

**BEFORE THE STATE BOARD OF EQUALIZATION**

**FOR THE STATE OF WYOMING**

IN THE MATTER OF THE APPEAL OF )  
MASTIO FAMILY 2004 TRUST ) Docket No. 2016-53  
FROM A DECISION BY THE ALBANY )  
COUNTY BOARD OF EQUALIZATION )  
(2016 Property Tax Assessment) )

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**ORDER OF REMAND**

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**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 its 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 is 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 000310-18).

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 000319). There is nothing in the record before us, however, indicating that the County Board considered the parties’ proposals 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 authority to render final decisions in place of the 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 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 that 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.

**THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY.**

**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 22<sup>nd</sup> day of August 2018.

**STATE BOARD OF EQUALIZATION**

  
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Martin L. Hardsøcg, Chairman

  
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David Delicath, Vice-Chairman

  
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E. Jayne Mockler, Board Member

**ATTEST:**

  
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Nadia Broome, Executive Assistant

## CERTIFICATE OF SERVICE

I hereby certify that on the 22<sup>nd</sup> 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:

Richard & Susan Mastio  
270 Katie Canyon Loop  
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



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Nadia Broome, Executive Assistant  
State Board of Equalization  
P.O. Box 448  
Cheyenne, WY 82003  
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