

16-1441
TAX TYPE: PROPERTY TAX
TAX YEAR: 2016
DATE SIGNED: 2-27-2017
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO, R. ROCKWELL
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	ORDER SUSTAINING RESPONDENT’S
Petitioner,	DISMISSAL
v.	Appeal No. 16-1441
BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,	Parcel No. #####
Respondent.	Tax Type: Property Tax
	Tax Year: 2016
	Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE FOR TAXPAYER, Owner, TAXPAYER
For Respondent: RESPONDENT, Tax Administration Supervisor, COUNTY

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on January 9, 2017 for a Hearing on County’s Dismissal. Petitioner (“Property Owner”) is appealing under Utah Code Sec. 59-2-1006 the decision issued by the COUNTY Board of Equalization (“County”) on August 22, 2016 to Dismiss the Property Owner’s appeal of the assessment of the subject property for the 2016 tax year. Under Utah Admin. Rule R861-1A-9, on an appeal from a dismissal by a County Board of Equalization, the only matter that may be reviewed by the State Tax Commission is the dismissal and not the valuation of the property.

APPLICABLE LAW

Under Utah law a property owner may file an appeal of the assessed value of his or her property to the County Board of Equalization under Utah Code §59-2-1004(1)(a) as follows:

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 (2) . . .

Regarding the appeal to the County Board of Equalization, Utah Admin. Rule. R884-24P-66(2) through (4) provides:

(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: . . . (e) evidence or documentation that supports the taxpayer's claim for relief; . . .

(3) If the evidence or documentation required under Subsection (2)(e) 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 a 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 (3)(e) and the county has notified the taxpayer under Subsection (4), the county may dismiss the matter for lack of evidence to support a claim for relief.

Utah Code §59-2-1006(1) provides that a person can appeal a decision of a county board of equalization, as follows:

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, may appeal that decision to the commission by 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.

Utah Admin. Rule R861-1A-9 provides guidance concerning a county board of equalization's dismissal of an appeal and the taxpayer's subsequent appeal of that dismissal to the Tax Commission, as follows in pertinent part:

. . . .
(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) or (c) was improper;

. . . . [or]

(d) the commission determines that dismissal under Subsection (5)(a) [or] (c) is improper under R884-24P-66

DISCUSSION

Property Owner had filed with the County the form titled, “2016 Appeal Application-Request for Review of Real Property Market Value to the COUNTY Board of Equalization.” However, he did not include with the appeal form any evidence to support the appeal. On August 8, 2016, the County mailed a Notice of Intent to Dismiss Appeal to Petitioner. In that notice it states:

You are hereby notified that you failed to return supporting documentation with your Application for Review of Market Value to the COUNTY Board of Equalization. If evidence to support your claim for relief is not returned by August 19, 2016, your appeal will be dismissed.

Submit the requested documents, along with a copy of this Notice of Intent to Dismiss Appeal, to the COUNTY Board of Equalization at the following address:

COUNTY Board of Equalization
ADDRESS
CITY, STATE ZIPCODE

The Property Owner did not respond to the Notice of Intent to Dismiss, so he had never presented evidence to the County for his 2016 appeal. On August 22, 2016, the County issued a Notice of Dismissal, indicating that the appeal was dismissed.

At this hearing before the Utah State Tax Commission, the Property Owner explained that he had filed an appeal of the value of the subject property to the County for the 2015 tax year and in that appeal he and the County had reached an agreement to lower the value from \$\$\$\$\$ to \$\$\$\$\$. He states that one of the arguments he had brought up in the 2015 appeal was his recent purchase of the subject property. The Property Owner stated that when he filed the 2016 appeal he did not think he would need to provide the information again. The Property Owner also stated that he did not respond to the Notice of Intent to Dismiss Appeal because he did not understand what it was. Although, later in the hearing, he stated that he might not have received the Notice of Intent to Dismiss Appeal in time to respond. The Property Owner argued that the “fairest” thing to do was to lower the value to what he and the County had agreed to for 2015. This would be a substantial reduction as the 2016 value had been set at \$\$\$\$\$.

The representative for the County explained that the appeal for each year was treated individually. For 2016, the Property Owner had only submitted the appeal form and did not even explain that he was relying on information submitted for the 2015 appeal. There was no evidence submitted for the 2016 appeal. The County sent the Property Owner notice that he needed to provide the evidence or the appeal would be dismissed and the Property Owner did not respond to the notice.

Utah law places the burden on property owners who want to appeal the assessed value of their property to file an appeal for each year within statutory set deadlines and other filing requirements. See Utah Code Sec. 59-2-1004. Utah Admin. Rule. R884-24P-66(2) through (4) details how a property owner achieves standing in an appeal to a County Board and provides a process for an appeal to be dismissed if a property owner fails to provide the required information. The Property Owner failed to provide sufficient evidence to achieve standing. The County followed notice procedures set out in that rule, the Property Owner did not respond to the notice and, therefore, the appeal was properly dismissed. Absent evidence that the County erred in the notice procedure, for example, mailed the notice to an incorrect address, the assertion alone that a notice was not received is not basis to allow an appeal to go forward. Under Utah Admin. Rule R861-1A-9 the Commission only reviews this appeal to determine whether or not the dismissal was proper. In this case, the County had followed the proper procedures and the appeal was appropriately dismissed at the County Board of Equalization level.

Jane Phan
Administrative Law Judge

ORDER

Based on the foregoing, the Utah State Tax Commission sustains the dismissal issued by the COUNTY Board of Equalization. It is so ordered.

DATED this _____ day of _____, 2017.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
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.