

RESOLUTION NO. 2010-4

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

WHEREAS, Wyoming Statutes 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 Board of Equalization concerning those matters administered by the Assessor under Title 39, Taxation and Revenue, of the Wyoming Statutes. Specifically, they shall apply to appeals authorized in W.S. 39-13-109 and brought before the Board 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 the hearing;

IT IS THEREFORE HEREBY RESOLVED AS FOLLOWS:

1. Unless otherwise provided by law, the proceedings for appeals shall be governed by the contested case provisions, W.S. 16-3-101 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 are 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 deputies or property tax appraisers.
 - d. Appellant – Any person contesting the assessment of his/her property by seeking relief before the Board.
 - e. Parties – The Assessor and the Appellant seeking relief before the Board.
 - 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.

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 of the assessment schedule properly sent pursuant to W.S. 39-13-103 (b)(vii) a statement with the county assessor specifying the reasons why the assessment is incorrect. Said statement shall 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 will provide to the Appellant a form "Statement to Contest Property Tax Assessment" that conforms to 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 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. Such reasons may include the complexity of the issues presented, the likelihood of an appeal from the County Board to the State Board, issues of importance which may affect other taxpayers, possibly even in other counties, as well as novel questions of law.
8. The Appellant shall meet with the assessor and/or property tax appraiser from the Assessor's Office as soon as possible after the filing of an appeal but no later than twenty (20) days before the scheduled hearing, at the subject property, to verify that all relevant valuation data for the property in question that was available to and was the basis on which the Assessor based his/her assessment as of the lawful assessment date was accurate. If the appeal is on improvements to land, a complete interior and exterior review of the improvement is required. If field review is not allowed, appeal will be dismissed.
9. If requested by either the Assessor or the appealing party, a prehearing conference shall be set up with the hearing officer to clarify the points under appeal.
10. 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.
11. 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.

12. 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).
13. Any Commissioner having a conflict recognized by law or who feels that he cannot be unbiased, shall recuse himself. Appeal will be heard by remaining County Board of Equalization members. In case of a tie vote, Assessor's valuation shall prevail.
14. 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.
15. The Appellant has the right to represent himself at the hearing or be represented by his agent; or he 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 the hearing before the County Board of Equalization and be examined or answer any material questions upon the Board's request.
16. The Assessor may be represented by himself/herself, his designee, the County Attorney, or an attorney duly authorized to practice law in the State of Wyoming. (If the County Attorney or his staff is unavailable and outside counsel is hired, that counsel will be paid for by the County.)
17. 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 signing of a confidentiality agreement acknowledging the provisions of W.S. 34-10142(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. **A copy of all material disclosed and exchanged shall be forwarded to the Hearing Officer. Failure to disclose witnesses and exchange information, evidence and documents relevant to the appeal, including sales information from relevant statements of consideration, if requested, will result in exclusion of said evidence or documents from consideration.** Unless otherwise prohibited by law or limited by this Resolution or Board Order, the taking of discovery shall be available to the parties in accordance with the provisions of W.S. 16-3-107.)
18. As nearly as possible, County Board of Equalization hearings shall be conducted in accordance with the following order of procedure:
 - a. 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;
 - b. The Chairman or Hearing Officer shall then call for consideration of any preliminary matters;
 - c. Opening Statements will be heard at the discretion of the Chairman or the Hearing Officer;
 - d. The Chairman or Hearing Officer shall administer an oath to all persons who are to testify.
 - e. Except as specifically provided by law or in this section, the Appellant 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. The Appellant has the initial burden to present sufficient credible

evidence to overturn the presumption, and a mere difference of opinion as to value is not sufficient. In any appeal to the CBOE, the taxpayer may present any credible evidence, including expert opinion testimony, to rebut the presumption in favor of a valuation asserted by the County Assessor. W.S. 39-13-109 (b) (vi). 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.

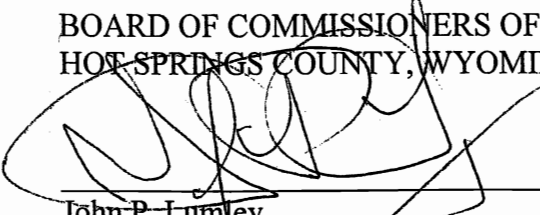
- f. Evidence may be presented through witnesses, oral statements, and/or documentary means. Each party shall have the opportunity to cross-examine witnesses in any matter relevant to the issues. Any objection to testimony or evidentiary offers shall be directed to the Chairman or Hearing Officer and 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.
 - g. 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.
 - h. 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 county assessor and /or his/her staff and legal counsel, the member 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 shall only disclose Statements of Consideration, and examine witnesses relative to those statements, during the time the hearing is declared 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 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 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. The decision shall be made prior to the first Monday in August and shall contain findings of fact and conclusions of law. The decision will be recorded into the minutes and filed with the Clerk of the Board. Upon filing, the Clerk will send a copy to the Appellant by Registered Mail, Certified, Return Receipt Requested. The Clerk will also deliver a copy of the decision to the County Assessor.
19. Time limit for each appeal shall be 1 hour (30 minutes for appellant and 30 minutes for Assessor), unless the appeal is extremely detailed. Hearing officer shall regulate the course and conduct of the hearing, keep the hearing on track by limiting repetitious and/or off topic comments & discussion.
20. The County Board of Equalization has no power to and shall not set tax policy nor engage in any administrative duties concerning assessments which are delegated to the State Board of Equalization, the Department of Revenue or the County Assessor.
21. 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.

22. Appellant, or his representative, shall be permitted to inspect and copy, at their own expense at the office of the County Board of Equalization, all documents on file in the appeal that are permitted by law to be copied.
23. Any party who feels 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. The Notice of Appeal must be filed with the State Board of Equalization, at the office of the Board, 122 West 25th Street, Cheyenne, WY, 82003-0048 within thirty (30) days of the date of the final administrative decision by the County Board of Equalization.

AMENDED AND ADOPTED THIS 16th day of November, 2010

BOARD OF COMMISSIONERS OF
HOT SPRINGS COUNTY, WYOMING



John P. Lumley

Brad Basse

Micheal R. Baker

ATTEST:



Hans Odde
Hot Springs County Clerk