

RESOLUTION NO. _____

WHEREAS, a uniform and understandable process for appeals from administrative decisions of the Assessor of Hot Springs County to the Hot Springs County Board of Equalization and providing for the fair and just dispositions of such appeals is necessary; and

WHEREAS, Wyoming Statute 39-13-102(c)(iv) provides authorization for such fair and just dispositions in such appeals; and

WHEREAS, these procedures shall apply to all appeals brought before the County Board of Equalization concerning those matters administered by the Assessor under Title 39, Taxation and Revenue, of the Wyoming Statutes. Specifically, these rules shall apply to appeals authorized in W.S. 39-13-109 and brought before the County Board of Equalization from any assessment of the Assessor; and

WHEREAS, this resolution is to be liberally construed to assure the unbiased, fair, expeditious and impartial conduct of any appeal hearing.

IT IS THEREFORE HEREBY BY RESOLVED AS FOLLOWS:

1. Unless otherwise provided by law, the proceedings for appeals shall be governed by the contested case provisions, W.S. §16-3-107 through 16-3-112, of the Wyoming Administrative Procedure Act, this resolution, and, to the extent their application is not inconsistent with the application to an administrative contested case proceeding, the Wyoming Rules of Civil Procedure.
2. The following terms as used herein and shall have the following meanings:
 - a. Appeal – A proceeding before the County Board of Equalization in which the legal rights, duties or privileges of a party are to be determined 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. Assessor – The duly elected or appointed Assessor of Hot Springs County. Administrative decisions of the Assessor will include those of his/her deputy or property tax appraisers.
 - d. Appellant – Any person contesting the assessment of his/her property by seeking relief before the County Board of Equalization.
 - e. Parties – The Assessor and the Appellant seeking relief before the County Board of Equalization.
 - f. Person – 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.
 - g. Hearing Officer – any person retained by the County Board of Equalization to assist and/or provide legal advice to the County Board of Equalization during the process of preparing for and conducting an appeal hearing.
 - h. Chairman - the Chairman of the County Board of Equalization, as selected by the members of the County Board of Equalization.
3. The County Board of Equalization may designate a Hearing Officer who shall be a licensed attorney knowledgeable and qualified in the conducting of administrative hearings. The Hearing Officer shall have full authority as granted by the County Board of Equalization and as provided by W.S. 16-3-112 (b).

4. The County Clerk shall act as Clerk of the County Board of Equalization. All pleadings, notices, motions, rulings, documentary evidence and orders shall be maintained by the Clerk of the County Board of Equalization.

5. Any person wishing to contest an assessment of his property shall file not later than thirty (30) days after the date or postmark date of the assessment schedule properly sent pursuant to W.S. 39-13-103 (b)(vii), whichever is later, a statement with the county assessor specifying the reasons why the assessment is incorrect. Said statement may be filed by ordinary mail, hand delivery or electronic means. Any statement filed by electronic means must be followed by a signed or otherwise duly executed original mailed within 24 hours of the electronic transmission. The statement shall include the name, mailing address and phone number of the appellant; a concise statement of the facts, issues and objections which the appellant considers relevant to the assessment of the property; a concise statement as to the relief desired, a reference to the statutes, rules or orders that may apply, if known, and a copy of the Assessment Schedule. Upon request, the Assessor's Office shall provide to the Appellant a form "Statement to Contest Property Tax Assessment" that conforms with these rules.

ANY STATEMENT NOT TIMELY FILED, OR NOT COMPLETED IN ACCORDANCE WITH THIS RESOLUTION SHALL BE DISMISSED BY THE COUNTY BOARD OF EQUALIZATION.

6. The assessor shall provide a copy of the Statement to Contest Property Tax Assessment to the County Clerk as Clerk of the County Board of Equalization. The Clerk shall by notice in writing to all parties, mailed certified return receipt, set a date, time and place for hearing the appeal.

7. If the County Board of Equalization determines an appeal should be initially considered by the State Board of Equalization, the County Board of Equalization may request such review, in writing, stating the reasons the County Board of Equalization feels initial review by the State Board of Equalization is appropriate.

8. The Appellant shall meet with the assessor as soon as possible after the filing of an appeal, but no later than twenty (20) days before the scheduled hearing to verify that all relevant valuation data for the property in question was accurate as of the lawful assessment date, other than estimates of condition, that was available to and was the basis on which the Assessor based his/her assessment at the time of the assessment was accurate.

9. Except to the extent authorized by law, the members of the County Board of Equalization are prohibited from engaging in ex parte communications, that relate in any manner to the appeal, with any party to the appeal. If there is any ex parte communication in relation to the appeal, the involved member of the County Board of Equalization involved shall:

- a. Immediately prepare a written summary setting forth the substance and circumstances of the communication, including but not limited to the date, time, location, substance of the communication, any witnesses to the communication and who the ex parte communication was with and file the summary with the Clerk of the County Board of Equalization; and
- b. Mail a copy of the summary to all parties to the proceeding and the hearing officer, if one is retained by the County Board of Equalization, or the Chairman of the County Board of Equalization if there is no hearing officer.

10. Motions requesting continuances or extensions of time will be granted only upon a showing of good cause or when necessary to assure fairness. Unless time does not permit, motions for a continuance or extension of time shall be in writing, shall state the reasons for the request and shall be filed and served on all parties.

11. Subpoenas for appearance and/or to produce books, papers, documents, or exhibits shall be issued by the County Board of Equalization, upon written motion of any party, pursuant to W.S. 16-3-107(c).

12. Each member of the County Board of Equalization shall consider any potential conflict of interest with appeals or parties coming before the County Board of Equalization. When it appears to a member of the County Board of Equalization that the member may have a conflict of interest, that member shall declare in writing the potential conflict of interest at the earliest opportunity, but no later than the commencement of the appeal hearing. The statement of the potential conflict of interest shall be filed with the clerk with a copy mailed to all parties. If there are privacy concerns regarding the possible conflict of interest, the disclosure of any information relating to the privacy concerns shall take place in a closed and confidential hearing.

13. In the event of recusal of a County Board of Equalization Member and/or the inability of any County Board of Equalization Member to serve for any reason, the remaining County Board of Equalization Members shall attempt to select a replacement, acceptable to both parties, to replace the recused and/or unavailable member of the County Board of Equalization for that appeal only. In the event that a replacement cannot be selected, either party may request certification to and hearing by the State Board of Equalization or upon the agreement of both parties, the appeal may be heard by the remaining County Board of Equalization member(s). In the event both parties consent to hearing by the remaining County Board of Equalization members and there is a tie vote of the remaining members of the County Board of Equalization, the Hearing Officer shall cast the deciding vote.

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14. As nearly as possible, County Board of Equalization hearings shall be conducted in accordance with the following order of procedure:

- b. The Chairman or the Hearing Officer shall conduct the hearing, announce that the hearing is convened and state the appeal to be heard. The Chairman or Hearing Officer will then read the appeal into the record and determine for the record, those present on behalf of the Appellant and the Assessor;
- a. The Chairman or Hearing Officer shall then call for consideration of any preliminary matters;
- a. Opening Statements will be heard at the discretion of the Chairman or the Hearing Officer;
- a. The Chairman or Hearing Officer shall administer an oath to all persons who are to testify.
- a. Except as specifically provided by law or in this section, the Appellant shall have the burden of going forward by the presentation of evidence or testimony and the ultimate burden of persuasion, which burden shall 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. The Appellant has the initial burden to present sufficient credible evidence to overturn the presumption, and a mere difference of opinion as to value shall not be sufficient. If the Appellant provides credible evidence that the Assessor's determination is incorrect or unlawful, the burden shifts to the Assessor to defend his/her valuation.
- a. Evidence may be presented through witnesses, oral statements, and/or documentary means. Each party shall have the opportunity to cross-examine witnesses in any matter relevant to the issues. Any objection to testimony or evidentiary offers shall be directed to the Chairman or Hearing Officer and the basis for the objection stated. The Chairman or Hearing Officer shall rule on all such objections. The members of the Board may ask questions of any party or any witness for the purpose of clarifying their understanding of the case;
- a. Both parties may make closing statements after presentation of evidence. These statements may include summaries of the evidence and legal arguments. Appellant shall make his closing statement first followed by the Assessor with the Appellant being provided an opportunity to respond to any closing statement made by the Assessor.
- a. If the Assessor, the appellant or the County Board of Equalization wishes to disclose and/or discuss any information contained within a Statement of Consideration, the hearing shall be closed. In case of closure of a hearing, only the appellant or his agent and legal counsel, the assessor and /or his/her staff and legal counsel, the members of the County Board

of Equalization, the hearing officer, the County Clerk and staff, and the court reporter may remain. The Hearing Officer shall regulate the course and conduct of the hearing to ensure that the parties disclose information contained in Statements of Consideration, and examine witnesses relative to those statements, during the time the hearing is closed. All proceedings during a closed hearing are confidential. (It is a misdemeanor offense for a person to willfully falsify or publicly disclose, except as authorized by the law and these Rules, any information contained on a 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.)

- i. After all proceedings have been concluded, the County Board of Equalization shall dismiss and exclude all parties and witnesses and declare the hearing closed. The County Board of Equalization shall take the appeal under advisement and shall render a decision in accordance with W.S. §16-3-110.

15. In the discretion of the Chairman of the County Board of Equalization any evidence offered, subject to the requirements of paragraph 16., may be admitted at the hearing, provided it is not irrelevant, immaterial or unduly repetitious. The County Board of Equalization will adhere 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.

16. The Assessor and Appellant, 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 after the signing of a confidentially statement acknowledging the provisions of W.S. §34-1-142(e), 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 disclose witnesses and exchange information, evidence and documents relevant to the appeal, including sales information from relevant statements of consideration if requested as required shall result in exclusion of said evidence or documents from consideration.** Unless otherwise prohibited by law, limited by this Resolution or order of the County Board of Equalization, the taking of discovery shall be available to the parties in accordance with the provisions of W.S. 16-3-107.

17. The County Board of Equalization may receive evidence relative to any assessment and may require the person assessed or his agent or attorney to appear before it, be examined and produce any documents relating to the assessment. 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 county Board of Equalization's request.

18. Any hearing relating to the appeal shall be tape-recorded. The County Board of Equalization shall furnish a copy of the tape recordings to any party upon written request and upon payment of any cost. If one or more parties desire any hearing to be transcribed by a certified court reporter, that party must make the necessary arrangements and bear the cost thereof.

19. Appellant, or his representative, shall be permitted to inspect and copy, at their own expense at the offices of the County Board of Equalization, all documents on file in the appeal that are permitted by law to be copied.

RESOLVED THIS _____ day of _____, 2004.

Charles N Stump

Chairman

Attest to this ____ day of _____, 2004:

Hans Odde

Hot Springs County Clerk