of property. It asserts that, under section 67-5-1604(a), appraisal-ratio studies are conducted at the discretion of the Board, to-wit:

> Since an appraisal ratio study is required by default only every two years, Tenn. Code Ann. [§] 67-5-1605(b)(1), the legislature did not believe that

> information from the current year was necessary to rationally determine an appraisal ratio. After all, if current-year information were necessary to rationally determine an appraisal ratio, the legislature would be permitting the State Board to make an irrational decision every other year.

The Board relies on ***McClellan v. Bd. of Regents of the State Univ.***, 921 S.W.2d 684, 689 (Tenn. 1996), to support its argument that Appellants' interpretation of the statutes "must be eschewed, since the Court is 'required to construe terms reasonably and not in a fashion which will lead to an absurd result.'"

Under the UAPA, our review of an assertion of error based on a statutory or constitutional provision is *de novo* with no presumption of correctness.[12] Tenn. Code Ann. § 4-5-326; ***Sevier Cnty. v. Tennessee State Bd. of Equalization***, No. E2022-00777-COA-R3-CV, 2023 WL 3298376, at *3 (Tenn. Ct. App. May 8, 2023). When construing a statute, the court's primary goal is to discern and effectuate the intent of the Legislature. ***Coffman v. Armstrong Intl, Inc.***, 615 S.W.3d 888, 893 (Tenn. 2021) (citations omitted). We "give terms their natural and ordinary meaning in their statutory context unless the statute defines them." ***Lawson v. Hawkins Cnty.***, 661 S.W.3d 54, 59 (Tenn. 2023) (citation omitted). If "a statute uses a common-law term without defining it, we assume the enacting legislature adopted the term's common-law meaning 'unless a different sense is apparent from the context, or from the general purpose of the statute.'" ***Id.*** (quoting ***In re Estate of Starkey***, 556 S.W.3d 811, 817 (Tenn. Ct. App. 2018) (quoting ***Lively v. Am. Zinc Co. of Tenn.***, 191 S.W. 975, 978 (Tenn. 1917))).

However, "the language of a statute cannot be considered in a vacuum, but 'should be construed, if practicable, so that its component parts are consistent and reasonable.'" ***In re Estate of Tanner***, 295 S.W.3d 610, 614 (Tenn. 2009) (quoting ***Marsh v. Henderson***, 424 S.W.2d 193, 196 (1968)). Statutes that relate to the same subject and share a common purpose must be construed together, "and the construction of one such statute, if doubtful, may be aided by considering the words and legislative intent indicated by the language of another statute." ***Johnson v. Hopkins***, 432 S.W.3d 840, 848 (Tenn. 2013) (citations omitted). The courts must avoid a statutory "'construction that leads to absurd results.'" ***Coffman v. Armstrong Int'l, Inc.***, 615 S.W.3d 888, 894 (Tenn. 2021) (quoting ***Tennessean v. Metro. Gov't of Nashville***, 485 S.W.3d 857, 872 (Tenn. 2016) (citing ***Lee Med., Inc. v. Beecher***, 312 S.W.3d 515, 527 (Tenn. 2010))). Therefore, conflicts between

[12] Effective April 14, 2022, Tennessee Code Annotated section 4-5-326 provides:

> In interpreting a state statute or rule, a court presiding over the appeal of a judgment in a contested case shall not defer to a state agency's interpretation of the statute or rule and shall interpret the statute or rule de novo. After applying all customary tools of interpretation, the court shall resolve any remaining ambiguity against increased agency authority.

statutes are resolved in a way that "provide[s] for a harmonious operation of the laws." ***Id.*** (quoting ***State v. Frazier***, 558 S.W.3d 145, 153 (Tenn. 2018) (citing ***Lovlace v. Copley***, 418 S.W.3d 1, 20 (Tenn. 2013))). If statutes conflict, "'a more specific statutory provision takes precedence over a more general provision.'" ***Id.*** (quoting ***Frazier***, 558 S.W.3d at 153 (Tenn. 2018) (quoting ***Graham v. Caples***, 325 S.W.3d 578, 582 (Tenn. 2010))) (additional citations omitted). Further, "'[w]hen one statute contains a given provision, the omission of the same provision from a similar statute is significant to show that a different intention existed.'" ***Id.*** (quoting ***Frazier***, 558 S.W.3d at 153 (quoting ***State v. Lewis***, 958 S.W.2d 736, 739 (Tenn. 1997))). With these principles in mind, we turn to the statutory scheme to determine whether the Board violated its statutory duty when it based the County's 2018 appraisal ratio on the County's 2017 reappraisal.

Article II, section 28, of the Tennessee Constitution provides for the taxation of all real, personal, and "mixed" property other than property excepted by the Legislature in accordance with the section. As amended effective January 1, 1973, the section requires property to be classified as real property, tangible personal property, and intangible personal property for the purposes of taxation. It also provides, in relevant part, that:

> The ratio of assessment to value of property in each class or subclass shall be equal and uniform throughout the State, the value and definition of property in each class or subclass to be ascertained in such manner as the Legislature shall direct. Each respective taxing authority shall apply the same tax rate to all property within its jurisdiction.

Tenn. Const. art. II, § 28.

Article II, section 28 gives the Legislature "broad authority regarding the evaluation of property for property tax purposes[.]" ***In re All Assessments***, 58 S.W.3d 95, 99 (Tenn. 2000) (citing ***Sherwood Co. v. Clary,*** 734 S.W.2d 318, 321 (Tenn. 1987)). The Legislature, in turn, enacted Title 67 of the Tennessee Code to govern the collection and administration of taxes. ***Zumstein v. Roane Cnty. Exec./Mayor***, No. E2016-02037-COA-R3-CV, 2017 WL 3600462, at *3 (Tenn. Ct. App. Aug. 21, 2017). The Legislature instructed that Title 67 is "to be liberally construed in favor of the jurisdiction and powers conferred upon the commissioner of revenue." Tenn. Code Ann. § 67-1-101(a). The Legislature also provided that the commissioner of revenue, who is a member of the Board, "shall have and exercise all such incidental powers as may be necessary to carry out and effectuate the objects and purposes of [Title 67]." Tenn. Code Ann. § 67-1-101(b).

In accordance with the 1973 amendments to the Tennessee Constitution, the Legislature enacted Tennessee Code Annotated section 67-5-901(a), which provides, in relevant part, that "[i]ndustrial and commercial property shall be assessed at thirty percent (30%) of its value[.]" Tenn. Code Ann. § 67-5-901(a); ***In re All Assessments***, 58 S.W.3d at 98. Tennessee Code Annotated section 67-5-1601(a)(1) requires each county to conduct

a real-property reappraisal program over a continuous six-year, five-year, or four-year cycle. In counties using a six-year reappraisal cycle, real property values must be updated in the third year of the cycle "if the overall level of appraisal for the jurisdiction is less than ninety percent (90%) of fair market value." Tenn. Code Ann. § 67-5-1601(a)(2). However, counties using a four-year or five-year reappraisal cycle are not required to update or index real-property values mid-cycle. Tenn. Code Ann. § 67-5-1601(a)(1). Here, the County uses a four-year reappraisal cycle.

The Board has the duty to "[e]ffect the assessment of all property" in the State in accordance with the Tennessee Constitution and statutes. Tenn. Code Ann. § 4-3-5103(2). It also has "the responsibility to determine whether or not property within each county of the state has been valued and assessed in accordance with the constitution and laws[.]" Tenn. Code Ann. § 67-5-1605(a). In relevant part, Tennessee Code Annotated section 67-1-305(a) vests the Board with the authority to:

> (1) Make such rules and regulations and prepare such forms as it may deem proper for its use;
>
> (2) Obtain such evidence, information and statistics as may be deemed material as to the values, classifications and assessments of properties to be equalized;
>
> (3) Regulate and prescribe the method of taking evidence before the board, whether by affidavit, deposition or otherwise;
>
> …
>
> (6) Do and perform all such acts as may be proper or necessary to accomplish the purpose of its creation.

The Board also has the responsibility and authority to effect equalization as set out at Tennessee Code Annotated section 67-5-1509:

> (a) Upon its consideration of reports made to it, together with the evidence submitted with a report or other information available, the state board shall take whatever steps it deems are necessary to effect the assessment of property in accordance with the constitution and the laws of this state. The board shall by order or rule direct that commercial and industrial tangible personal property assessments be equalized using the appraisal ratios adopted by the board in each jurisdiction; provided, that an equalization factor for purposes of this section does not exceed a factor of one (1.000). The equalization described is available only to taxpayers who have timely filed the reporting schedule required by law.

> (b) Equalization may be made by the board by reducing or increasing the appraised values of properties within a taxing jurisdiction, or any part of the jurisdiction, in such manner as is determined by the state board of equalization will enable the board to justly and equitably equalize assessments in accordance with law.

Tenn. Code Ann. §§ 67-5-1509(a) & (b).

The statutes also provide that, in order to assist the Board in determining whether property in each county "has been valued and assessed in accordance with the constitution and [state] laws," the DPA is required to "conduct appraisal ratio studies in all counties of the state at least every two (2) years *unless otherwise determined by the [B]oard*." Tenn. Code Ann. §§ 67-5-1605(a) & (b)(1) (emphasis added). Tennessee Code Annotated section 67-5-1606 provides:

> (a) Based upon the appraisal ratio studies and other pertinent information, the state board of equalization shall annually determine the overall ratio of appraisal for property in each county of the state.
>
> (b) In addition, the board may also determine ratios for the respective classifications of property for each county.
>
> (c) The state board of equalization shall each year certify to the comptroller of the treasury appraisal levels, as are determined by the board for each county, to be used by the office of state assessed properties for purposes of computing the assessments of public utility properties and operating properties of modern market telecommunications providers.

As noted above, the County uses a four-year reappraisal cycle, and it is undisputed that the DPA conducts an appraisal-ratio study two years into the cycle. Therefore, the County undergoes either a reappraisal or an appraisal-ratio study every two years. Accordingly, a County appraisal-ratio study was conducted in 2015, and the County underwent a reappraisal in 2017. We note that, during the pendency of this matter, the DPA conducted an appraisal-ratio study for the County in 2019, *Division of Property Assessments 2019 Annual Report*, available at https://comptroller.tn.gov (visited 10/17/2023), and the County underwent a reappraisal in 2021. *Division of Property Assessments 2021 Annual Report*, available at https://comptroller.tn.gov (visited 10/17/2023). It is undisputed that the Board treats a county-wide reappraisal as the equivalent of an appraisal-ratio study. It also is undisputed that the Board sets the appraisal ratio for each county based upon either the most recent reappraisal or the most recent

appraisal-ratio study.[13] Additionally, as Appellants assert, if section 67-5-1605 requires an appraisal-ratio study every two years regardless of a county's reappraisal cycle, then a County ratio-study would have been required in 2017—two years after the County's 2015 study—and not in 2018. As the Board urges, this is an illogical result. Further, Appellants argue that the Board erred by not conducting an appraisal-ratio study in 2018, thereby implicitly recognizing that an appraisal-ratio study was not required in 2017.

Construing the statutory provisions together, there is nothing to suggest that, in a county with a four-year reappraisal cycle, the reappraisal program does not sufficiently substitute for an appraisal-ratio study. Section 67-5-1603(a)(1) provides, in relevant part:

> After a reappraisal program has been completed and approved by the director of property assessments, the value so determined shall be used as the basis of assessments and taxation for property that has been reappraised.

In accordance with the statute, the 2017 appraisal ratio for the County was set at 1.000, and, as noted above, an appraisal-ratio study was conducted in 2019. This alternating reappraisal/appraisal ratio-study cycle satisfies the mandates of sections 67-5-1605 and 1606.

We have observed that, "with personal property as opposed to real property . . . practical problems of assessment result in a considerably less than perfect system." ***In re All Assessments***, 67 S.W.3d 805, 820 (Tenn. Ct. App. 2001). Further, "[t]he validity of any assessment or levy of taxes, or proceedings for the equalization, review, or collection of taxes, or for the enforcement of any tax lien, shall not be affected by any defect, error, irregularity or omission in such assessment, levy or proceedings, unless the defect, error, irregularity or omission shall result in a denial of minimum constitutional guarantees." Tenn. Code Ann. § 67-5-509. The Board's procedure satisfied the statutory and constitutional requirements in this case.

We now turn to Appellants' argument that the Board failed to "annually determine" the appraisal ratio as required by section 67-5-1606(a). Appellants contend that, because the section requires the Board to base its determination, "at least in part," on an appraisal-

[13] Based on the DPA's 2019 appraisal-ratio study, the 2019 appraisal ratio was set at .8808. *Division of Property Assessments 2019 Annual Report*, available at https://comptroller.tn.gov (visited 10/17/2023). In 2020, the Board set the appraisal ratio at .8808. *Notice of Action of State Board of Equalization Adopting 2020 Appraisal Ratios*, available at https://comptroller.tn.gov (visited 10/17/2023). Following the 2021 reappraisal, the appraisal ratio was set at 1.000. *Division of Property Assessments 2021 Annual Report*, available at https://comptroller.tn.gov (visited 10/17/2023). In 2022, the Board set the County appraisal ratio at 1.000. Notice of Action of State Board of Equalization Adopting 2022 Appraisal Ratios, available at https://comptroller.tn.gov (visited 10/17/2023).

ratio study, a 2018 study was necessary to the Board's determination. As we perceive it, Appellants argument is that the Board's use of appraised values from the previous year does not effectuate an *annual* determination.

The Board asserts that, under section 67-5-1605, it may use appraisal-ratio studies "and any other pertinent information which may be available" to determine the annual appraisal ratio. The Board contends that there is no statutory requirement that additional fact-finding and additional information must be considered only to the extent that it is "pertinent" and "available."

As noted above, section 67-5-1606(a) requires the Board to base its annual determinations on "*the* appraisal ratio studies *and* other pertinent information[.]" (emphases added). The section does not require annual studies. Rather, it references the DPA's appraisal-ratio studies mandated by section 67-5-1605(b)(1). Additionally, Tennessee Code Annotated section 67-5-1604(a) requires the DPA to "conduct appraisal ratio studies . . . in such manner and at such time as shall be determined by" the Board. Construed together, the sections afford the Board the discretion to determine the County's appraisal ratio based either on the most recent reappraisal (of the County's four-year cycle) or the mid-cycle appraisal-ratio study.

Further, section 67-5-1606 permits the Board to consider "other pertinent information." Under section 67-5-1508, the Board may require the DPA to "submit facts and reports as may be deemed necessary to enable the [B]oard to equalize assessments of property[.]" Accordingly, the Board may consider the DPA's appraisal-ratio studies and other information, facts, and reports—including reappraisals—in order to equalize the assessment of property.

Appellants cite no authority to support their interpretation of sections 67-5-1605 and 67-5-1606, and our research has revealed none. As such, we agree with the trial court's conclusion that the Board did not violate the statutory requirements by setting the County's 2018 appraisal ratio at 1.000 based on the County's 2017 appraisal ratio where the County conducted a reappraisal in 2017. This procedure fulfills the Legislature's intent that the appraisal ratio be determined annually based on an appraisal-ratio study and other available, pertinent information.

We turn next to Appellants argument that the Board violated its statutory duty by "completely abdicat[ing] its responsibility to determine appraisal ratios and[] shift[ing] this responsibility to the [DPA]." Appellants contend that the Board "gives a rubber stamp of approval to the [DPA's] recommendations . . . even in the counties where the Division has conducted no analysis for that year, e.g., Shelby County in 2018." They submit that the "verbiage" used by the Board in its proceedings is evidence that the Board merely "adopt[s]" and "approve[s]" appraisal ratios submitted by the DPA but does not "determine" the ratios as required by the statutes.

The Legislature created the DPA to "[o]btain evidence, information and statistics relative to the value of property to be assessed and equalized" and to "[e]ffect the assessment of all property in the state in accordance with the state constitution and all statutory provisions." Tenn. Code Ann. §§ 67-1-202(4) & (6). To this end, the Legislature imposed broad duties on the DPA, including the duty to obtain information regarding the value of property to be assessed and equalized and to make recommendations to the Board.[14] Additionally, as discussed above, section 67-5-1604(a) requires the DPA to

[14] Tennessee Code Annotated section 67-1-202 provides:

> (a) The division of property assessments, under the supervision of the comptroller of the treasury, and subject to such policies, rules and regulations as may be adopted by the state board of equalization, has and shall perform the following duties, to:
>
> (1) Supervise and direct all reappraisals and revaluation programs to the cost of which the state of Tennessee contributes;
>
> (2) Prescribe rules and regulations approved by the comptroller of the treasury and not otherwise reserved for the state board of equalization and not inconsistent with laws that relate to the administration of the duties of assessors of property;
>
> (3) Prepare, furnish and require the use by assessors of such forms as may be required for the administration of the duties of assessors of property, and approve all forms, schedules and reports used by assessors and sent to taxpayers for reporting real or personal property;
>
> (4) Obtain evidence, information and statistics relative to the value of property to be assessed and equalized;
>
> (5) Require assessors to furnish reports under oath, giving specific information relating to assessments and other facts concerning properties and facts pertaining to the administration of the duties of the office of assessor;
>
> (6) Effect the assessment of all property in the state in accordance with the state constitution and all statutory provisions. The comptroller of the treasury shall exercise all powers conferred upon the comptroller of the treasury by law to the end that assessments in every taxing jurisdiction may be in accordance with the law;
>
> (7) Make an annual report, approved by the comptroller of the treasury, to the state board of equalization, with an appropriate summary of the work accomplished by the division, and make such recommendations to the state board of equalization as it may deem appropriate;
>
> (8) Assist the state board of equalization in the preparation of an assessment manual or manuals for the appraisal, classification and assessment of property for use by local assessors in making their assessments of particular classes or parcels of property, including the assessment of various kinds of personal property owned and used by corporations, partnerships and individuals engaged in business or professions for profit;

"conduct appraisal ratio studies in all counties of the state in such manner and at such time as shall be determined by the [Board]." Further, with the approval of the Board, the DPA is required to "develop a plan and proceed to carry out the reappraisal and equalization programs in each county" based on the appraisal-ratio studies and "other pertinent information which may be available[.]" Tenn. Code Ann. § 67-5-1604(c).

The statutes require the Board to make an annual determination based on the appraisal-ratio studies conducted by the DPA and other available and pertinent information. They do not require the Board to conduct fact-finding independent of the DPA every year for every Tennessee county. *See* ***In re All Assessments***, 67 S.W.3d at 820-21 (stating that real property ratios for each county are determined pursuant to the authority granted by Tennessee Code Annotated section 67-5-1604). We are satisfied that the Board did not abandon its statutory duty in this case. We turn next to whether the Board's decision was supported by substantial and material evidence.

> (9) Assist the state board of equalization in conducting the educational and training courses for state and local assessing officials approved by the state board of equalization;
>
> (10) Require that counties or other taxing jurisdictions take whatever steps deemed necessary by the state board of equalization to assure that reappraisal and revaluation programs are maintained and updated in accordance with instructions, policies, rules and regulations as adopted by the state board of equalization;
>
> (11) At the direction of the state board of equalization, provide assessment services for any municipality which lies within the boundaries of two (2) or more counties and which has contracted for such services with the state board of equalization under § 67-1-307(a) and (b); and
>
> (12) At the direction of the state board of equalization, provide for the appraisal of leasehold interests, mineral interests, or other fractional interest in any county which has petitioned for such assistance to the state board of equalization under § 67-1-307(a) and (b).
>
> (b) The division of property assessments has the authority to go upon land in order to obtain information for the assessment of such property. If the landowner refuses or objects to entry upon the landowner's land, the division may petition the circuit or chancery court for an order allowing entry at a specified time for purposes of appraising the land and improvements for assessment purposes.
>
> (c) The division of property assessments shall have the unconditional right to intervene in any contested case before the state board of equalization and shall have standing and be recognized as a party under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. This unconditional right to intervene shall be liberally construed in favor of the division of property assessments and the intervention and participation in any contested case before the state board of equalization shall not be limited in any manner except as otherwise agreed to by the division of property assessments.

B. Substantial and Material Evidence

Appellants argue that the trial court erred in holding that the Board's decision was supported by substantial and material evidence and, therefore, was not arbitrary or capricious. They submit that the Board's "stated evidentiary basis" for the County's 2018 appraisal ratio was a 2017 or 2018 "study" that, in fact, was not performed. Appellants contend that Dr. Sunderman's June 2018 County appraisal-ratio study was the only study performed in 2017 or 2018. They argue that

> [t]he State Board's decision to base their 2018 appraisal ratio on two nonexistent appraisal ratio studies instead of a 2018 appraisal ratio study that its own administrative judge determined was flawless and the [t]rial [c]ourt's affirmation of this decision are classic examples of a decision that "disregards the facts or circumstances of the case without some basis that would lead a reasonable person to reach the same conclusion." Therefore, this decision was arbitrary and capricious and should not be allowed to stand.

On the other hand, the Board asserts that both the trial court and the ALJ recognized that the Board relied on the County's 2017 reappraisal in making its April 2018 determination. It asserts that Dr. Sunderman's June 2018 appraisal-ratio study was not before it in April 2018 and, further, that Dr. Sunderman's study does not invalidate the Board's determination.

From our review, we agree with the Board that the terms "reappraisal" and "appraisal study" have been conflated in some instances. However, it is clear that the Board based its determination on the 2017 reappraisal and not, as Appellants contend, on a non-existent appraisal-ratio study. In its September 2022 order, the trial court found that "the Board heard and considered information that Petitioners' counsel believed was pertinent to setting an appraisal ratio for 2018" and concluded that,

> [a]s such, the Board fulfilled the statutory mandate of considering the pertinent information presented to it, along with the ratio studies *and reappraisal data*; thus, its method for determining the assessment ratio for tax year 2018 was in accordance with statutory requirements. (emphasis added)

We also observe that the Taxpayers' Petition submitted to the Board in April 2018 proposed an appraisal ratio of .8800 as determined by Chandler Reports, and not a ratio of .9440 as determined by Dr. Sunderman in June 2018. Regardless, notwithstanding the accuracy of Dr. Sunderman's methodology, the Board's determination was supported by substantial and material evidence and was not arbitrary or capricious.

V. CONCLUSION

The judgment of the trial court is affirmed, and the case is remanded for such further proceedings as may be necessary and are consistent with this opinion. Costs of the appeal are assessed to the Appellants, American Business Supply, Inc., d/b/a American Business Solutions, Inc., Carpet Tech, Inc. d/b/a Artisent Floors, and Continental Awards & Trophies, Inc., for all of which execution may issue if necessary.

s/ Kenny Armstrong
KENNY ARMSTRONG, JUDGE