



# Salt Lake County Board of Equalization Administrative Rules

*Adopted 18 July 2017*

SALT LAKE COUNTY BOARD OF EQUALIZATION ADMINISTRATIVE RULES

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## SALT LAKE COUNTY BOARD OF EQUALIZATION ADMINISTRATIVE RULES

### I. GENERAL PROVISIONS

- A. These rules set forth policies and procedures for administrative proceedings before the Salt Lake County Board of Equalization (Board).
- B. These rules are supplemented by relevant provisions in Utah Code Sections ~~59-2-109~~, 59-2-1001 through 1006 and 59-2-1017 (hereafter Section refers to the Utah Code); Utah Admin. Code R884-24P-66 (County Board of Equalization Procedures and Appeals), ~~and~~ Utah State Tax Commission Standards of Practice (Procedures and Guidelines for Boards of Equalization), and any other statute or rule applicable to the Board of Equalization.

### II. AUTHORITY OF THE BOARD OF EQUALIZATION

- A. The Board considers only matters relating to the adjustment and equalization of the valuation and assessment of real and personal property within the County. The Board may not rule on matters expressly assigned by law to the County Council. The Board of Equalization consists of the Salt Lake County Council. The Board establishes rules, policies, and makes all final decisions based on its findings or findings made by the hearing officers. The Salt Lake County Auditor acts as the Clerk of the Board of Equalization.
- B. The Board has designated the Council Tax Administration Office as staff to the County Council on all real and personal property tax matters. Through delegation by the Board, the Office administers the Board, directs the hearing process, establishes policies and procedures, coordinates operations, and administers and monitors the appeals process. The Office carries out general operations and administrative matters for the Board as described under these rules, except as delegated by statute to other elected offices or reserved to the Board.
- C. In accordance with Section 59-2-1001, the Board may appoint hearing officers to examine the parties, experts and witnesses, consider and weigh the accuracy, credibility, reliability and relevance of the evidence, and make recommended findings to the Board. Each hearing officer must complete training as required by statute.

### III. APPLICATIONS FOR APPEAL

- A. A real and personal property application must be in writing and include:
  1. The name and address of the property owner;
  2. The identification number, location and description of the property;
  3. The value placed on the property by the Assessor;
  4. An estimate of the fair market value of the property. If the real property parcel contains both land and improvements, the owner's estimate of value must estimate the entire value of the land and improvements together;
  5. Signature of the owner, the owner's authorized agent, or other applicant; and
  6. Evidence or documentation required by IV. A. below.
- B. ~~The Clerk may send all~~ An applicant may elect to receive notices and communications including hearing notices and notices of intent to dismiss via email if the applicant has provided an email address to the Clerk. If the applicant has not provided an email address, the Clerk may contact the applicant to obtain

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an email address or send the notices and communications by U.S. -Mail. Notices of final action that may affect further appeal rights shall be sent by U.S. mail.

- C. All applications are reviewed by the Council Tax Administration for compliance with the requirements of this subsection.
- D. Applications may be dismissed if they fail to meet the minimum requirements herein. Deficiencies in real property applications will be specified in a written notice of intent to dismiss which will be sent to the applicant allowing 10 business days to correct the deficiencies. If the deficiency is not corrected within the required timeframe, the application may be dismissed. Timely responses that do not correct the specified deficiencies may be dismissed.
- E. Except as provided by R884-24P-66 for late-filed real property applications, all applications must be filed on or before the dates set forth in Section 59-2-1004 relating to real property and Section 59-2-1005 relating to personal property. An application is considered timely if received or postmarked on or before the statutory filing deadline.
- F. Taxes are due and payable in the appropriate County office on the statutory deadline, regardless of the status of any appeal to the Board, the State Tax Commission, or to any court. Failure to pay the amount due, as shown on the most current tax notice, shall result in the imposition of penalties and interest as provided by law.
- G. Applicants
  - 1. Applications must have an ownership, financial or legal interest in the property that is the subject of the application including:
    - a. The owner of the property;
    - b. An attorney representing the applicant;
    - c. A mortgage lender;
    - d. A contract holder or seller;
    - e. A property manager or employee of the owner;
    - f. A party with a life estate in the property;
    - g. A party with a fiduciary interest in the title to the property; or
    - h. A tenant who is obligated to pay taxes on the property.
  - 2. An applicant's agent must either (i) submit a written authorization signed by the applicant providing authority to act with regard to the year under appeal and identifying the property by address and parcel number, or (ii) complete the authorization section of the application.
  - 3. Professionals, including appraisers, tax representatives, agents, attorneys, and real estate professionals, are expected to understand the property tax process and act in accordance with their professional status.
  - 4. The Assessor, the Council Tax Administration Office, or the Auditor may petition the Board to add, remove, or modify an assessment, classification, or exemption.

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### IV. BASIS FOR APPEAL

A. An application for appeal to the Board must identify one or more of the following as a basis for the appeal and provide supporting evidence as follows:

1. **Purchase of the Subject Property** (real and personal property). Sales within one year of January 1 of the year under appeal.

Evidence must include a sales document such as a closing statement, final estimate of closing costs, settlement statement or HUD-1 disbursement document signed by the applicant and prepared by an independent third party identifying the contract sale price, the date of sale, the names of the buyer and seller, and the property location.

2. **Market Approach** (real and personal property). Market approaches must include three sales where available, but up to five sales are preferred, sold within one year of January 1 of the year under appeal.
  - a. Evidence of sales comparables must include date of sale, sale price, property location, and a sufficient description of site and improvement characteristics to support comparability to the subject.
  - b. Comparable sales may include the sales price of a relevant property that was under contract for sale as of the lien date, but sold after the lien date, and listings of properties that were offered for sale as of the lien date, but did not sell.
  - c. An owner or other person may prepare a price estimate, estimating the price for which a property would sell. A price estimate may not be prepared by a licensed or certified appraiser.
  - d. A person who submits a price estimate or property tax information consistent with Section 59-2-1017 on behalf of another must disclose whether such services were rendered under a contingency fee.
  - e. Greatest consideration will be given to relevant sales closest to the lien date.
3. **Professional Appraisal** (real and personal property). Appraisals must have an effective date within one year of January 1 of the year under appeal.
  - a. Professional fee appraisals must include a complete copy of the written appraisal report prepared and signed by a licensed or certified appraiser in accordance with Section 59-2-1017 and USPAP. For purposes of this section, the term "appraisal" is defined in Section 61-2g-102
  - b. ~~If the evidentiary basis for an application is an appraisal in progress, such application must contain a signed, written statement from an appraiser:~~
    - ~~i. certifying that the appraiser has been retained;~~
    - ~~ii. describing the property; and~~
    - ~~iii. identifying the date the appraisal will be complete, which shall not be later than 60 days from the statutory filing deadline for appeals.~~

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~~The applicant, by selecting this evidentiary basis, acknowledges the appeal may be dismissed without further notice if the appraisal is not submitted within the 60 day period. Any evidence submitted within this 60 day period that is not an appraisal as defined herein, may be excluded.~~

- ~~b.e.~~ Factual evidence not in the form of an opinion of value is not considered an appraisal under Section 61-2g-102.
  - ~~c.d.~~ If a person licensed or certified under State law prepares a written consultation report or summary, letter of transmittal or certification statement for a contingent fee, the person shall clearly disclose the contingent fee arrangement and its terms in the report, summary, letter or statement as provided by Section 61-2g-406.
4. **Factual Error** (real and personal property). An appeal based on factual error must include a detailed description and evidence demonstrating:
    - a. The alleged factual error resulted in a value other than fair market value for the tax year under appeal; or
    - b. An inaccuracy in the exemption classification.
  5. **Equalization** (real property). An appeal based on a claim of inequitable assessment must include multiple highly comparable properties that demonstrate an undervaluation of these properties greater than 5% relative to the subject. Applicants must also specifically identify the relevant characteristics of the comparable properties that make them highly similar to the subject property, together with evidence establishing comparability and classification of the properties.
  6. **Cost Approach** (real property). An appeal based on a cost approach must include:
    - a. A full description of the improvements being valued and:
    - b. A complete listing of actual costs of construction, hard and soft costs, entrepreneurial profit, and site value, or
    - c. Data from a reliable cost calculation service.
    - d. For construction work in progress, the percent of completed construction work in progress as of the lien date for any type of improved property as determined pursuant to R884-24P-20. Evidence of construction may include inspection reports from the municipality where the property is located showing the dates of inspection and descriptions of the construction work completed.
  7. **Income Approach** (real property). An appeal based on claims using the income approach for commercial properties, including apartments with three or more units, must include:
    - a. A rent roll and operating statement with all actual income and expense data for the prior year ending December 31 of the year under appeal. A supplemental 2-3 year operating history for the property may be necessary to establish an accurate income valuation. If the property is leased, a copy of the lease agreement should be provided. Additional evidence is required for specific challenges to excess vacancy, collection loss, expenses, capitalization rate, or discount rates.
      - ~~i. Any element of the Assessor's income approach that is unchallenged by the appellant may be deemed presumptively correct.~~

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- ~~1a.i.~~ Professional or commercial reports or publications may be used to challenge or support various components of an income valuation such as lease rate, vacancy, expenses, and capitalization rates.
- b. Leases of three comparable properties, from actual leases or commercial publications, including the location, description, age of lease, and type of lease, if the property is owner-occupied, ~~may be utilized to challenge the lease rate in an income approach.~~
8. **Legal Claim** (real or personal property). An appeal based on a legal claim must identify the relevant legal authority for the claim and any supporting factual evidence. Applications raising legal claims or issues, including exemptions, may be referred to the District Attorney's office.
- B. Relevant dates for appraisals, comparable sales, and other financial or economic data may be extended where the party submitting such evidence demonstrates that more current evidence is unavailable or not applicable.
- C. **Personal Property Appeals.**
- In addition to the requirements above, personal property appeals must include the following, as applicable:
    - Evidence demonstrating and quantifying all claims of extraordinary functional, physical or economic obsolescence;
    - Documentation of specific characteristics that would justify reclassification;
    - Claims concerning prior disposal of property must include source documents identifying the property and its disposition
  - The Board may not reduce an estimate of value after it is fixed by the Assessor pursuant to Section 59-2-307.
  - If a taxpayer claims the tangible personal property exemption, as described in Section 59-2-1115, and the Assessor disagrees, the Assessor will inform the taxpayer in writing of the reasons for recommending denial of the application for exemption and provide the taxpayer with notice of the right to appeal within 30 days the Assessor's recommended denial to the Board.

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## V. PROCEDURES

- A. Pre-hearing Resolution
- Any stipulation or finding is subject to review and acceptance by Council Tax Administration prior to submission to the Board for final decision. All stipulations must be in writing and include a statement that waives all further rights of appeal.
  - To facilitate the appeals process, Council Tax Administration may conduct an administrative review of an appeal prior to hearing and formally recommend a value adjustment to correct factual errors or to reflect fair market value.
  - The Assessor's office may conduct an informal review of an appeal prior to hearing and recommend a value adjustment to correct factual errors or to reflect fair market value. In the absence of a stipulation, the Board shall make a proposed decision and the Clerk will notify the appellant of the

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action, providing 30 days to request a hearing. If the appellant fails to request a hearing within the 30 day period, the proposed decision shall be submitted to the Board for approval.

### B. Hearings

1. Appeals not resolved by stipulation or by recommendation of the Assessor or Council Tax Administration will be set for hearing before a hearing officer. A party is not required to attend a hearing, and in a party's absence, the appeal will be decided on previously submitted evidence. Failure to appear at a hearing is not grounds to request a new hearing.
2. The Clerk shall provide written notice of hearing only to the applicant's representative. If none, notice is provided to the applicant. All requests for hearing notices to be sent to an address or email address other than that listed on the application must be made in writing to the Clerk of the Board.
3. Hearing notice will be sent:
  - a. At least ~~10~~ 15 business days prior to the hearing for commercial properties, or
  - b. At least 10 business days prior to the hearing for residential properties.
4. A hearing may be rescheduled once for good cause.

### C. Submission of Evidence after Initial Filing

1. A party may not submit any evidence after the initial filing except:
  - a. In response to a notice of intent to dismiss;
  - b. As rebuttal evidence, which shall be submitted no later than 5 business days prior to the original hearing date. Rebuttal evidence is limited to testimony or documents that exclusively challenge, contradict, or nullify specific evidence presented by the opposing party. The hearing officer shall exclude from consideration any evidence submitted under this subparagraph that exceeds the narrow scope of rebuttal evidence or is untimely.
  - c. As surrebuttal evidence, which shall be submitted at or prior to the hearing. Surrebuttal evidence is limited to testimony or documents that exclusively challenge, contradict, or nullify the appellant's specific rebuttal evidence. The hearing officer shall exclude from consideration any surrebuttal evidence that exceeds the narrow scope of surrebuttal evidence or is untimely.
  - d. In response to a hearing officer's request for clarification;
  - e. In response to a request by the Board of Equalization to provide a complete document where an incomplete document was previously submitted;
  - f. If the parties agree to the admission of additional evidence not contained in the original filing;
  - g. In personal property hearings, additional evidence may be submitted up to ten business days prior to hearing.
2. A hearing brief may be submitted before or at hearing, but such brief may not contain additional evidence. It should only be used to detail the disputes at issue, and advocate the proper resolution of those disputes.



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3. A hearing officer may, at any time before a written decision, request clarification or verification of any evidence from any party.
4. Ex Parte Communications
  - a. No party shall communicate ex parte with a hearing officer on matters relevant to the merits of an appeal for the purpose of influencing the outcome of the appeal. Discussions of procedural matters are not considered prohibited ex parte communications.
  - b. A hearing officer who receives ex parte communication relevant to the merits of a matter under appeal will disclose the communication to all parties and afford them an opportunity to comment. The communication will be placed into the case file.
  - c. Subsequent to hearing, a hearing officer may seek clarification of facts or evidence from either party. Such clarification is not ex-parte communication and the party's response will be limited to addressing the hearing officer's clarification.
5. A party will not disclose commercial information except as permitted by Section 59-1-404. Prior to receiving commercial information, an individual not bound by Section 59-1-404 must sign a non-disclosure affidavit that prohibits the individual from disclosing commercial information except as permitted by Section 59-1-404. Individuals who do not sign the non-disclosure affidavit may not participate in the portion of the hearing where the commercial information is discussed. The non-signing participant will only be entitled to receive a redacted copy of the appeal file with the commercial information removed.

### D.6. Hearing Standards

1.a. Valuation standard. ~~To prevail in a property valuation dispute, the applicant must meet the burden of proof consistent with Section 59-2-109 as appropriate to the facts pertaining to the appeal. The original assessment and any revised assessment that corrects a factual error are presumed correct.~~

~~i. To prevail in a property valuation dispute, the applicant must:~~

~~1. Establish substantial error in the assessment; and~~

~~2. Provide a sound evidentiary basis for a lower value.~~

~~ii. The Assessor generally has the burden to establish a higher assessed value.~~

2.b. Equalization standard. Assessments are presumed to be equalized. To prevail in a claim based upon equalization pursuant to Section 59-2-1004(7)(h), the applicant must:

a.i. Specifically identify multiple comparable properties, and show that they are highly comparable to the appellant's subject property;

b.ii. Show that the comparable properties have been undervalued, while the appellant's property has been singled out for fair market assessment; and

c.iii. Establish that the disparity in assessment value is at least 5% between the appellant's property and the comparable properties that have been undervalued.

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**3E.** Exemption standard. An applicant claiming an exemption must establish that the property and its use meets the statutory and constitutional requirements for the exemption.

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### **ED.** Post-hearing Resolution (and Non-hearing resolution)

Hearing officers shall transmit their proposed written findings and recommendations to Council Tax Administration. The findings shall identify the information required by Rule R884-24P-66. Any findings and hearing officer recommendations are subject to approval by Council Tax Administration.

### **FE.** Board Decision

1. The Clerk of the Board summarizes all adjustments to assessments or exemption recommendations on an agenda to be transmitted to the Board for approval. Any adjustment or recommendation may be removed from the agenda by the Clerk as needed for clerical corrections.
2. All recommendations and adjustments are subject to final action by the Board.
3. The Clerk will issue a notice of the final decision to:
  - a. The applicant at the address identified on the application or as changed in writing;
  - b. The property owner at the address listed on the county record as of the date of the printing of the notice; and
  - c. Interested persons upon their request in writing according to procedures established by the Clerk.
4. The Treasurer will refund taxes resulting from a final non-appealable decision of the ~~Board to the owner of record as of the time the refund is made~~ consistent with state law. It is the responsibility of the applicant, owner, former owners, or buyers of the subject parcel to arrange further distribution.
5. If an underpayment results from a decision issued by the Board, the State Tax Commission or a court of competent jurisdiction, no penalty or interest shall be due on the underpayment if paid within 45 days of notice of such increase.

### **GF.** Withdrawal

1. An applicant may request to withdraw an appeal by submitting a signed written statement at any time prior to a final decision. Absent any objections from the opposing party, the appeal will be withdrawn.
2. Any party to an appeal proceeding may object to the withdrawal. In the event of an objection, the appeal will be scheduled for a hearing on the merits.

### **HG.** Appeal to the Utah State Tax Commission

1. An appeal of the Board's decision to the State Tax Commission must be filed with the Clerk of the Board within the statutory time period and in accordance with Section 59-2-1006.
2. Any party to an appeal before the Board, including the Assessor as provided by law, has the right to appeal to the Tax Commission.

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3. For appeals initiated by the applicant, the Board may be represented by the District Attorney, or the Assessor, or Council Tax Administration.