

20-1936
TAX TYPE: PROPERTY TAX
TAX YEAR: 2019
DATE SIGNED: 1/20/2021
COMMISSIONERS: M. CRAGUN, R. ROCKWELL, L. WALTERS
EXCUSED: J. VALENTINE
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION, COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>ORDER OF DISMISSAL</p> <p>Appeal No. 20-1936</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Years: 2019</p> <p>Judge: Phan</p>
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This matter came before the Utah State Tax Commission on November 16, 2020 by the Request for Redetermination of County Board of Equalization Decision filed by Petitioner (“Property Owner”) in regards to the County Board of Equalization’s decision not to accept a second, late filed appeal, for tax year 2019. As it was apparent the Property Owner had missed the thirty-day deadline to file an appeal pursuant to Utah Code Sec. 59-2-1006, an Order to Show Cause why the appeal should not be dismissed was issued on December 15, 2020. The Property Owner did submit an email responding to the Order to Show Cause on December 20, 2020.

After further review of the facts and emails between the Property Owner and the County, the Property Owner had filed a timely appeal for the 2019 tax year and the County Board of Equalization issued its decision on that appeal on the merits in November 2019. That decision did reduce the value some. The Property Owner had until December 14, 2019 to file an appeal of that decision to the Utah State Tax Commission pursuant to Utah Code Sec. 59-2-1006. The Property Owner did not file an appeal to the Utah State Tax Commission during the appeal period. There is nothing in that statute that provides the Tax Commission authority to extend the thirty-day appeal deadline even if good cause is shown and there is no provision that would extend that deadline for property owners who live outside of the United States.

Instead of following the statutory administrative procedures provided at Utah Code Sec. 59-2-1004 and 59-2-1006, on or about February 20, 2020, the Property Owner filed a 2019 Late Appeal Petition with

COUNTY. COUNTY responded to that by letter dated February 26, 2020 that COUNTY was not able to accept the appeal because the criteria for acceptance of a late appeal had not been met. That letter did indicate that the Property Owner could appeal that decision to the Utah State Tax Commission and had thirty-days to do so. That letter was mailed to the Property Owner's address of record, which is in FOREIGN COUNTRY. Thirty-days from this letter was March 27, 2020. The Property Owner did not file an appeal with the Utah State Tax Commission within this thirty-day period and apparently did not address the issue again with the County until October 2020. There was some email correspondence between the County and the Property Owner in October 2020. In an email from the County on October 7, 2020, the County did state that the Property Owner could appeal the County's decision to disallow the late filed appeal and stated that the Property Owner had thirty days to do so from "yesterday's email." That thirty-days expired November 6, 2020. The Property Owner then filed the subject request on November 16, 2020, again missing that deadline.

In response to the Order to Show Cause, the Property Owner explained the difficulty of getting mail and even email in FOREIGN COUNTRY, logging onto the County's website or making phone calls with the time difference. In addition, she indicated that since the COVID pandemic they have had to quarantine in FOREIGN COUNTRY and have not been able to return to the United States.

DECISION AND ORDER

After review of the matter, regardless of the Property Owner's difficulties in 2020, the deadline to contest the County Board of Equalization's Decision was December 14, 2019. The 2019 "late" appeal request was improper and there is no basis in the law to allow a second appeal after a first appeal has been filed and a decision by the County Board of Equalization issued on the merits. The only option that the Property Owner had once the County Board of Equalization issued its decision, which occurred in November 2019, was to file an appeal within thirty days of that decision, which appeal period expired on December 14, 2019. The Property Owner missed that deadline, and it is now too late to file an appeal of the County Board of Equalization's decision regarding tax year 2019. Utah Code Sec. 59-2-1004 provides the statutory basis by which property owners may appeal the County's valuation of their property to the County Board of Equalization and provides the deadline to do so is September 15th of each tax year, unless the 15th falls on a weekend. Utah Code Sec. 59-2-1006 provides that a property owner dissatisfied with the decision from the County Board of Equalization under Utah Code Sec. 59-2-1004, may appeal the decision to the State Tax Commission if that appeal is filed within thirty-days of the date the County Board of Equalization issues its decision. The Tax Commission has concluded in prior appeals it would be

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appropriate to allow late filed Section 59-2-1006 appeals only where 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. The Property Owner has not shown that she was deprived of due process in this matter. The Tax Commission does not have statutory authority to extend that deadline even if good cause had been shown and there is no statutory basis to extend the deadline for those who are living outside of the United States. The Property Owner failed to timely file an appeal of the County Board of Equalization's decision by the December 14, 2019 deadline pursuant to Utah Code Sec. 59-2-1006. The facts in this matter that are before the Commission do not provide basis to extend the deadline to file an appeal set out at Utah Code Sec. 59-2-1006. Based upon the foregoing, the Property Owner's appeal in this matter is dismissed. It is so ordered.

DATED this _____ day of _____, 2021.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
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.