

16-1554  
TAX TYPE: LOCALLY ASSESSED PROPERTY  
TAX YEAR: 2016  
DATE SIGNED: 8/16/2017  
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO, R. ROCKWELL  
GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	<b>ORDER ON COUNTY’S DISMISSAL</b>
Petitioner,	Appeal No. 16-1554
v.	Parcel No. #####
BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,	Tax Type: Property Tax / Locally Assessed
Respondent.	Tax Year: 2016
	Judge: Phan

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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER

For Respondent: RESPONDENT, Tax Administration X-County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Hearing on County’s Dismissal on June 1, 2017. Petitioner (“Property Owner”) filed with the Utah State Tax Commission an appeal of the decision issued by Respondent (“County”) dismissing the valuation appeal of the above listed parcel for tax year 2016. The County had dismissed the appeal because the Property Owner had failed to sign the County’s appeal form. Based on Utah Admin. Rule R861-1A-9, on an appeal from a dismissal by the County Board of Equalization, the only matter that will be reviewed by the Commission is the dismissal itself and not the merits of the appeal.

APPLICABLE LAW

Utah Code §59-2-1004 provides that a taxpayer or property owner may appeal the assessed value set by a County Assessor to the County Board of Equalization as set forth below in pertinent part:

(1)(a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (2);

...

(b) The contents of the application shall be prescribed by rule of the county board of equalization.

(3) The owner shall include in the application under Subsection (1)(a)(i) the owner's estimate of the fair market value of the property and any evidence which may indicate that the assessed valuation of the owner's property is improperly equalized with the assessed valuation of comparable properties.

...

(6) 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.

The Commission has promulgated Administrative Rule R884-24P-66 to establish the circumstances under which a property owner achieves standing to appeal to a county board of equalization and when the county board is required to issue a decision on the merits as follows:

(2) 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.

(3) If the evidence or documentation required under Subsection (2)(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.

(4) If the taxpayer appears before the county board of equalization and fails to produce the evidence or documentation described under Subsection (2)(e) and the county has notified the taxpayer under Subsection (3), the county may dismiss the matter for lack of evidence to support a claim for relief.

- (5) If the information required under Subsection (2) is supplied, the county board of equalization shall render a decision on the merits of the case.
- (6) The county board of equalization may dismiss an appeal for lack of jurisdiction when the claimant limits arguments to issues not under the jurisdiction of the county board of equalization.

...

The Commission has promulgated Administrative Rule R861-1A-9 regarding appeals to the Commission of decisions where the County Board issued an order of dismissal. It provides 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) or (c) is improper under Rule R884-24P-66; or
    - (e) a new issue is raised before the commission by a party.

### DISCUSSION

The facts relevant to the County's dismissal of the Property Owner's appeal to the County Board of Equalization are not in dispute. The Property Owner had timely submitted an appeal of his property valuation for the 2016 tax year, but he forgot to sign the appeal form. On August 25, 2016, the County issued a Notice of Intent to Dismiss, letting the Property Owner know that he needed to sign the form and return it by September 4, 2016. The Notice cited to Utah Admin. Rule R884-24P-66. It was the County's position that a signature is required to appeal the valuation, based on the statute and Administrative Rule. The County's representative stated that in addition to mailing by regular mail the Notice of Intent to Dismiss, because the Property Owner had submitted his appeal by email, the County also emailed the Notice of Intent to Dismiss to the Property Owner.

The Property Owner does not deny that he received the Notice of Intent to Dismiss. He states, however, that he was not expecting a notice like that and so when he received it he just did not give it much attention. He did not respond by September 4, 2016 and on September 12, 2016, the County issued its Notice of Dismissal. This notified the Property Owner that his appeal had been dismissed.

On September 30, 2016 the Property Owner finally responded by email to which he had attached the signed form. He asks in the email, “Can we still appeal this?” The County had responded to the email letting him know that the appeal had been dismissed. The County had provided information to the Property Owner in the Notice of Dismissal regarding his rights to appeal the dismissal to the Utah State Tax Commission, but the County explained in the Notice of Dismissal, “On appeal from a dismissal by a County Board of Equalization, the only matter that will be reviewed by the State Tax Commission is the dismissal itself, not the merits of the appeal (R861-1A-9).”

The issue before the Tax Commission is whether the County’s Dismissal of the Property Owner’s appeal was appropriate. Under Utah Admin. Rule R884-24P-66(2) the property owner must submit certain items and evidence in order to achieve standing with a County Board of Equalization. One of the required items is “the taxpayer’s signature.” *See* R884-24P-66(2)(f). Therefore, the Property Owner had failed to achieve standing to appeal.

The rule makes a distinction between one of the items of information required to obtain standing. Utah Admin. Rule R884-24P-66(2) provides the list of minimum information required, which includes the signature from the taxpayer, the name and address for the property owner, the identification number and location of the property appealed, the assessed value, the value the property owner is requesting and, at subsection R884-24P-66(2)(e) “evidence or documentation that supports the taxpayer’s claim for relief . . .” If the property owner fails to provide the evidence or documentation required at subsection R884-24P-66(2)(e) the County must give notice to the property owner and the ten days to cure this defect. *See* R884-24P-66(3). Although the County was not required to follow this process where a property owner has not provided the information required at R884-24P-66(2)(a)-(d) or (2)(f), Utah County chose to issue the Notice of Intent to Dismiss anyway to the Property Owner, giving him the opportunity to provide his signature as required at R884-24P-66(2)(f). Without the signature, the Property Owner did not have standing with the County Board and the County Board is not required to render a decision on the merits. *See* R884-24P-66(5).

Based on the fact that Utah Admin. Rule R884-24P-66(2) requires a signature of the taxpayer on

the appeal form to achieve standing and that the Property Owner did not provide a signature even after the County gave the Property Owner a curtesy notice of this defect and a chance to provide the information, the County's dismissal of this appeal was appropriate. The fact that the Property Owner failed to pay attention to the notice from the County is not basis to set aside the dismissal.

DECISION AND ORDER

Based on the foregoing, the Tax Commission sustains the County's dismissal of this appeal. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner

Rebecca L. Rockwell  
Commissioner

**Notice of Appeal Rights:** If you disagree with this order you have twenty (20) days after the date of this order to file a Request for Reconsideration with the Commission in accordance with Utah Code Ann. §63G-4-302. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.