

APPEAL #: 23-124
TAX TYPE: PROPERTY TAX
TAX YEAR: 2022
DATE SIGNED: 3/16/2023
COMMISSIONERS: J.VALENTINE, M.CRAGUN, AND FRESQUES
EXCUSED/RECUSED: R.ROCKWELL

BEFORE THE UTAH STATE TAX COMMISSION

PROPERTY OWNEER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent.	ORDER OF DISMISSAL Appeal No. 23-124 Parcel No: ##### Tax Type: Property Tax Tax Year: 2022 Judge: Phan
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This matter came before the Utah State Tax Commission by the Request for Redetermination of County Board of Equalization Decision (“appeal”), filed by Petitioner (“Property Owner”) on January 14, 2023. The County Board of Equalization had issued its decision on DATE for the above parcel. As the appeal had been filed after the thirty-day statutory deadline provided at Utah Code Sec. 59-2-1006, an Order to Show Cause why the appeal should not be dismissed was issued on DATE. The Property Owner filed a response to the Order to Show Cause on DATE.

APPLICABLE LAW

Utah Code Sec. 59-2-1006 provides a property owner the right to appeal a decision of the County Board of Equalization to the Utah State Tax Commission, but also provides the following deadline:

(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;

...

DISCUSSION

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The deadline to file an appeal of a County Board of Equalization decision is set by statute at Utah Code Sec. 59-2-1006, which provides that a property owner dissatisfied with the decision of the County Board of Equalization may file an appeal to the Tax Commission, but it also provides that the appeal must be filed within thirty-days from the date of the decision of the County Board of Equalization. This is a jurisdictional requirement and generally the Commission does not have jurisdiction over an appeal of a decision of the County Board of Equalization unless this deadline has been met.

In the Property Owner's response to the Order to Show Cause, the Property Owner explained why the appeal was filed late. He stated that they had reached out to obtain an "external appraisal" and that appraisal "took longer than the required response time for the second appeal."¹ The Property Owner goes on to state "we are kindly requesting the Utah State Tax Commission accept our late second appeal as we, in good faith, obtained an appraisal, but it unfortunately took longer than anticipated."

Upon review of the Property Owner's submissions, there is not a basis to allow this late filed appeal. The Property Owner's appeal was not filed until after the deadline set by Utah Code §59-2-1006 had expired. This language is not discretionary and there is no statutory provision for extension of this deadline, even if good cause had been shown. The Tax Commission has concluded in prior appeals it would be appropriate to allow a late filed appeal 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 failed to do so in this matter and this appeal should, therefore, be dismissed.

ORDER

Based upon the foregoing, the Property Owner's appeal in this matter is dismissed. It is so ordered.

DATED this ____ day of ____, 2023.

¹ The Property Owner did not need the appraisal before filing the appeal. He could have filed the appeal prior to the appeal deadline and then submitted the appraisal prior to the hearing at the Tax Commission.

Appeal No. 23-124

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.