

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF)
JOHN GORSKI FROM A DECISION) Docket No. **2016-52**
BY THE ALBANY COUNTY BOARD OF)
EQUALIZATION)
(2016 Property Tax Assessment))

ORDER OF REMAND

THIS MATTER came before the State Board Board of Equalization (State Board) on appeal from a purported decision of the Albany County Board of Equalization (County Board). The State Board on its own motion has reviewed the record and is compelled to remand this case to the County Board for issuance of a final, appealable decision.

Petitioner attached a copy of a decision purporting to be the Decision of the County Board to his Notice of Appeal. That decision’s heading stated it was “ASSESSOR’S PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW.” (Notice of Appeal). The first paragraph of that document continued:

The Albany County Assessor, Grant C. Showacre (hereinafter referred to as “Assessor”) by and through, Peggy A. Trent, County and Prosecuting Attorney in and for Albany County, Wyoming, and in the name and by the authority of the State of Wyoming, hereby submits to the Albany County Board of Equalization the following proposed findings of fact and conclusions of law for the Board’s consideration[.]

(Notice of Appeal). It was signed by the Hearing Officer. *Id.* This same document is the last document in the County Board record certified to us by the Albany County Clerk. (R. at 000287-92).

The decision, over the signature of the hearing officer does indicate it was “FOR the Albany County Board of Equalization.” (Notice of Appeal; R. at 292). There is nothing in the record before us, however, indicating the County Board considered the parties’ proposed findings and conclusions or how the members voted.

Based on the state of the record, we must decide whether the decision signed by a hearing officer is “final” and may be appealed to the State Board.

A taxpayer may file an appeal with the State Board within 30 days of a county board's **final decision**. Rules, Wyo. State Bd. of Equalization, ch. 3 § 2(a) (2006).

Wyoming Statutes provide that a county board of equalization shall:

(iv) Hear and determine the complaint of any person relative to any property assessment or value as returned by the county assessor subject to W.S. 39-13-109(b)(i);

(v) Decide all protests heard and provide the protestant with a written decision no later than October 1.

Wyo. Stat. Ann. § 39-13-102(c)(iv)-(v) (2015).

Wyoming Statutes require the State Board to adopt uniform rules for use by county boards in hearing appeals. *See* Wyo. Stat. Ann. § 39-11-109(b)(i) (2015). Those rules provide that “[t]he **county board** shall take the appeal under advisement[,]” and “**shall, following a hearing, make and enter a written decision containing findings of facts and conclusions of law separately stated.**” Rules, Wyo. State Bd. of Equalization, ch. 7 §§ 16(f) & 21(a) (2015) (emphasis added).

The Wyoming Administrative Procedure Act sets out the authority of presiding officers in administrative hearings. They have authority, subject to the published rules of the agency, to:

- (i) Administer oaths and affirmations;
- (ii) Issue subpoenas;
- (iii) Rule upon offers of proof and receive relevant evidence;
- (iv) Take or cause depositions to be taken in accordance with the provisions of this act and the rules of the agency;
- (v) Regulate the course of the hearing;
- (vi) Hold conferences for the settlement or simplification of the issues;
- (vii) Dispose of procedural requests or similar matters;
- (viii) **Make recommended decisions when directed to do so by the agency;** and
- (ix) Take any other action authorized by agency rules consistent with this act.

Wyo. Stat. Ann. § 16-3-112(b) (2015) (emphasis added). A presiding officer's authority is limited to oversight of the hearing. They do not have the authority to render final decisions in place of a County Board. *Id.*, *see* Rules, Wyo. State Bd. of Equalization, ch. 7 § 4(e) (2015).

A final order signed by a member of a board acting as its hearing officer is sufficient to constitute a final decision in a contested case when the record indicates the full board decided the matter. *Grams v. Environmental Quality Council*, 730 P.2d 784, 789 (Wyo. 1986). In this case, however, there is nothing in the order or the record that indicates the full county board considered the matter or that the decision reflects the decision of the County Board.

The State Board concludes the signature of a hearing officer on a proposed order, purporting to be made on behalf of the County Board, is insufficient and is not a final order. Based on the state of the record before us, the State Board is compelled to remand this matter to the County Board for consideration and issuance of a final decision signed by the members of the County Board or its chairman, provided the record contains sufficient evidence that the full County Board considered the matter and that the decision reflects the will of a majority of the County Board.

The State Board notes that any record of a county board's proceedings should include minutes and a transcript or other recording of any decisional meeting which includes the vote on any final decision.

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ORDER

IT IS ORDERED that this matter is remanded to the Albany County Board of Equalization for the purpose of rendering a final decision, approved and signed on the record by the Albany County Board of Equalization, and issuance of said order to the parties in the manner prescribed by law.

Dated this 22nd day of August 2018.

STATE BOARD OF EQUALIZATION



Martin L. Hardsogg, Chairman



David Delicath, Vice-Chairman



E. Jayne Mockler, Board Member

ATTEST:



Nadia Broome, Executive Assistant


CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day August 2018, I served the foregoing **REMAND ORDER** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

John Gorski
53 Upper Road
Laramie, WY 82070

Grant C. Showacre
Albany County Assessor
525 Grand Avenue, Suite 206
Laramie, WY 82070

Peggy Trent
Albany County & Prosecuting Attorney
525 Grand Avenue, Suite 100
Laramie, WY 82070



Nadia Broome, Executive Assistant
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Phone: (307) 777-6989
Fax: (307) 777-6363

cc: State Board of Equalization
Dan Noble, Director, Dept. of Revenue
Brenda Arnold, Administrator, Property Tax Div., Dept. of Revenue
Commissioners/Treasurer/Clerk - Albany County
CCH
ABA State and Local Tax Reporter
State Library
File