

RULES OF PRACTICE AND PROCEDURES FOR CONTESTED CASES
BEFORE THE FREMONT COUNTY BOARD OF EQUALIZATION
INVOLVING TAXATION MATTERS

Section I. Authority

These Rules of Practice and Procedure are promulgated by authority of the Wyoming Administrative Procedures Act, W.S. § 16-3-101, et seq (W.A.P.A.) and W.S. § 39-13-101, et seq.

Section II. Purpose of Rules.

These rules are intended to provide a uniform and understandable process for protests from administrative decision of the Fremont County Assessor (hereinafter "The Assessor") to the Fremont County Board of Equalization (hereinafter "The Board") and to provide for the fair and just disposition of such appeals.

Section III. Application of Rules.

These rules apply to all contested cases 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 W.S. § 39-13-109 and brought before the Board from any assessment of the Assessor.

Section IV. Construction.

These rules are to be liberally construed to assure the unbiased, fair, expeditious and impartial conduct of proceedings. *Ririe v. Board of Trustees*, 674 P.2d 214 (Wyo.1983).

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 Wyoming Administrative Procedure Act, 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. *White v. Board of Trustees. Of Western Wyoming Community College District*, 648 P.2d 528 (Wyo. 1982).

Section VI. Definitions.

For the purpose of appeals brought before the Board under these rules, the following definitions apply:

- A. "Protest" – 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. A protest is a contested case as that term is defined in W.S. § 16-3-101(b)(ii).
- B. "Taxpayer" – any person contesting the assessment of his/her property by seeking relief before the Board.

- C. "Board" – the County Board of Equalization as set forth in W.S. 39-13-102.
- D. "Clerk" – the County Clerk who will be the Secretary to the Board and will attend all hearings.
- E. "Parties" – the Assessor and the Taxpayer seeking relief before the Board.
- F. "Person" – means an individual, partnership, corporation, company or any type of association and any agent or officer of any partnership, corporation, company or other type of association owning property and receiving a property assessment.
- G. "Hearing Officer" – the Presiding Officer in a contested case as set forth in W.S. 16-3-112.

Section VII. Meeting of the Board and Designation of Presiding Officer.

The Board will meet no earlier than the fourth Tuesday in April to consider current year assessments. W.S. 39-13-102(c). The Board shall designate a presiding officer (Hearing Officer) who shall be a licensed attorney on contract with the Fremont County Board of Commissioners who is knowledgeable of and qualified in the particular area of taxation. The functions of the presiding officer shall be conducted in an impartial manner. Presiding officers shall have the full authority provided by W.S. 16-3-112(b).

Section VIII. Commencement of Protest.

Any person wishing to contest an assessment of his/her property shall file a statement under oath with the Assessor no later than thirty (30) days after the date or postmark of the assessment schedule. Said statement may be filed by ordinary mail, hand delivery or electronic means which must be followed by a signed or otherwise duly executed original, mailed within 24 hours of the electronic transmission. Any statement filed shall include:

- A. The name, mailing address and phone number of the Taxpayer;
- B. A concise statement of the facts, issues and objection which the Taxpayer 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; and
- E. A copy of the assessment schedule.

ANY STATEMENT NOT TIMELY FILED, OR NOT COMPLETED IN ACCORDANCE WITH THESE RULES MAY BE DISMISSED. Upon request, the Assessor's office will provide the Taxpayer a form Statement to Contest Property Tax Assessment that conforms to these rules.

Section IX. Notice of Hearing.

The Clerk shall by notice set a time and place for hearing the case. The notice shall set forth the date, time, place and nature of the hearing.

Section X. Production of Documents and Discovery.

- A. Production of Documents: The Assessor and the person contesting the assessment, or his agent, shall disclose witnesses and exchange information, evidence and documents relevant to the protest, including sales information from relevant statements of consideration if requested, no later than fifteen (15) days prior to the scheduled hearing. The Assessor shall specifically identify the sales information used to determine market value of the property under protest. Failure to file evidence or documents may result in exclusion of said evidence or documents from consideration.
- B. Discovery: Unless otherwise prohibited by law or limited by these Rule or Board order, the taking of discovery shall be available to the parties in accordance with the provisions of W.S. 16-3-107.

Section XI. 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.

Section XII. 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 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 XIII. 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 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 and Representation.

- A. The Taxpayer may represent him/her at the hearing; a person designated by the Taxpayer may represent him, or he/she may be represented by an attorney who is duly authorized to practice law in the State of 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 OR BE EXAMINED OR ANSWER ANY MATERIAL QUESTION UPON THE BOARD'S REQUEST.**
- B. The Assessor may represent himself/herself, or be represented by any of his/her employees or designee of the Fremont County Attorney's office.
- C. If and when either, the Assessor, Taxpayer or the Board discloses statement of consideration with respect to the value of the assessment of Taxpayer's property, the hearing shall be declared closed. In case of such disclosure, only the Taxpayer or his agent or Taxpayer's legal counsel, the Assessor and/or deputies, the Assessor's designee and the Assessor's legal counsel, the members of the Board or County Commissioners, the Hearing Officer, board counsel, the County Clerk and/or 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.**
- D. The Presiding Officer shall have full authority to limit time for the conduct of the hearing.

Section XVI. Burden of Going Forward; Burden of Persuasion.

Except as specifically provided by law or in this Section, the Taxpayer shall have the burden of going forward and the ultimate burden of persuasion, which burden should be met by a preponderance of reliable and probative evidence. The presumption is that the Assessor's valuations of property are valid, accurate, and correct. *Basin Electric Power Coop. v. Dept of Revenue*, 970 P.2d 841 (Wyo. 1998). The Taxpayer has the initial burden to present sufficient credible evidence to overcome the presumption, and a mere difference of opinion as to value is not sufficient. *Id.* If the Taxpayer provides credible evidence that the Assessor's determination is incorrect or unlawful, the burden shifts to the Assessor to defend his/her valuation. *Teton Valley Ranch v. State Bd. Of Equalization*, 735 P.2d 107, 113 (Wyo. 1987), *Colorado Interstate Gas Co. v. Wyoming Dept. of Revenue*, 20 P.3d 528, 531 (Wyo. 2001).

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 protest to be heard. The Hearing Officer will then read the protest into 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 Taxpayer, or his designated agent, or his attorney then presents his evidence after which the Assessor or his representative shall present evidence. Evidence may be presented through witnesses, oral statements, and/or documentary evidence. Each party shall have the opportunity to cross-examine witnesses in 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. The members of the Board or Hearing Officer may ask questions of any party or any witness for the purpose of clarifying their understanding of the case.
- E. Both parties may make closing statements at the conclusion of the presentation of the evidence. These statements may include summaries of the evidence and legal arguments.
- F. After all proceedings have been concluded the Board shall dismiss and excuse all witnesses and declare the hearing closed. The Board shall take the protest 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 but in no event later than the first Monday in August pursuant to W.S. § 16-3-102(c)(v).

Section XVIII. Rules of Evidence.

All evidence, which is relevant, material or not 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.

The hearing shall be electronically recorded and filed with the Clerk to the Board. The record shall include all pleadings, notices, motions, rulings, documentary evidence, oral and recorded 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 the 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 protest, that are permitted by law to be copied.

Section XXI. Decision of the Board.

The Board shall, following the full and complete hearing, make and enter a written decision containing findings and facts and conclusions of law. Such decisions will be part of the record and filed with the Clerk of the Board. Upon filing, the Clerk will send a copy to the Taxpayer by registered Mail, Return Receipt Requested.

Section XXII. Appeal to the State Board of Equalization.

Any party aggrieved or adversely affected by a final decision of the Board is entitled to appeal to the State Board of Equalization pursuant to W.S. § 39-11-101 et seq. Appeal shall be made to the State Board of Equalization, Hershler Building, First Floor-West, Cheyenne, WY 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 Taxpayer'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. The Taxpayer is advised to review the State Board of Equalization's laws and regulations carefully and not rely on this section.

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 OF PUBLIC RECORD AND SHALL BE HELD CONFIDENTIAL AND NOT DISCLOSED BY THE COUNTY CLERK, COUNTY ASSESSOR, STATE BOARD OF EQUALIZATION, THE DEPARTMENT OF REVENUE, THE COUNTY BOARD OF EQUALIZATION OR WHEN DISCLOSED

PURSUANT TO § W.S. 34-1-142, ANY PERSON WISHING TO REVIEW OR CONTEST HIS PROPERTY TAX ASSESSMENT OR VALUATION.

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

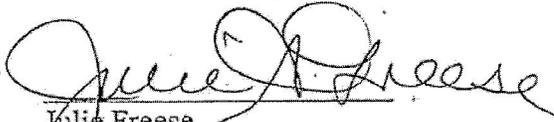
IT IS A MISDEMEANOR FOR A PERSON TO WILLFULLY FALSIFY OR PUBLICLY DISCLOSE, EXCEPT AS AUTHORIZED BY THE LAW AND THESE RULES, ANY INFORMATION ON THE STATEMENT OF CONSIDERATION REQUIRED BY W.S. 34-1-142 AND W.S. 34-1-143. UPON CONVICTION THE OFFENDER IS SUBJECT TO A FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS (\$750.00), IMPRISONMENT OF NOT MORE THAN SIX (6) MONTHS, OR BOTH.

AMENDED AND ADOPTED this 14th day of May, 2002

BOARD OF COMMISSIONER OF
FREMONT COUNTY, WYOMING:


SCOTT LUTHER, Chairman

ATTEST:


Julie Freese
Fremont County Clerk