

13-2197
TAX TYPE: PROPERTY TAX
TAX YEAR: 2013
DATE SIGNED: 8-19-2014
COMMISSIONERS: B. JOHNSON, D. DIXON, R. PERO
EXCUSED: M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER-1 AND TAXPAYER-2,</p> <p style="text-align: center;">Petitioners,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF UTAH COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;">INITIAL HEARING ORDER</p> <p>Appeal No. 13-2197</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2013</p> <p>Judge: Marshall</p>
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Presiding:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: TAXPAYER-1, *Pro Se*
TAXPAYER-2, *Pro Se*
For Respondent: RESPONDENT-1, Utah County Assessor's Office
RESPONDENT-2, Utah County Auditor's Office

STATEMENT OF THE CASE

Petitioner ("Taxpayer") brings this appeal from the decision of the Utah County Board of Equalization ("County"). This matter was argued in an Initial Hearing on May 1, 2014 in accordance with Utah Code Ann. §59-1-502.5. At issue is whether the County properly dismissed the Taxpayer's appeal for a lack of evidence.

APPLICABLE LAW

A decision of a county board of equalization may be appealed to the Commission, as set forth in Utah Code Ann. §59-2-1004(6), below:

If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as prescribed in Section 59-2-1006.

Utah Code Ann. §59-2-1006 sets forth how to appeal a decision of the county board of equalization to the Commission, as follows:

- (1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board.

Administrative Rule R861-1A-9 provides additional guidance on the role of the Commission sitting as the state board of equalization, as follows in relevant part:

- (5) Appeals to the commission shall be on the merits except for the following:
 - (a) dismissal for lack of jurisdiction;
 - (b) dismissal for lack of timeliness;
 - (c) dismissal for lack of evidence to support a claim for relief...
- (7) On an appeal from a dismissal by a county board for the exceptions under Subsection (5), the only matter that will be reviewed by the commission is the dismissal itself, not the merits of the appeal.
- (8) An appeal filed with the commission may be remanded to the county board of equalization for further proceedings if the commission determines that:
 - (a) dismissal under Subsection (5)(a) or (c) was improper;
 - (b) the taxpayer failed to exhaust all administrative remedies at the county level;
 - (c) in the interest of administrative efficiency, the matter can best be resolved by the county board;
 - (d) the commission determines that dismissal under Subsection (5)(a)(c) is improper under R884024P-66; or
 - (e) a new issue is raised before the commission by a party.

Administrative Rule R884-24P-66 provides additional guidance on county board of equalization appeals and procedures, as follows in pertinent part:

- (3) To achieve standing with the county board of equalization and have a decision rendered on the merits of the case, the taxpayer shall provide the following minimum information to the county board of equalization:
 - (a) the name and address of the property owner;
 - (b) the identification number, location, and description of the property;
 - (c) the value placed on the property by the assessor;
 - (d) the taxpayer's estimate of the fair market value of the property;
 - (e) evidence or documentation that supports the taxpayer's claim for relief;
 - and
 - (f) the taxpayer's signature.
- (4) If the evidence or documentation required under Subsection (3)(e) is not attached, the county will notify the taxpayer in writing of the defect in the claim and permit at least ten calendar days to cure the defect before dismissing the matter for lack of sufficient evidence to support the claim for relief.

DISCUSSION

The Taxpayer stated that he submitted appeal form on August 20, 2013, but had not yet received comparable sales from his real estate broker. He stated that October 29, 2013 was the

first time he was able to get the comparables submitted. The Taxpayer stated that he did not receive a copy of the County's dismissal letter, but was told over the phone that his appeal had been dismissed. He also noted that he does not understand the difference between the market value and taxable value for his property.

RESPONDENT-1 explained the difference in the market value and taxable value to the Taxpayer. He noted that the difference in the two values was attributable to the residential exemption. RESPONDENT-2 stated that the County sent a letter dated September 4, 2013 notifying the Taxpayer that if supporting documentation was not received within ten days, the appeal would be dismissed. She stated that she personally called the Taxpayer on September 17, 2013 to remind him that if he did not submit additional information, the appeal would be dismissed. The County sent a letter dated September 25, 2013 notifying the Taxpayer that the Board of Equalization had dismissed his appeal because the Taxpayer had not provided supporting documentation within the ten-day period. RESPONDENT-2 does not have any record of returned mail for the letters sent to the Taxpayer.

Under Administrative Rule R861-1A-9(7), the only issue is whether the County properly dismissed the late filed appeal. After reviewing the information presented by the parties, as well as Administrative Rule R884-24P-66(3) and (4), it appears that the County properly notified the Taxpayer that he had ten days to submit supporting evidence or his appeal would be dismissed, and the Taxpayer failed to provide the information. It appears that the letters from the County were mailed to the correct address, as that was the address the Taxpayer also used in filing his appeal to the Commission. Further, the County took additional steps and telephoned the Taxpayer reminding him of the ten-day deadline. The Taxpayer failed to submit evidence or documentation in support of his claims within the time period described in Administrative Rule R884-24P-66(3) and (4), and thus the County's dismissal for a lack of evidence was proper.

Jan Marshall
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission sustains the County's dismissal of the Taxpayer's appeal for a lack of evidence. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a

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Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2014.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner