

19-2150

TAX TYPE: PROPERTY TAX

TAX YEAR: 2019

DATE SIGNED: 5/05/2020

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS

GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p><b>ORDER ON COUNTY'S DISMISSAL</b></p> <p>Appeal No. 19-2150</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2019</p> <p>Judge: Phan</p>
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: Petitioner

For Respondent: RESPONDENT, Salt Lake County Tax Administration

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Hearing on County's Dismissal on February 27, 2020. 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 2019. The County issued its dismissal on October 17, 2019, stating in that decision the "appeal is dismissed for lack of sufficient information upon which 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 of property set by a County Assessor to the County Board of Equalization as set

forth below in pertinent part:

(2)(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 (3);

...

(b)(i) The county board of equalization shall make a rule describing the contents of the application.

...

(7) 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 Property Owner had filed an appeal to the County Board of Equalization regarding the assessed value of his property for tax year 2019 on August 2, 2019, 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 “D. Factual Error.” However, the Property Owner did not provide any documentation or evidence with the appeal form. The Property Owner had submitted the appeal form by email and the County emailed him back on August 5, 2019, indicating receipt of the appeal but stating, “No Evidence was attached to this appeal.” There was an inquiry from the Property Owner about what evidence was needed and a response from the County with instructions on August 5, 2019. The Property Owner did not submit any documentation to support his appeal. On August 8, 2019, the County issued a Notice of Intent to Dismiss letter. The letter told the Property Owner he had until September 16, 2019 to submit “sufficient evidence to meet the minimum requirements” or the appeal would be dismissed. The notice listed the type of evidence the Property Owner needed to submit. The Property Owner did not submit any evidence or even respond to the Notice of Intent to Dismiss. Therefore, the County dismissed the appeal on October 17, 2019.

After the appeal was dismissed, the Property Owner responded to the County Dismissal with a statement that the “home has not been a livable place due to poor condition” and they could not enter the home in September “due to the unsafe state of the home.” In addition, he

provided photographs of the interior of the property. At the hearing in this matter before the Tax Commission, the Property Owner provided an additional explanation. He indicated that in April 2019 the sewer flooded into the residence and made it uninhabitable. Therefore, the Property Owner was not able to reside in the residence, and he indicated it was old and in poor condition prior to the flooding. He stated they had decided to demolish the residence and build a new one on the lot. He also stated that he found out that there was asbestos in the residence, which complicated the demolition plans. He explained that in September 2019 he was unable to get inside the residence to take pictures because of the unsafe conditions. However, he did not indicate the condition had changed by October when he did go into the residence to take photographs.

The representative for the County explained that the County dismissed the appeal because the Property Owner had submitted no evidence with the appeal and failed to respond in any way to the Notice of Intent to Dismiss that had been issued by the County. He explained that if the Property Owner had even responded to the Intent to Dismiss with a letter to the County explaining about the sewer flooding and the asbestos, and had asked for some additional time to obtain photographs of the interior, he would likely have been granted an extension of time. However, the Property Owner had failed to respond at all to the Notice of Intent to Dismiss and so the County dismissed the appeal. It was the County's position that the dismissal was proper due to the Property Owner's failure 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 any evidence when he filed his appeal. He was also notified by the County by email shortly after he had submitted his appeal to the County that he needed to file evidence, but did not do so. 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 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 County then issued its Notice of Intent to Dismiss, to give the Property Owner the chance to cure the deficiency in his appeal. The Property Owner did not respond to this notice and the County appropriately dismissed the appeal. The fact that the Property Owner felt he could not enter the residence until October to take photographs, considering he did not even contact the County to provide an explanation or ask for some additional time, is not sufficient basis to overturn the County's Dismissal. The County's Dismissal was appropriate based on the information that the County had at the time that they had issued the Dismissal. 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 \_\_\_\_\_, 2020.

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.