

APPEAL #: 22-1696  
TAX TYPE: PROPERTY TAX  
TAX YEAR: 2022  
DATE SIGNED: 4/11/2023  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, AND J.FRESQUES  
EXCUSED/RECUSED: R.ROCKWELL

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BEFORE THE UTAH STATE TAX COMMISSION

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PROPERTY OWNER,  Petitioner,  v.  BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,  Respondent.	<b>ORDER ON COUNTY'S DISMISSAL</b>  Appeal No. 22-1696  Parcel No: ##### Tax Type: Property Tax Tax Year: 2022  Judge: Phan
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER'S REP-1, Controller, PROPERTY OWNER

For Respondent: RESPONDENT'S REP-1, Manager, Tax Administration, COUNTY-1

**STATEMENT OF THE CASE**

This matter came before the Utah State Tax Commission for a Hearing on County's Dismissal on March 2, 2023. Petitioner ("Property Owner") had filed on DATE, an appeal of the value of the subject parcel of property to the COUNTY-1 Board of Equalization ("County") for tax year 2022. The County reviewed the appeal and determined that the Property Owner had not submitted sufficient evidence to achieve standing before the County Board of Equalization. On DATE the County Board of Equalization issued a Notice of Intent to Dismiss Appeal, notifying the Property Owner of the lack of evidence, allowing the Property Owner ten calendar days to cure the defect and notifying the Property Owner if they failed to provide the required evidence within the ten days, the appeal would be dismissed. There was no response from the Property Owner to the Notice of Intent to Dismiss Appeal. The County dismissed the appeal, issuing its Notice of Dismissal on DATE. The Property Owner then submitted an appeal of the

County's decision to the Utah State Tax Commission pursuant to Utah Code Sec. 59-2-1006.

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:

(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.

...

(3)(a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

...

(5) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

...

Utah Code §59-2-1006 provides that a taxpayer or property owner may appeal the decision of the County Board of Equalization as set forth below in pertinent part:

(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, or a tax relief decision made under

designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission by:

(a) 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 or entity with designated decision-making authority described in Section 59-2-1101;

...

Utah Administrative Rule R884-24P-66 provides the process for achieving standing to have a decision on the merits issued by the County Board of Equalization, as follows in relevant part:

- (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 county 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 in Subsection (2) 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.

Utah Administrative Rule R861-1A-9 provides the following regarding appeals to the Tax Commission:

- (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.

#### DECISION AND ORDER

The process to appeal a property's value is set out in statute and rule. Utah Code Subsection 59-2-1004(2)(a) provides that "[a] taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may" file an appeal to the County Board of Equalization. When the Property Owner filed its appeal to the County Board of Equalization, the Property Owner did not submit any evidence of the fair market value of the property with the appeal. The Property Owner provided only the statement, "The forementioned property is reflecting a %%% year over year increase in property valuation due to a change to the property type to Commercial. We believe the appropriate property classification to be Vacant Land – Commercial due to the remote and undeveloped nature of the parcel." The Property Owner submitted no evidence like comparable sales or an appraisal to show the fair market value of the property.

In its Notice of Intent to Dismiss Appeal, which the County had issued on DATE, the County explained to the Property Owner that the subject property, which was assessed as vacant land, had been valued as commercial property for several years as follows:

Appellant did not provide necessary documentation to support a value lower than what was established by the County Assessor. Property has been classified as commercial for multiple years. Appellant needs to provide documentation that supports assertion that current property value is not supported by the market.

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The Notice also stated, “If the taxpayer fails to cure the defective application and/or provide the required evidence within 10 days, the County Board of Equalization may dismiss the matter.” The County points out that there was no response from the Property Owner to the Notice of Intent to Dismiss. Therefore, the County dismissed the Property Owner’s appeal. The County points out that a property owner is required to provide evidence to achieve standing before the County Board of Equalization and cites to Utah Tax Commission Standards of Practice, Standard 1.12, Standard 1.16 and Utah Admin. Law R884-224P-66. The County states that it complied with the provisions of Utah Admin. Rule R884-24P-66(3) by giving the Property Owner notice of the defect and a chance to provide the required information. When the Property Owner failed to do so, the County dismissed the appeal pursuant to the rule.

The representative for the Property Owner explained at the hearing that he did not have any information about the Notice of Intent to Dismiss. He confirmed that the address used by the County for mailing on the Notice of Intent to Dismiss was the correct mailing address, but stated that he just never saw the notice and if received at his location, it was not forwarded to him. He states because he never saw the notice he was not able to respond. The representative for the Property Owner then wanted to argue the inequity of the assessment of the subject and similar properties and provide evidence on the merits of the appeal. He stated the subject property was undeveloped ski terrain.

Based on the facts presented and the applicable law, the only issue before the Tax Commission in this proceeding is whether or not the County’s dismissal of the Property Owner’s appeal was appropriate. *See* Utah Admin. Rule R861-1A-9(7). Utah Admin. Rule R884-24P-66(2) provides the minimum requirements to achieve standing before a County Board of Equalization, which include “evidence or documentation that supports the taxpayer’s claim for relief.” Under Subsection R884-24P-66(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.” The Utah State Tax Commission has previously found the minimum evidence or documentation that supports a property owner’s claim for relief required by Utah Admin. Rule R884-24P-66(2)(e) to achieve standing and have the County issue a decision on the merits is low. The evidence required to achieve standing is not the same evidence standard the County Board of Equalization would apply to evaluate the evidence when issuing its decision on the merits.<sup>1</sup> However,

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<sup>1</sup> *See* Utah State Tax Commission *Order on County’s Dismissal, Appeal No. 17-1977* (8/17/2018). This and other Tax Commission decisions may be reviewed in a redacted format at <https://tax.utah.gov/commission-office/decisions>.

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with the initial appeal filing, the Property Owner failed to provide any evidence of value. He merely argued the property should be valued as vacant commercial land and, as the County had pointed out, that was how it was being valued. The Property Owner provided no comparable sales and no appraisal. Additionally there was no response from the Property Owner to the Notice of Intent to Dismiss. The assertion alone that mail was not received, without evidence of an address or mailing error, has never been the basis to allow an appeal to proceed. The County concluded that the Property Owner had not complied with the requirements of Utah Administrative Rule R884-24P-66(2) to achieve standing before the County Board of Equalization because the Property Owner had not submitted evidence of the fair market value with its appeal. The County had sent the Property Owner notice of this defect and gave it time to provide evidence as required by Utah Administrative Rule R884-24P-66(3). There was no response from the Property Owner so the County properly dismissed the appeal.

ORDER

After reviewing the applicable law and the information presented by the parties, the Commission denies the Property Owner's appeal of the County's Dismissal regarding the 2022 property tax valuation appeal. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Jennifer N. Fresques  
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.