

**RULES OF PRACTICE AND PROCEDURES FOR APPEAL
BEFORE THE SHERIDAN COUNTY BOARD OF EQUALIZATION
INVOLVING TAXATION MATTERS**

Section I. Authority: These Rules of Practice and Procedure are promulgated by authority of W.S. 39-13-102 and 16-3-101, et seq.

Section II. Purpose of Rules: These rules are intended to provide a uniform and understandable process for appeals from administrative decisions of the Sheridan County Assessor or the Sheridan County Board of Equalization and to provide for the fair and just disposition of such appeals.

Section III. Application of Rules: These rules apply to all appeals brought before the Board concerning those matters administered by the Assessor under Title 39 of the Wyoming Statutes, Taxation and Revenue. Specifically, these rules shall apply to appeals authorized in Title 39 of the Wyoming Statutes and brought before the Board from any final assessment of the Assessor. Copies of said assessment shall be attached to the Notice of Appeal.

Section IV. Construction: These rules are to be liberally construed to assure the unbiased, fair, expeditious and impartial conduct of proceedings. *Board of Trustees v. Spiegel*, Wyo., 549 P.2d 1161 (1976); *Wyoming Board of Equalization v. State, ex rel. Basin Electric Power Cooperative*, Wyo., 637 P.2d 248(1981); *Ririe v. Board of Trustees*, Wyo., 674 P.2d 214 (1983); and *ANR Production Co. v. Wyoming Oil & Gas*, Wyo., 800 P.2d 492 (1990).

Section V. General Course of Contested Case Procedures: Unless otherwise provided by law the course of proceedings is governed by the contested case provisions of the WAPA and the Rules of Practice Governing Hearings and Contested Cases before the Sheridan County Board of County Commissioners. The Administrative Procedure rules and rules for Board of County Commissioners, these rules, and, to the extent their application is not inconsistent with application to an administrative contested case proceeding, the Wyoming Rules of Civil Procedure shall apply to hearings of these matters. *White v. Board of Trustees of Western Wyoming Community College District*, Wyo., 648 P.2d 528 (1982).

Section VI. Definitions: For the purpose of appeals brought before the Board under these rules, the following definitions shall apply:

- A) Appeal: A proceeding before the Board in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for hearing. An appeal is a contested case as that term is defined in W.S. 16-3-101(b)(ii).
- B) Board: The County Board of Equalization as set forth in W.S. 39-13-102.
- C) Parties: The Petitioner who is seeking relief before the Board and the Sheridan County Assessor.

- D) Petitioner: Any person, firm corporation, partnership or association who files an appeal seeking relief from any final administrative decision of the Assessor.
- E) "Informal Protest". Communication with the Assessor regarding taxation matters.
- F) Hearing Officer: The Presiding Officer in a contested case as set forth in W.S. 16-3-112.

Section VII. Informal Protest to the County Assessor. A taxpayer may make an informal protest in person, by letter or other writing directed to the County Assessor. Matters thus presented will be, if their nature warrants, taken up by correspondence or otherwise with the Assessor in an endeavor to bring about satisfaction of the protest without an appeal. If the informal protest is not dealt with to the satisfaction of the taxpayer, he may file an appeal to the Board in accordance with Section 8, and within the proper time.

Section VIII. Meeting of the Board: The Board will meet on the fourth Tuesday in May to consider current year assessments.

Section IX. Commencement of Appeals: Any person wishing to contest an assessment of his property shall file a statement with the County Assessor no later than thirty (30) days after the date of postmark of the assessment schedule. The statement shall include:

- A) The name, mailing address and phone number of the Petitioner;
- B) A concise statement of the facts, issues and objection which the Petitioner considers relevant to the assessment of the property;
- C) A Concise statement as to the relief desired, including any request for hearing;
- D) A reference to the statutes, rules or orders that may apply, if known, (Note: Rules may prescribe the type service, e.g., by certified mail, return receipt requested. Rules may also designate a specific number of copies to be filed.);
- E) A copy of the assessment schedule.

Any statement not timely filed, or not completed in accordance with these rules may be dismissed. THE COUNTY ASSESSOR AND THE PERSON CONTESTING THE ASSESSMENT, OR HIS AGENT, SHALL DISCLOSE WITNESSES AND EXCHANGE INFORMATION, EVIDENCE AND DOCUMENTS RELEVANT TO THE APPEAL, INCLUDING SALES INFORMATION FROM RELEVANT STATEMENTS OF CONSIDERATION IF REQUESTED, NO LATER THAN FIFTEEN (15) DAYS PRIOR TO THE SCHEDULED COUNTY BOARD OF EQUALIZATION HEARING. THE ASSESSOR SHALL SPECIFICALLY IDENTIFY THE SALES INFORMATION USED TO DETERMINE MARKET VALUE OF THE PROPERTY

UNDER APPEAL. Failure to file evidence or documents will result in exclusion of said evidence or documents from consideration. The petitioner will be notified by the Secretary of the Board of the date and time the appeal will be heard, either in person at the time the appeal is filed, or by letter or telephone.

Section X. Ex Parte Discussions: Except to the extent authorized by law, the Board, staff members of the Board, and any presiding officer designated by the Board are prohibited from engaging in ex parte discussions with any individual or party on any material fact at issue after commencement of a case until its final disposition. If ex parte communication is unavoidable, the official involved shall:

- A) Immediately draft a written document or summary setting forth the contents and circumstances of the communication;
- B) Mail the document to all parties to the proceeding and all other officials involved in the decisional process; and
- C) Indicate that the matter covered in the communication will be considered at the next scheduled hearing relating to the case, or as otherwise scheduled with notice to all parties.

Section XI. Motions

- A) An application for a Board Order shall be by motion, which unless made during the conduct of a hearing, shall be in writing and shall state with particularity the grounds and the relief or order sought. Written motions shall advise the parties that should they wish to contest the motion, they must file a written response, serving copies on the Board and all parties within fifteen (15) days of service of the motion. The response shall set forth the party's objection to the motion. No motions shall be filed within twenty (20) days of a hearing.
- B) Absent a request for hearing by moving party or any party affected by the motion, the Board may, in its discretion, determine the motion without a hearing. A motion not determined within ninety (90) days after filing shall be deemed denied. The Board may, upon reasonable notice to all parties, hear orally or otherwise, any motion filed in connection with hearings under these rules.

Section XII. Continuances and Extensions of Time

- A) Generally, motions requesting continuances or extensions of time are disfavored, yet they may be granted sparingly and only upon a showing of good cause or when necessary to assure fairness and otherwise avoid manifest injustice.
- B) Unless time does not permit, motions for a continuance of any unscheduled hearing shall be in writing, shall state the reasons therefor and shall be filed and served to all

parties.

- C) Motions for an extension of time for the doing of any act prescribed or allowed by these rules or by order of the Board, shall be filed and served on all parties prior to the expiration of the applicable time period.

Section XIII. Discovery. Generally: Unless otherwise prohibited by law or limited by these Rules or Board order, the taking of discovery shall be available to the parties in accordance with the provisions of W.S. 16-3-107(g) and Rules 26, 28 through 37 (excepting Rule 37(b)(1) and 37(b)(2)(D) therefrom) of the W.R.C.P.

Section 16-3-107, WAPA. provides:

- A) The Board may issue discovery and protective orders in accordance with the WRCP.
- B) Unless otherwise ordered or stipulated, no party may serve on any other party more than thirty (30) interrogatories in the aggregate. Each subpart shall be counted as a separate interrogatory. Interrogatories shall be arranged so that after each question, there shall be left a blank space reasonably calculated to allow the answering party to answer. For consolidated cases involving multiple parties, the Board may impose further limits on the number of allowed interrogatories.
- C) Unless otherwise ordered, discovery documents shall not be filed with the Board, except in support of a motion to compel or as evidence.
- D) Board Orders may be enforced as provided by law.

Section XIV. Subpoenas:

- A) Subpoenas for appearance and to produce books, papers, documents or exhibits will be issued by the Board, upon written motion of any party, or on the Board's own motion, pursuant to W.S. 16-3-107(c).
- B) Subpoenas may be enforced pursuant to W.S. 16-3-107(c).

Section XV. Hearing: The Petitioner may represent himself at the hearing, he may be represented by a person designated by the Petitioner, or he may be represented by an attorney who is duly authorized to practice law in the State of Wyoming or is associated at the hearing with one or more attorneys authorized to practice law in Wyoming. No adjustment in an assessment shall be granted to or on behalf of any person who willfully neglects or refuses to attend a meeting of the County Board of Equalization and be examined or answer any material question upon the Board's request. The Assessor may be represented by himself, any of his/her employees or designee or an Attorney employed by Sheridan County.

IF AND WHEN EITHER THE COUNTY ASSESSOR, PETITIONER OF THE COUNTY

BOARD OF EQUALIZATION DISCLOSES STATEMENTS OF CONSIDERATION WITH RESPECT TO THE VALUE OF THE ASSESSMENT OF PETITIONER'S PROPERTY, THE HEARING SHALL BE DECLARED CLOSED. IN CASE OF SUCH DISCLOSURE, ONLY THE PETITIONER OR HIS AGENT AND PETITIONER'S LEGAL COUNSEL, THE COUNTY ASSESSOR, AND/OR HER DEPUTIES AND THE COUNTY ASSESSOR'S LEGAL COUNSEL, THE MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS, THE HEARING OFFICER, BOARD COUNSEL, THE COUNTY CLERK AND/OR HER DEPUTIES AND THE COURT REPORTER MAY REMAIN FOR THAT PORTION OF THE HEARING.

THE HEARING OFFICER SHALL REGULATE THE COURSE AND CONDUCT OF THE HEARING TO ENSURE THAT THE PARTIES SHALL ONLY DISCLOSE STATEMENTS OF CONSIDERATION, AND EXAMINE WITNESSES RELATIVE TO THOSE STATEMENTS, DURING THE TIME THE HEARING IS DECLARED CLOSED.

Section XVI. Burden of Going Forward: Burden of Persuasion: Except as specifically provided by law or in this Section, the Petitioner shall have the burden of going forward and the ultimate burden of persuasion, which burden shall be met by a preponderance of reliable and probative evidence. (Note: Requirements on burden of going forward and burden of persuasion may be controlled either by statute or case law. Uniformity may be impractical and undesirable. Specific law on burdens should be examined further.)

Section XVII. Order of Procedure at Hearing: As nearly as possible, hearings shall be conducted in accordance with the following order of procedure:

- A) The Hearing Officer, who shall conduct the hearing, shall announce that the hearing is convened and shall indicate the appeal to be heard. The Hearing Officer will then read the Appeal in to the record and shall note for the record all appearances of record.
- B) The Hearing Officer shall then take up any motions or preliminary matters to be heard.
- C) Opening statements will be heard at the discretion of the Board.
- D) The Petitioner, or his designated agent, or his attorney then presents his evidence after which the Assessor or his representative shall present his evidence. Evidence may be presented through witnesses, oral statements, and/or documentary evidence. Each party shall have the opportunity to cross-examine witnesses on any matter relevant to the issues even though the matter was not covered in direct examination. Any objection to testimony or evidentiary offers should be directed to the Hearing Officer and the basis of the objection stated. The Hearing Officer shall rule on all such objections. These members of the Board may ask questions of any party or any witness for the purpose of clarifying their understanding of the case.
- E) Witnesses testifying before the Board shall first be administered the following oath:

"Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth in the matter now before the Board."

- F) Closing statements may be made at the conclusion of the presentation of evidence by both parties. These statements may include summaries of the evidence and legal arguments.
- G) After all proceedings have been concluded the Board shall dismiss and excuse all witnesses and declare the hearing closed. The Board shall take the appeal under advisement and shall advise the parties. The decision of the Board shall be announced within due and proper time following consideration of all matters presented at the hearing.

Section XVIII. Rules of Evidence: All evidence which is not irrelevant, immaterial or unduly repetitious shall be admitted at the hearing. The Board will give effect to the rules of privilege recognized by law. W.S. 16-3-108 generally sets forth the rules of evidence which will be followed by the Board.

Section XIX. Record of Proceedings: Minutes of the hearing shall be taken and filed with the Clerk to the Board. Minutes shall include all pleadings, notices, motions, rulings, documentary evidence, oral statements, proposed findings, objections thereto, ruling on said objections and the final order. A copy of such minutes will be furnished to any party upon written request to the Board and the payment of a reasonable fee. If one or more parties desire the hearing transcribed by a certified court reporter, they must make the necessary arrangements and bear the cost thereof.

Section XX. Inspection of File: Each party, or his representative, shall be permitted to inspect and copy, at their own expense at the offices of the Board, all documents on file in the appeal, that are permitted by law to be copies.

Section XXI. Decision of Board: The Board shall, following the full and complete hearing, make and enter a written decision containing finding and facts and conclusions of law. Such decisions will be recorded into the minutes and filed with the Clerk of the Board, Upon filing, the Clerk will send a copy to the Petitioner by registered Mail, Return Receipt Requested.

Section XXII. Appeal to the State Board of Equalization: Any petitioner aggrieved or adversely affected by a final decision of the Board in an appeal is entitled to appeal to the State Board of Equalization, pursuant to W.S. 39-11-102.1. Appeal shall be made to the state Board of Equalization, Herschler Building, First Floor-West, Cheyenne, Wyoming 82002. Such Notice of Appeal shall set forth the decision appealed from, shall state, in ordinary and concise language, the facts upon which the appeal is based and shall state the relief desired. The Notice of Appeal must also contain the Petitioner's address. The Notice of Appeal must be filed with the State Board within thirty (30) days of the date of the final administrative decision that is appealed from.

Section XXIII. Severability: If any portion of these Rules is found to be invalid or unenforceable, the remainder shall be in effect.

Section XXIV. Statements of Consideration Confidential:

ANY PERSON OR AGENT WHO CONTESTS HIS PROPERTY TAX ASSESSMENT OR VALUATION IN A TIMELY MANNER AS PROVIDED BY LAW AND THESE RULES IS ENTITLED TO REVIEW STATEMENTS OF CONSIDERATION AND ALL OTHER INFORMATION USED BY THE COUNTY ASSESSOR IN DETERMINING THE VALUE OF THE PROPERTY AT ISSUE.

THE STATEMENT OF CONSIDERATION IS NOT A PUBLIC RECORD AND SHALL BE HELD CONFIDENTIAL BY THE COUNTY CLERK, COUNTY ASSESSOR, THE STATE BOARD OF EQUALIZATION, THE DEPARTMENT OF REVENUE AND WHEN DISCLOSED UNDER SUBSECTION (9) OF W.S.34-1-142, ANY PERSON WISHING TO REVIEW OR CONTEST HIS PROPERTY TAX ASSESSMENT OR VALUATION AND THE COUNTY BOARD OF EQUALIZATION.

STATEMENTS OF CONSIDERATION SHALL NOT BE SUBJECT TO DISCOVERY IN ANY OTHER COUNTY OR STATE PROCEEDING.

IT IS A MISDEMEANOR FOR A PERSON TO WILLFULLY FALSIFY OR PUBLICLY DISCLOSE, EXCEPT AS AUTHORIZED BY THE LAW AND THESE RULES ANY INFORMATION ON THE STATEMENT OF CONSIDERATION REQUIRED BY W.S.34-1-142 AND 34-1-143. UPON CONVICTION, THE OFFENDER IS SUBJECT TO A FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS (\$750.00), IMPRISONMENT OF NOT MORE THAN SIX MONTHS, OR BOTH.

AMENDED AND ADOPTED this 13th day of July, 1999.

BOARD OF COMMISSIONER OF
SHERIDAN COUNTY, WYOMING:


Chairman

ATTEST:


Sheridan County Clerk