

APPEAL # 24-80
TAX TYPE: PROPERTY TAX
TAX YEAR: 2023
DATE SIGNED: 3/28/2024
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J. FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNERS,</p> <p>Petitioners,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,</p> <p>Respondent.</p>	<p>ORDER ALLOWING APPEAL TO PROCEED</p> <p>Appeal No. 24-80</p> <p>Parcel No: #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2023</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

Petitioners (the “Property Owners”) had filed a Request for Redetermination of the County Board of Equalization’s Decision regarding the assessed value of property located in COUNTY-1 on November 17, 2023. The County Board of Equalization (“County”) had issued its decision on DATE, and as stated in the decision, the Property Owners had a deadline of DATE, to file their appeal. Therefore, it appeared that the Property Owners had missed the statutory 30-day appeal deadline by one day. An Order to Show Cause Why Appeal Should Not be Dismissed for the late filing was issued on DATE. The Property Owners submitted a response on DATE. The County did not submit a reply to the response.

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

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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. This section provides that a property owner dissatisfied with the decision of the County Board of Equalization may file an appeal to the Tax Commission within 30 days from the date of the decision of the County Board of Equalization.

The Property Owners explained in their response that they had gone to the County Auditor's Office on DATE, to obtain a Form TC-194 ("Form") to file the appeal and at that time they had asked the County Auditor if they could bring the completed Form back the next morning. They stated in their response, "I asked her if I could bring the completed form TC-194 along with my documentation tomorrow morning DATE. She said I could. She said she would [be] submitting the appeals she had received to the State Tax Commission on DATE." The County did not submit a reply to the Property Owners' response. Absent a reply from the County, there is no information to refute this statement.

Upon review of the Property Owners' submissions and the applicable law, although the Property Owners' appeal was not filed until after the deadline set by Utah Code §59-2-1006 had expired, the Tax Commission has concluded in prior appeals that it would be appropriate to allow a late filed §59-2-1006 appeal if 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 Based on the Property Owners' statement and absent a response from the County, it appears that the County did tell the Property Owners that they could file the appeal the next day, and on that basis a dismissal of the appeal would deprive the Property Owners of due process.

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 will accept the Property Owners' appeal in this matter and schedule the appeal for a hearing. 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.