

IN THE UTAH COURT OF APPEALS

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Robert & Wendy Beall,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioners,)	
)	Case No. 20080659-CA
v.)	
)	F I L E D
)	(December 4, 2008)
Utah State Tax Commission;)	
Board of Equalization of Salt)	2008 UT App 442
Lake County; and Lee Gardner,)	
acting in his official)	
capacity as Salt Lake County)	
Assessor,)	
)	
Respondents.)	

Original Proceeding in this Court

Attorneys: Robert Beall and Wendy Beall, Salt Lake City,
Appellants Pro Se
Mark L. Shurtleff, Bradley C. Johnson, Lohra L.
Miller, and Zachary D. Shaw, Salt Lake City, for
Appellees

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

Robert and Wendy Beall (the Bealls) appeal the Utah State Tax Commission's orders denying their request for reconsideration. This is before the court on its own motion for summary disposition.

Utah Code section 59-1-610(1) provides that this court shall grant the Utah State Tax Commission (the Commission) deference as to its written findings of fact, while applying a substantial evidence standard on review. See Utah Code Ann. § 59-1-610(1)(a) (Supp. 2008). This court grants the Commission no deference concerning its conclusions of law, and applies a correction of error standard, unless there is an explicit grant of discretion contained in the statute before the court. See id. § 59-1-610(1)(b). Rule 861-1A-29(1)(a)(iv) of the Utah Administrative Code provides that an initial hearing decision shall become final upon the expiration of thirty days after the date of its

issuance, unless a party has earlier filed a written request for a formal hearing. See Utah Admin. Code R861-1A-29(1)(a)(iv). Rule 861-1A-29(2) of the Utah Administrative Code provides that a party may file a written request for reconsideration alleging mistake of law or fact, or the discovery of new evidence. See id. R861-1A-29(2).

The Commission determined that the Initial Hearing Orders were properly mailed to the Bealls, but that they failed to timely request a formal hearing. The Commission also determined that the Bealls had not presented evidence that had any bearing on the issue of their untimely request for a formal hearing. The record demonstrates that the Initial Hearing Orders were entered on February 21, 2008, and that the Bealls did not file their request for a formal hearing until May 21, 2008. Thus, the Commission did not err in determining that the request for a formal hearing was untimely.

The record also demonstrates that in filing their request for reconsideration, the Bealls did not submit new evidence or demonstrate a mistake in law or fact pertaining to whether they had timely appealed the Initial Hearing Orders. Rather, the Bealls merely sought to reargue the valuation of their properties. Thus, under rule 861-1A-29(2), the Commission did not err in denying the Bealls' request for reconsideration. See id.

Affirmed.

Russell W. Bench, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge