

APPEAL # 24-1249  
TAX TYPE: PROPERTY TAX  
TAX YEAR: 2023  
DATE SIGNED: 06/27/2024  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, J. FRESQUES

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BEFORE THE UTAH STATE TAX COMMISSION

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| <p>PROPERTY OWNER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF<br/>COUNTY-1, STATE OF UTAH,</p> <p>Respondent.</p> | <p><b>ORDER ON RESPONDENT'S<br/>MOTION TO DISMISS</b></p> <p>Appeal No. 24-1249</p> <p>Parcel Nos: #####, #####, #####, and #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2023</p> <p>Judge: Phan</p> |
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On May 1, 2024, Petitioner (the “Property Owner”) filed a Request for Redetermination of the County Board of Equalization’s Decision regarding the assessed value of properties located in COUNTY-1. However, the County Board of Equalization had issued its decision on DATE. As stated in the decision pursuant to Utah Code Sections §59-2-1004 and §59-2-1006, the Property Owner had a deadline of 30-days to file an appeal. As it appeared that the Property Owner had missed the appeal deadline, an Order to Show Cause Why Appeal Should not be Dismissed was issued on DATE. The Property Owner submitted a response to the Order on DATE. Respondent (“County”) did not submit a reply to the Property Owner’s Response. The Property Owner submitted a second response to the Order to Show Cause, via letter dated DATE.

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 entity with designated decision-making authority described in Section 59-2-1101;

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### 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 thirty-days from the date of the decision of the County Board of Equalization.

However, the Property Owner explained in the responses to the Order to Show Cause that the County had made an error in that the County failed to send the County Board of Equalization's decision to the Property Owner. In the responses, the Property Owner stated that COUNTY REP-1, the COUNTY-1 Clerk/Auditor had, in fact, informed the Property Owner that the County Board of Equalization decision had not been mailed to the Property Owner and that the thirty-day period would not start until DATE. The Property Owner had filed the appeal within thirty-days of DATE. The Property Owner did provide a copy of an email from COUNTY REP-1, in which she stated that she had extended the appeal deadline. The County did not submit a reply to the Property Owner's responses. Absent a reply from the County, there is no information to refute the Property Owner's statements.

Upon review of the Property Owner's submissions and the applicable law, although the Property Owner's 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.<sup>1</sup> Based on the Property Owner's statement and the copy of the email from COUNTY REP-1, and absent a response from the County, it appears that the County did tell the Property Owner that the County had not sent the County BOE decision to the Property Owner, and had told them their appeal deadline was extended. On that basis a dismissal of the appeal would deprive the Property Owner of due process.

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<sup>1</sup> 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>.

Appeal No. 24-1249

ORDER

Based upon the foregoing, the Tax Commission will accept the Property Owner's 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.