

19-70
TAX TYPE: PROPERTY TAX
TAX YEAR: 2018
DATE SIGNED: 07/12/2019
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, v. COUNTY BOARD OF EQUALIZATION, STATE OF UTAH, Respondent.	ORDER ON RESPONDENT'S DISMISSAL Appeal No. 19-70 Parcel No. ##### Tax Type: Property Tax Tax Year: 2018 Judge: Phan
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: TAXPAYER
For Respondent: REPRESENTATIVE FOR RESPONDENT, COUNTY Tax
Administrator

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Hearing on County's Dismissal on June 3, 2019. Petitioner ("Property Owner") filed with the Utah State Tax Commission an appeal of the decision issued by Respondent ("County") dismissing the appeal of the above listed parcel for tax year 2018. The County issued its dismissal on December 6, 2018, stating on that decision the appeal was dismissed for lack of sufficient information to render a decision. 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.
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- (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 Property Owner had filed an appeal to the County Board of Equalization regarding the assessed value of his property for tax year 2018 on September 13, 2018, which was within the deadline for filing set out at Utah Code Sec. 59-2-1004. On the form provided by the County for the appeal, which provided a checklist in Section 2 for the type of evidence needed to support an appeal, the Property Owner had checked the box “A. Purchase of the property within one year of January 1.”¹ Box B on that form was “Professional Fee Appraisal with an effective date within one year of January 1,” but that box was unchecked. Then, instead of closing documents showing the recent purchase of the subject property, the Property Owner had attached to the form a copy of the Closing Disclosure for a refinance of the mortgage on the property, which occurred on February 23, 2017.² This disclosure showed the amount that was borrowed against the property at that time but did not provide any information regarding what the fair market value of the property was at the time of the refinance.

¹ Exhibit 1.

² Exhibit 2.

One week after the appeal was filed, because the refinance disclosure was all that was submitted by the Property Owner, the County issued on September 20, 2018 a “Notice of Intent to Dismiss.” This notice explained to the Property Owner that what he had submitted was not sufficient evidence of a sale of the property. The notice goes on to specify that to cure the deficiency the Property Owner needed to submit, “A signed settlement statement, closing statement or HUD-1 Disbursement Document. Your paperwork indicates and [SIC] appraisal was performed in the course of the refinance. Recommend you send an [SIC] copy of that appraisal as evidence of value.”

The Property Owner did not respond at all to the County’s Notice and the County dismissed the appeal to the County Board of Equalization for failure to remedy the evidentiary deficiency on December 6, 2018.

The Property Owner explained that he was not aware of receiving the Notice of Intent to Dismiss regarding the 2018 appeal, but had he received it he may have been confused because he had sent all that information in for the prior year’s appeal. He stated that he had appealed the value of the subject property in 2017 and that appeal was still pending and not fully resolved until April 2019.³ He indicates that he had sent to the County the appraisal and the cost for which they had built the residence, but all of that may have been sent to the County employee who was handling the 2017 appeal. The Property Owner indicated that he had built the house in 2017, so there was not a purchase of the house in that year.

It was the County’s position that the appeal was properly dismissed because the Property Owner had failed to respond to the Notice of Intent to Dismiss.

After reviewing the information and the law in this matter, the County acted properly in dismissing the appeal before the County Board of Equalization. First, the Property Owner clearly did not provide the information the County specifically required on its appeal form. That form asked for either documentation of the purchase of the property or a professional appraisal. The Property Owner checked the box for purchase but did not document a purchase. He indicates there had been an appraisal, but he did not check that box or submit that appraisal. Instead, he checked the box for purchase price and provided a refinance document, which because people refinance for a large number of reasons, could represent only a small portion of the market value of a property. Utah law puts the responsibility on property owners that if they want to contest the assessed value they must file a property tax appeal each

³ The 2017 valuation had been appealed to the County Board and then to the Utah State Tax Commission and was finally resolved, after an Order of Default was issued because the Property Owner failed to appear at the scheduled Mediation and then set aside, by Order of Approval issued on March 12, 2019. The Order of Approval was based on a stipulation signed by the Property Owner and the County.

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year by the statutory deadline for that year and provide the necessary evidentiary support required pursuant to Utah Code Sec. 59-2-1004 and Utah Admin. Rule R884-24P-66. The Property Owner failed to do so. The County then issued its Notice of Intent to Dismiss, seven days after the Property Owner had filed his 2018 appeal, to give the Property Owner the chance to cure the deficiency in the appeal. The Property Owner did not respond to this notice and the County appropriately dismissed the matter. The fact that the Property Owner may have been confused because the 2017 appeal was still pending is not a sufficient basis for not complying with the statute and rule in this matter. The County's Dismissal of this appeal should be upheld.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

After reviewing the information presented by the parties regarding the County's dismissal of the Property Owner's appeal, as well as Utah Code §59-2-1004 and Administrative Rule R884-24P-66, the Property Owner's request is denied. It is so ordered.

DATED this _____ day of _____, 2019.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
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.