

APPEAL #: 23-1481

TAX TYPE: PROPERTY TAX

TAX YEAR: 2023

DATE SIGNED: 1/16/2024

COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

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| PROPERTY OWNER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent. | ORDER ALLOWING APPEAL TO PROCEED TO A HEARING Appeal No. 23-1481 Parcel No: ##### Tax Type: Property Tax Tax Year: 2023 Judge: Jane Phan |
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This matter came before the Utah State Tax Commission by the Request for Redetermination of the County Board of Equalization Decision (“Appeal”), filed by Petitioner (“Property Owner”) on September 21, 2023. The County Board of Equalization’s Decision issued DATE, had been to deny an exclusive use property tax exemption for the above parcel, located in COUNTY-1. As the Property Owner’s appeal had not been filed until DATE, it appeared to be after the thirty-day statutory deadline pursuant to Utah Code Subsections 59-2-1102(6) and 59-2-1006(1). An Order to Show Cause requesting a written explanation as to why the appeal should not be dismissed was issued on DATE. The Property Owner’s representative responded to the Order to Show Cause on DATE (“Response”). The County did not submit a reply.

APPLICABLE LAW

Utah Code Sec. 59-2-1102(6) provides a property owner the right to appeal a decision regarding an exclusive use exemption as follows:

- (6) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

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

As explained in the Order to Show Cause, the deadline to file an appeal of a County Board of Equalization decision regarding an exclusive use property exemption is set by statute at Utah Code Subsections 59-2-1102(6) and 59-2-1006(1), which provide 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 a County Board of Equalization, unless this deadline has been met.

The Property Owner's representative provided a copy of the County's decision letter, which was mailed to the Property Owner on DATE. The decision letter informed the Property Owner that it could appeal the decision to the Utah State Tax Commission. It provided a telephone number and email address for the Tax Commission for the Property Owner to contact about filing an appeal, as well as a telephone number for the County. However, there was no statement regarding the statutory deadline for filing the appeal in the decision letter.

In the Property Owner's Response, the Property Owner's representative explained the following regarding why the appeal was filed late:

We applied for tax exemption early in 2023. We were sent the county's exemption denial on DATE (see attached letter). Their cover letter states we can appeal the decision through the state, but it does not have any deadline noted. Knowing that the taxes wouldn't be due until later in the year, I set the letter and form aside. It wasn't until

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September, when I was filling out the actual appeal form, that I noticed the small print on page 2 of the form, which states that the form had to be filed with the County Auditor within 30 days after the date of the county decision. I apologize for this oversight, but I simply did not see it until the window had long passed.

I would plead for your understanding this one time as we are learning how this appeal process works. I am told by the county that this will be something we may need to do annually, so we will certainly know better next year . . .

The County did not file a reply, so there is no information from the County.

Upon review of the Property Owner's submissions it appears that an action or inaction on the part of the County has denied the Property Owner due process. 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. However, the Tax Commission has concluded in prior appeals it would be appropriate to allow a late filed appeal 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.¹ The Property Owner has provided the County's decision letter issued on DATE. Although the letter did inform the Property Owner that it could appeal the decision to the Utah State Tax Commission, the letter failed to state that there was an appeal deadline and the date of that deadline. This is a defect in the decision letter that denied the Property Owner due process as it is reasonable to assume this lack of information contributed to the Property Owner's late filing.

¹ See *Utah State Tax Commission Order of Dismissal, Appeal No. 23-124 (3/16/2023)*, *Order Allowing Appeal to Proceed, Appeal No. 23-621 (6/13/2023)* and *Dismissal, Appeal No. 22-1756 (2/14/2023)*. These decisions are available for review in a redacted format at <https://tax.utah.gov/commission-office/decisions>.

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ORDER

Based upon the foregoing, the Tax Commission accepts the Property Owner's appeal in this matter as a valid appeal filed pursuant to Utah Code Sec. 59-2-1102(6) and Utah Code Sec. 59-2-1006. The appeal will be scheduled for an Initial Hearing on the merits of the claim. It is so ordered.

DATED this ____ day of ____, 2024.

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.