

12-1941
TAX TYPE: LOCALLY ASSESSED PROPERTY
TAX YEAR: 2011
DATE SIGNED: 3-29-2013
COMMISSIONERS: D. DIXON, M. CRAGUN, R. PERO
EXCUSED: B. JOHNSON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p>ORDER DENYING REQUEST FOR RECONSIDERATION</p> <p>Appeal No. 12-1941 Tax Type: Locally Assessed Property Tax Year: 2011 Parcel No. ##### Judge: Phan</p>
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STATEMENT OF CASE

This matter came before the Utah State Tax Commission upon a Request for Reconsideration, dated January 25, 2013, filed by NAME of (X) Tax Group (X), asking for reconsideration of the Tax Commission's Order of Dismissal, which was issued on January 8, 2013 ("Final Order"). (X) represented PETITIONER who owned this property when the appeal was first filed to the Salt Lake County Board of Equalization and had filed this appeal to the Utah State Tax Commission as the PETITIONER'S representative on July 10, 2012. However, PETITIONER no longer owned this property by the time the appeal was filed to the Utah State Tax Commission. In the Request for Reconsideration, (X) confirms that PETITIONER had sold the property in January 2012.

The Commission's Final Order had been based on a request to withdraw the appeal submitted by the current owner of this property, OWNER (OWNER). In the request the representative for OWNER explained that OWNER had acquired the property from PETITIONER on January 27, 2012. The representative for OWNER also states that (X) does not represent OWNER.

Therefore, it is clear that PETITIONER was the owner throughout all of 2011 and would have been responsible for payment of the tax for that year. However, when this appeal was filed to the Utah State Tax Commission on July 10, 2012, PETITIONER no longer owned this property.

APPLICABLE LAW

Utah Code Sec. 63G-4-301 provides that a party may, within 20 days after the date an order constituting final agency action has been issued, file a written request for reconsideration.

Utah Administrative Rule R861-1A-29(3) provides that a party may file a written request for reconsideration "alleging mistake of law or fact, or the discovery of new evidence." Under this rule, the Tax Commission may exercise its discretion in granting or denying a Petition for Reconsideration and generally will not reconsider based on evidence that could, with due diligence, have been discovered and produced at the hearing.

(1)(a) 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) . . . (5) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as prescribed in Section 59-2-1006. (Utah Code Sec. 59-2-1004(1) & (5).)

(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, 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 Code Sec. 59-2-1006(1).)

A tax upon real property is a lien against the property assessed. (Utah Code Sec. 59-2-1325(1)(a).)

DECISION AND ORDER

In the request (X) argues PETITIONER did not submit a request to withdraw the appeal and also points out that PETITIONER owned the property for all of 2011, the year at issue. From this it would follow that PETITIONER was the taxpayer for the tax year 2011. However, if the appeal were to continue and the Commission raise the value of this property, which is one of the possible outcomes, the corresponding increase in property tax would be a lien against the property, affecting the current OWNER and not the prior owner PETITIONER. The Commission has previously held that the current owner is an indispensable party in a property tax appeal. *See Utah State Tax Commission's Order of Dismissal, Appeal No. 10-1551, issued July 21, 2011.*¹ In this case OWNER, the current owner has requested that the appeal be closed and has stated that (X) did not represent the current owner. The Commission may not continue this appeal without the consent of the current owner. Therefore, the appeal was property dismissed by the Commission's Final Order. (X) has not

¹ This decision is available in a redacted format at tax.utah.gov/commission-

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provided a basis for reconsideration and (X) request should be denied.

It is so ordered.

DATED this ____ day of _____, 2013.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

NOTICE: You have thirty (30) days after the date of this order to pursue judicial review of this order pursuant to Utah Code Ann. §§59-1-601 et seq. and 63G-4-401 et seq.