

APPEAL #:23-1710  
TAX TYPE: PROPERTY TAX  
TAX YEAR: 2023  
DATE SIGNED: 3/21/2024  
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, COUNTY-1, STATE OF UTAH,  Respondent.	<b>ORDER OF DISMISSAL</b>  Appeal No. 23-1710  Parcel No: ##### Tax Type: Property Tax Tax Year: 2023  Judge: 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”) to the COUNTY-1 Auditor via email on December 13, 2023.<sup>1</sup> However, the County Board of Equalization had issued its decision on November 6, 2023. Therefore, the thirty-day statutory deadline to appeal the County Board of Equalization’s decision provided at Utah Code §59-2-1006 had already expired. Because the Property Owner filed the appeal late, an Order requiring the Property Owner to show cause why this appeal should not be dismissed at the State Tax Commission for failure to timely appeal under Utah Code §59-2-1006 was issued on January 9, 2024. The Property Owner submitted a response via email on January 27, 2024 and the County submitted a reply on February 2, 2024.

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

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<sup>1</sup> This type of appeal is filed with the County Auditor and the County Auditor forwards the appeal to the Tax Commission.

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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 is set by statute at Utah Code §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. The Property Owner failed to comply with this statutory deadline. In his response to the Order to Show Cause the Property owner stated:

The County claims on November 6, 2023, they issued and mailed me a letter to dismiss my late appeal request. This letter did not reach me via mail despite the county telling me via email they would reach me via mail. As a result, I did not respond within 30 days because I never received the letter within that time frame and after.

The Property Owner then explains that he had followed up with the County on December 12, 2023 and in response to his inquiry the County sent him a digital copy. He states that he filed the appeal the next day, on December 13, 2023.

In its reply the County stated that it had mailed its November 6, 2023, decision letter to the Petitioner at the address ADDRESS-1 and points out that the letter explained the appeal deadline. This is the same address that was listed by the Property Owner on his appeal form. The County stated in its reply that its standard procedure is to mail the decision letter.

Upon review of the parties submissions and the applicable law, 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 that the only time it would be appropriate to allow a late filed appeal is 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.<sup>2</sup> However, the assertion alone that a notice or decision letter was not received is not

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<sup>2</sup> See *Utah State Tax Commission Order of Dismissal, Appeal No. 23-124 (3/16/2023), Order Allowing Appeal to*

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sufficient to establish this criteria. The Property Owner has not provided any other basis to support a late appeal other than the assertion the decision was not received. Therefore, the Property Owner's appeal should be dismissed for late filing.

ORDER

Based upon the foregoing, the Tax Commission dismisses the Property Owner's appeal for failure to timely file an appeal pursuant to Utah Code §59-2-1006. 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.

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*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>.