

**RULES OF PRACTICE AND PROCEDURE
FOR APPEALS BEFORE THE
CONVERSE COUNTY BOARD OF EQUALIZATION
INVOLVING TAXATION MATTERS**

Section I. Authority.

These rules of Practice and Procedure are promulgated by authority of W.S. 16-3-101-115 (WAPA) and W.S. 39-13-102.

Section II. Purpose of Rules.

These rules are intended to provide a uniform and understandable process for appeals from administrative decisions of the Converse County Assessor, hereinafter referred to as County Assessor, or the Converse County Board of Equalization, hereinafter referred to as County Board, 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 County Board concerning those matters administered by the County 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 County Board from any final assessment of the County 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 Proceedings.

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 Revised Wyoming Rules of Civil Procedure, Effective March 24, 1992 (RWRCPP). *White v. Board of Trustees of Western Wyoming Community College District*, Wyo., 548 P. 2d 528 (1982).

Section VI. Definitions.

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

A. Appeal: A proceeding before the County Board in which the legal rights, duties, or privileges of a party are to be determined by the County 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. County Board: The Converse County Board of Equalization as set forth in W. S. 39-13-102.

C. County Assessor: The County Assessor of Converse County, Wyoming.

D. County Clerk: The County Clerk of Converse County, who acts as secretary to the County Board and shall attend all hearings.

E. Petitioner: Any person, firm, corporation, partnership or association who files an Appeal seeking relief before the County Board from any final administrative decision of the County Assessor.

F. Parties: The Petitioner and the County Assessors.

G. Hearing Officer: The Presiding Officer in a contested case as set forth in W.S. 16-3-112.

Section VII. Meeting of the County Board.

The County Board of Equalization is authorized to meet at the office of the Converse County Commissioners at such times as may be necessary to perform its statutory duties, but no earlier than the fourth Tuesday in April to consider any appeals of current year assessments.

Section VIII. Commencement of Appeals:

Any person(s) wishing to contest an assessment of his/their property shall file a statement with the County Assessor no later than thirty (30) days after the date of the assessment schedule. Said statement must be received by the County Assessor's Office with original signature(s) no later than 5:00 p.m. on the 30th day. Should the 30th day fall on a weekend or holiday, the statement shall be filed by 5:00 p.m. the next business day.

A. The statement shall include:

- (1) The name, mailing address and phone number of the Petitioner;
- (2) The account number, location of the property, legal description (if real property);
- (3) A concise statement of the facts, issues and objection which the Petitioner considers relevant to the assessment of the property in question.
- (4) A concise statement as to the relief desired;
- (5) A reference to the statutes, rules or orders that may apply, if known.

B. Any statement not timely filed, or not completed in accordance with these rules may be dismissed.

C. The County Assessor shall provide a copy to the County Clerk as Clerk of the County Board of Equalization.

D. The Petitioner will be notified by the Clerk of the County 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 IX. Submission of evidence or witnesses:

A. 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.

B. Failure to file evidence, documents or list witnesses will result in exclusion of said evidence or documents from consideration.

C. 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.

Section X. Ex Parte Discussions:

Except to the extent authorized by law, members of the County Board, staff members of the County 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 an appeal 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 appeal process; and
- C. Indicate that the matter covered in the communication will be considered at the next scheduled hearing relating to the appeal, or as otherwise scheduled with notice to all parties.

Section XI. Motions:

A. An application for a County Board order shall be by motion, which, unless made during the conduct of a scheduled 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 County Board and all parties within fifteen (15) days of service of the motion. The response shall set forth, with particularity, the party's objections to the motion. No motions shall be filed within twenty (20) days of a hearing.

B. Absent a request for hearing by a moving party or any party affected by the motion, the County Board or Hearing Officer may, in its discretion, determine the motion without a hearing based solely upon the written motion and written response. A motion not determined within ninety (90) days after filing shall be deemed denied. The County Board or

Hearing Officer 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 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 scheduled hearing shall be in writing, shall state the reasons therefore and shall be filed and served on 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 in writing, filed with the County Board 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 County 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 RWRCP. (Section 16-3-107, WAPA.)

A. The County Board may issue discovery and protective orders in accordance with the RWRCP.

B. Unless otherwise ordered by the County Board, all discovery must be complete and any submission of exhibits, witnesses or other evidence fifteen (15) days prior to the date of hearing pursuant to Section 9(a), (b) and (c) herein.

C. Unless otherwise ordered, discovery documents shall not be filed with the County Board, except in support of a motion to compel discovery or as evidence.

D. County Board Orders may be enforced as provided by law.

Section XIV. Subpoenas:

A. Subpoenas for appearance of witnesses and to produce books, papers, documents or exhibits will be issued by the County Board or Hearing Officer, 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 may be represented by an attorney duly authorized to practice law in the State of Wyoming or is associated 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 scheduled meeting of the County Board to be examined or answer any material question upon the County Board's request. The County Assessor may be represented by himself/herself, any of his/her employees or designees, or an Attorney employed by Converse County for that purpose or by the Converse County Attorney.

If and when either the County Assessor or Petitioner of the County Board 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 his/her deputies and the County Assessor's legal counsel, the members of the County Board, the Hearing Officer, Board Counsel, the County Clerk and/or her/his deputies and the court reporter may remain for that portion of the hearing.

The Hearing Officer shall regulate the course and conduct of the hearings 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 Proof:

Except as specifically provided by law or in this Section, the Petitioner shall have the burden of going forward and the ultimate burden of proof.

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 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 Office shall then take up any motions or preliminary matters to be heard.

C. Opening statements will be heard at the discretion of the County Board.

D. The Hearing Officer, in addition to the authority granted and enumerated under W.S. 16-3-112, shall make any necessary rulings regarding the conduct of the hearing and shall rule on the admissibility of evidence based on the Wyoming Rules of Evidence, to the extent their application is not inconsistent with the administrative contested case proceeding conducted under the WAPA.

E. The Petitioner, the Petitioner's designated representative, or attorney, shall then present evidence, after which the County Assessor or designated representative or attorney shall present evidence. Evidence may be presented through witnesses, oral statements, and/or documentary evidence. Each party shall have the opportunity to cross examine adverse 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 stating the basis for the objection. The Hearing Officer shall rule on all such objections. The members of the County Board or the County Attorney may ask questions of any party or any witness for the purpose of clarifying their understanding of the facts, evidence and/or issues of the appeal.

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 County Board shall dismiss and excuse all witnesses and declare the hearing closed. The Board may ask for proposed Findings of Fact and Conclusions of Law from both parties at a date established by the County Board. The County Board may take the appeal under advisement and shall so 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 County Board and Hearing Officer shall give effect to the Rules of Privilege recognized by law. The Rules of Evidence which will be followed by the County Board or Hearing Officer are generally set forth in W.S. 16-3-108.

Section XIX. Record of Proceedings:

A record of the hearing shall be taken by mechanical recording or stenographic writing and filed with the Secretary to the Board. The hearing record shall include all pleadings, notices, motions, rulings, exhibits received into evidence, oral statements, proposed findings, objections thereto, rulings on said objections, and the final order. A copy of such hearing records shall be furnished to any party upon written request to the County Board and the payment of a reasonable fee established by the County Board. 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 designated representative, shall be permitted to inspect and copy, at their own expense, at the offices of the County Board, all documents on file in the appeal which are permitted by law to be copied.

Section XXI. Decision of the County Board:

A. The County Board shall, following the full and complete hearing, make and enter a written decision containing Findings and Facts and Conclusions of Law on or before the first Monday in August. Such decisions will be recorded into the minutes and filed with the Secretary of the Board. Upon filing, the Secretary will send a copy to the Petitioner by U.S. Mail, with a copy to the Converse County Assessor.

B. The County Board 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.

Section XXII. Appeal to the State Board of Equalization:

Any Petitioner aggrieved or adversely affected by a final decision of the County Board, in an appeal, is entitled to appeal to the State Board of Equalization pursuant to W.S. 39-11-102.1. Appeals shall be made to the State Board of Equalization, Herschler Building, First Floor-West, Cheyenne, Wyoming 82002. The Notice of Appeal shall set forth the decision being appealed and shall state, in ordinary and concise language, the facts upon which the appeal is based and the relief sought. 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 from the date of mailing of the final administrative decision of the County Board.

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:

A. 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 for properties of like use and geographic area and all other information used by the County Assessor in determining the value of the property at issue.

B. 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 W.S. 34-1-142 (e), any person wishing to review or contest his property tax assessment or valuation and the County Board of Equalization.

C. Statements of Consideration shall not be subject to discovery in any other county or state proceeding.

D. Pursuant to W.S. 34-1-144, It is a misdemeanor for a person to willfully falsify or publicly disclose, except as authorized by 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 fine of not more than seven hundred fifty dollars (\$750.00) imprisonment of not more than six months, or both.

Section XXV. Replacement of Prior Rules:

These Rules of Practice and Procedure for Appeals before the County Board of Equalization of Converse County, Wyoming, involving taxation matters, shall replace any prior Rules adopted by Converse County for the purposes set forth herein.

AMENDED AND ADOPTED this 6th day of April, 2011.

BOARD OF COMMISSIONERS

OF CONVERSE COUNTY, WYOMING:

Michael F. Colling, Chairman

ATTEST:

Lucile K. Taylor, Converse County Clerk