

APPEAL NOS: 20-1100, 20-1101, 20-1102
20-1103, 20-1104, 20-1105
TAX TYPE: PROPERTY TAX
TAX YEAR: 2019
DATE SIGNED: 8/18/2020
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>VALLEY LEASING, Petitioner, v. COUNTY BOARD OF EQUALIZATION, STATE OF UTAH, Respondent.</p>	<p>ORDER OF DISMISSAL</p> <p>Appeal Nos. 20-1100, 20-1101, 20-1102 20-1103, 20-1104, 20-1105</p> <p>Parcel Nos. #####, ##### #####, ##### #####, #####</p> <p>Tax Type: Property Tax Tax Year: 2019</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

This matter is before the Utah State Tax Commission on late filed Requests for Redetermination of the County Board of Equalization’s Decisions, filed by Petitioner (“Property Owner”) on May 26, 2020. The County Board had issued its decisions in these appeals on March 19, 2020, and as stated in the decisions, the Property Owner had a deadline of April 20, 2020 to file appeals of the County’s Decisions. Because the Property Owner did not file appeals of the County’s decisions for the above listed parcels until May 26, 2020, after the appeal deadline had expired, an Order to Show Cause Why Appeal Should Not Be Dismissed was issued to the Property Owner on June 5, 2020.

The Order to Show Cause provided the statutory provision setting out the deadline, Utah Code Sec. 59-2-1006, and indicated that the Utah State Tax Commission would not have jurisdiction to hear the appeals absent a showing that an action on the part of the County or the Tax Commission deprived the Property Owner of due process rights, including the ability to file an appeal timely.

The Property Owner responded to the Orders to Show Cause on June 24, 2020. The responses for each appeal were filed on the same day and contained the same response. In the responses, the Property Owner did not assert an action on the part of the County or the Tax Commission that had deprived the Property Owner of due process rights or had impeded its ability to timely file an appeal. The Property

Owner instead provided the following explanation for the late appeal:

1. The COVID-19 pandemic has created an extreme hardship for Petitioner's business operations, making it very difficult for Petitioner to manage its business affairs.
2. The COUNTY Board of Equalization is aware of the impact of the pandemic. On numerous occasions the Board of Equalization has postponed hearings on this and other requests filed by Petitioner for redetermination of assessed value on this and other properties owned by Petitioner. It would be unfair for Petitioner to be prohibited from pursuing its appeal of the Board's denial for request for redetermination when the Board has failed to meet deadlines on this and those other requests.

The County filed its replies to the Petitioner's Response to the Order to Show Cause on July 29, 2020. The response for each of these appeals were all basically the same response. The County asked that the appeal be dismissed because the Property Owner had missed the 30-day deadline for filing an appeal and had not shown that it was deprived of due process. The County's representative points out that the Property Owner did not describe any County or Tax Commission action that contributed to the tardy filing of the appeal and that the explanation was pandemic created problems that resulted in the late filing. In regards to the argument that the County had postponed hearings on these and other properties, the County states in its replies that "Postponing or rescheduling of hearings is an entirely different matter than that of an appeal deadline."

After reviewing the information submitted in this matter, the Property Owner has not provided a sufficient basis to show cause why these appeals should not be dismissed. The deadline to file an appeal of a decision issued by a County Board of Equalization to the Utah State Tax Commission is set by Utah Code Sec. 59-2-1006. The Tax Commission does not have discretion to extend this deadline, even if good cause had been shown. Petitioner cites to no statute that prohibits the County from rescheduling hearings, and once an appeal has been filed there is not a statutory process regarding continuances. There is an express statute, however, regarding the deadline to file an appeal to the Utah State Tax Commission. There has been no legislation to indicate that filing deadlines should be waived during the pandemic and the Tax Commission does not have authority to do so absent an act by the Utah Legislature. The Tax Commission has concluded in prior appeals it would be appropriate to allow late filed Section 59-2-1006 appeals only where the petitioner established that an action on the part of the County or the Tax Commission had deprived them of due process rights including the ability to file an appeal timely. The Property Owner has failed to do so in this matter and these appeals should, therefore, be dismissed.

Appeal Nos. 20-1100, 20-1101, 20-1102, 20-1103, 20-1104 & 20-1105

ORDER

Based on the foregoing, the Tax Commission dismisses the above listed appeals on the basis that they had not been filed by the statutory deadline set out at Utah Code Sec. 59-2-1006. 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.