

APPEAL # 23-1735  
TAX TYPE: PROPERTY TAX/LOCALLY ASSESSED  
TAX YEAR: 2023  
DATE SIGNED: 01/14/2025  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

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BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER,  Petitioner,  v.  BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,  Respondent.</p>	<p><b>ORDER ON COUNTY’S DISMISSAL</b></p> <p>Appeal No. 23-1735</p> <p>Parcel Nos. MULTIPLE #####’S Tax Type: Property Tax/Locally Assessed Tax Year: 2023</p> <p>Judge: Phan</p>
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER’S REP-1, Representative  
For Respondent: RESPONDENT’S REP-1, Assessor, COUNTY-1

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on September 5, 2024 for an Initial Hearing on County’s Dismissal. The County Board of Equalization (“County BOE”) had issued a decision letter dated DATE, notifying Petitioner (“Property Owner”) that the County BOE had dismissed the Property Owner’s appeal of the assessment of the above listed parcels. The County BOE decision letter gave as an explanation for the dismissal only the statement, “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 Initial 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 each of the above listed properties on September 15, 2023. The appeal was submitted via email and the Property Owner provided copies of the email that indicated it was both delivered and read on that day. The Property Owner's appeal had consisted of a separate Request for Review form, which is the County's appeal form, for each parcel, and an

authorization allowing BUSINESS-1 to represent the Property Owner that clearly provided the statement, “PLEASE SEND ALL CORRESPONDENCE TO: BUSINESS-1, ADDRESS-1.” The Property Owner’s representative also submitted with the appeal forms a copy of the valuation notices for each parcel at issue. However, the Property Owner’s representative did not submit any supporting documents with the appeal. The representative stated that the values had increased %%% for the parcels at issue, so he felt it was important to get the appeal filed by the deadline. He also stated that he represented other property owners in other counties in Utah and he was aware of the procedure set out at Utah Admin. Rule R884-24P-66(3) for when evidence or documentation is not submitted with the original appeal filing. 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. The Property Owner’s representative explained that the County had never sent notice of the defect as required under R884-24P-66(3) and failed to permit the ten days for the Property Owner to cure the defect by providing evidence or documentation. In fact, 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 did not mesh with the process the County used for its BOE hearings. She explained that COUNTY-1 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 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. She provided a copy of the cover letter that the County sent with the Request for Review application to appeal to the County BOE. The cover letter stated, “Please return the Request for Review, and any additional information that you would like the COUNTY-1 Board of Equalization to consider, to me ***no Later than September 15, 2023.*** You can mail, email, fax or hand deliver your Request for Review and additional information to me at the Assessor’s Office **by September 15, 2023.**” The letter also stated, “If you would like to make an appointment to meet with the COUNTY-1 Board of Equalization in person on **Monday, DATE**, please contact my office at: PHONE-1. The County also asserted that the Request for Review form states, “**Complete one form for each parcel and return to the address shown here by 5 p.m.**”

**September 15th**” and provides the following instructions:

**Burden of Proof**-You must present facts to the board to support your claim that the assessor’s value on your property is incorrect. These facts may include a recent appraisal, sales that are comparable to your property, closing statements, pictures or any other information to support your claim.

The County assessor also argued that because the Property Owner had a history of filing appeals of the assessment of the subject property in COUNTY-1, the Property Owner should have been aware of the process and should have provided evidence with the appeal.

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 filled out the appeal forms for each parcel, but failed to provide any evidence or documentation to support the appeal. Based on Utah Administrative Rule R884-24P-66(3), because the Property Owner failed to submit sufficient evidence or documentation to achieve standing, the County should have issued a Notice of Intent to Dismiss following the process set out in the rule. The County, however, did not do so, because that process conflicted with the date on which the County wanted to schedule its BOE hearing. The Commission recognizes that COUNTY-1 is in a unique position in having so few appeals that only one day is needed for the County BOE hearings, while other counties have a much larger volume of appeals and the BOE hearings can last weeks or months. Additionally, it appears that the County attempted to request that property owners submit evidence or documentation by the September 15 deadline, and notify property owners that the BOE would be hearing the appeals on DATE for the 2023 tax year.

Regardless, the County did not follow the express procedure set out in the Utah Administrative Rules that required the County to issue a notice and allow a property owner at least ten days to cure a defect in an appeal. Pursuant to Utah Admin. Rule R884-24P-66(4), the County should have notified the taxpayer under Subsection (3) before the County dismissed the appeal for lack of evidence to support a claim for relief. Utah Administrative Rule R884-24P-66(3) and (4) provide a minimum of due process that counties must follow before dismissing an appeal for lack of evidence. It also provides uniformity

between counties, so there are not different rules for different counties. Given the express requirements of Utah Administrative Rule R884-24P-66(3) and (4), the County's dismissal of the Property Owner's appeal was not proper. The matter should be remanded to the County, to send the appropriate notice to the Property Owner, and allow 10 days for the Property Owner to submit evidence or documentation. If the Property Owner timely submits the evidence or documentation, the County BOE shall issue a decision on the merits.

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 follow the statutory law and administrative rules in processing the appeals of the above listed parcels of property for tax year 2023. If the Property Owner timely submits the evidence or documentation as required by the administrative rules, the County BOE shall issue a decision on the merits. 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 \_\_\_\_\_ day of \_\_\_\_\_ 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.