

APPEAL # 23-1734

TAX TYPE: PROPERTY TAX/LOCALLY ASSESSED

TAX YEAR: 2023

DATE SIGNED: 02/06/2025

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

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,  Petitioner,  v.  BOARD OF EQUALIZATION OF COUNTY-1 COUNTY, STATE OF UTAH,  Respondent.	<b>ORDER RECONVENING COUNTY BOARD OF EQUALIZATION</b>  Appeal No. 23-1734  Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2023  Judge: Phan
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER

For Respondent: RESPONDENT REP, Assessor, COUNTY-1 County

**STATEMENT OF THE CASE**

This matter came before the Utah State Tax Commission on December 5, 2024 for a Hearing on County's Dismissal. The County Board of Equalization ("County BOE") had issued a decision letter dated October 5, 2023, notifying Petitioner ("Property Owner") that the County BOE had dismissed the Property Owner's appeal of the assessment of the above listed parcel. The County BOE decision letter gave as an explanation for the dismissal that, "You did not submit any supporting documentation or evidence by 5:00 pm Sept. 15, 2023, to support your claim that the Assessor's value was incorrect." The Property Owner had a right to appeal to the Tax Commission the County BOE's dismissal of the Property Owner's appeal due to lack of evidence, pursuant to Utah Code §59-2-1006. The Property Owner timely submitted to the Tax Commission an appeal of the County BOE's decision to dismiss and the matter proceeded to this Hearing on County's Dismissal. On an appeal from a dismissal by a county BOE for

lack of evidence, the only matter that will be reviewed by the State Tax Commission is the dismissal itself, not the merits of the appeal, as provided in Rule R861-1A-9(7).

#### APPLICABLE LAW

Utah Code §59-2-1004 provides that a taxpayer 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.

...

Utah Administrative Rule R884-24P-66 provides the process for achieving standing to have a decision rendered on the merits by a county BOE, 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 Code §59-2-1006 provides that a taxpayer or property owner may appeal a decision of the County Board of Equalization to the Tax Commission, 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; and
  - (b) if the county assessor valued the property in accordance with Section 59-2-301.8 and the taxpayer intends to contest the value of personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8, submitting a signed statement of the personal property with the notice of appeal.

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) through (c) was improper;
  - (b) the taxpayer failed to exhaust 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) through (c) is improper under Rule R884-24P-66; or
  - (e) a new issue is raised before the commission by a party.

### DISCUSSION

The information submitted by the parties at the Hearing was not in dispute. The Property Owner had timely submitted an appeal of the assessment for the subject property on September 15, 2023. The County had provided a copy of what the Property Owner submitted, which was date stamped by the County as "Received Sep 15." The Property Owner's appeal included a letter of explanation about how they had purchased the worst lot in the subdivision and built the house as cheaply as possible using freight damaged goods. He described the construction in his letter. He also explained that "[a] camper village is across the street from us . . ." In addition to the description of the quality of construction and area, the Property Owner provided a photograph of a cabin property with the label, "#1 Next Door Bought for \$\$\$\$\$ Two Years Ago," and another photo labeled "#2 Next Door Duplex Remodeled 5 Years Ago." He included photographs of the subject residence and other cabins in the subdivision with one photograph labeled, "5 Cabins Away, Double Size Lot Sold for \$\$\$\$\$ This Year."

After the Property Owner had filed his appeal with this information, the County did not give the Property Owner any notice that the County intended to dismiss his appeal for lack of evidence or give him a chance to submit additional evidence. The County summarily dismissed the appeal instead of reviewing the evidence documents the Property Owner had submitted and reaching a decision regarding the value of the property on the merits of the Property Owner's evidence and the County's evidence. Utah Admin. Rule R884-24P-66(3) states that if a Property Owner fails to provide evidence or documentation required to achieve standing before a county BOE, 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 the county may dismiss the appeal for lack of sufficient evidence to support the appeal.

At the Hearing, the County acknowledged that the County did not provide notice as required under R884-24P-66(3) and instead summarily dismissed the appeal. The County Assessor explained at the Hearing that she was aware of the requirement under R884-24P-66(3) to provide notice and allow time for a property owner to cure a defect by providing evidence or documentation, but she stated that this process created problems with the process the County used for its BOE hearings. She explained that COUNTY-1 County has so few appeals that the BOE convenes for only one, or at the most, two days. She stated that the County BOE process is to convene to hear all of the appeals the Monday directly following September 15, and then if needed the County BOE also convenes the next day. It was her contention that if the County BOE followed R884-24P-66(3), it would have to convene later, after notice had been provided to property owners who had submitted insufficient evidence and the time period for curing a defect had elapsed. She also argued that the County gave its property owners plenty of notice that they

had to file their appeal and provide all of their evidence and documentation by the September 15 deadline. In addition, the County Assessor provided documentation to refute some of the Property Owner's evidence.

Upon review of the information submitted by the parties at the Hearing and the applicable law in this matter, the County's dismissal of the appeal without following the notice procedure outlined in Utah Administrative Rule R884-24P-66(3) was inappropriate. The process to appeal a property's value is set out in Utah Code Subsection 59-2-1004(2)(a) and Utah Admin. Rule R884-24P-66. 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. Utah Administrative Rule R884-24P-66(2) sets out a list of the minimum evidence or documentation a property owner must provide to achieve standing to have a decision rendered on the merits by the County Board of Equalization including " . . . (e) evidence or documentation that supports the taxpayer's claim for relief. . . ." The Property Owner had filed an appeal and had, in fact, provided evidence to support the appeal. The Commission notes that the threshold level of evidence to achieve standing is not the same level of evidence that a property owner would need to prevail on the merits. *See* Property Tax Division Standards of Practice, Standard 1.10 regarding the evidence requirement to achieve standing before a County Board of Equalization. The Standard provides, "The taxpayer need only pass a very low hurdle to get to a hearing. If the taxpayer presents any evidence that addresses value (or exemption or other issues), the county has an obligation to defend its value (or position) in light of that evidence." The evidence submitted by the Property Owner was sufficient to achieve standing before the County Board of Equalization. Therefore, rather than dismiss the appeal, the County Board of Equalization should have heard the Property Owner's appeal on the merits and issued a decision on the valuation of the subject property based on the Property Owner's and the County Assessor's evidence submitted in that proceeding.

Additionally, the Commission notes that based on Utah Administrative Rule R884-24P-66(3), if the County finds evidence to be insufficient to achieve standing, the County must issue a Notice of Intent to Dismiss following the process set out in the rule. In this appeal, the County did not do so, because that process conflicted with the date on which the County wanted to schedule its BOE hearing. Pursuant to Utah Admin. Rule R884-24P-66(4), the County should have notified the Property Owner under Subsection (3) before the County dismissed the appeal for lack of evidence to support a claim for relief.

The matter should be remanded to the County BOE to issue a decision on the merits based on the evidence and documentation that the Property Owner had submitted in this matter.

#### DECISION AND ORDER

After reviewing the applicable law and the information presented by the parties, the Commission reconvenes the tax year 2023 COUNTY-1 Board of Equalization and remands the matter back to the County Board of Equalization to review the evidence that the Property Owner had submitted, any evidence offered by the County Assessor and issue a decision on the merits of the valuation of the subject property. Once the County Board of Equalization has issued its decision for tax year 2023, that decision will be appealable to the Utah State Tax Commission pursuant to Utah Code Sec. 59-2-1006. It is so ordered.

DATED this 6th day of February, 2025.

 John L. Valentine Commission Chair		 Michael J. Cragun Commissioner
 Rebecca L. Rockwell Commissioner		 Jennifer N. Fresques Commissioner

**Notice of Appeal Rights:** You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. 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.