

15-1654
TAX TYPE: LOCALLY ASSESSED PROPERTY
TAX YEAR: 2015
DATE SIGNED: 12-2-2015
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO
EXCUSED: R. ROCKWELL
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF RURAL COUNTY, STATE OF UTAH, Respondent.	ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION Appeal No. 15-1654 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2015 Judge: Phan
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STATEMENT OF THE CASE

On October 29, 2015, Petitioner ("Property Owner") filed with the Utah State Tax Commission a Request to Reconvene the Board of Equalization, asking the Commission to order the Respondent ("County") to reconvene in order to hear an appeal of the valuation of parcel no. ##### for the 2015 tax year. The County Board of Equalization did not hear the appeal because the Property Owner failed to file the appeal within the statutory time period.

APPLICABLE LAW

Utah Code §59-2-1004(2) provides that the time to file a valuation appeal to a county board of equalization is generally September 15th of the year at issue, as set forth below in pertinent part:

- (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:
 - (i) September 15 of the current calendar year; or
 - (ii) The last day of a 45-day period beginning on the day on which the county auditor mails the notices under Section 59-2-919.1.
- (b) Notwithstanding Subsection (2)(a), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (2)(a).

The Commission has promulgated Administrative Rule R884-24P-66(13) to establish the circumstances under which a County Board of Equalization may accept an appeal that has been filed after

the statutory deadline, as follows in relevant part:

- (13) Except as provided in Subsection (15), a county board of equalization shall accept an application to appeal the valuation or equalization of a property owner's real property that is filed after the time period prescribed by Section 59-2-1004(2)(a) if any of the following conditions apply:
 - (a) During the period prescribed by Section 59-2-1004(2)(a), the property owner was incapable of filing an appeal as a result of a medical emergency to the property owner or an immediate family member of the property owner, and no co-owner of the property was capable of filing an appeal.
 - (b) During the period prescribed by Section 59-2-1004(2)(a), the property owner or an immediate family member of the property owner died, and no co-owner of the property was capable of filing an appeal.
 - (c) The county did not comply with the notification requirements of Section 59-2-919.1.
 - (d) A factual error is discovered in the county records pertaining to the subject property.
 - (e) The property owner was unable to file an appeal within the time period prescribed by Section 59-2-1004(2)(a) because of extraordinary and unanticipated circumstances that occurred during the period prescribed by Section 59-2-1004(2)(a), and no co-owner of the property was capable of filing an appeal.
- (14) Appeals accepted under Subsection (13)(d) shall be limited to correction of the factual error and any resulting changes to the Property's valuation.
- (15) The provisions of Subsection (13) apply only to appeals filed for a tax year for which the treasurer has not made a final annual settlement under Section 59-2-1365.

"Factual error" is defined at Utah Admin. Rule R884-24P-66(1) as follows:

- (a) "Factual error" means an error that is: (i) objectively verifiable without the exercise of discretion, opinion or judgment; (ii) demonstrated by clear and convincing evidence; and (iii) agreed upon by the taxpayer and the assessor.
- (b) Factual error includes: (i) a mistake in the description of the size, use or ownership of a property; (ii) a clerical or typographical error in reporting or entering the data used to establish valuation or equalization; (iii) an error in the classification of a property that is eligible for a property tax exemption . . . (iv) an error in the classification of a property that is eligible for assessment under Title 59, Chapter 2, Part 5; (v) valuation of a property that is not in existence on the lien date and (vi) a valuation of a property assessed more than once, or by the wrong assessing authority.
- (c) "Factual error does not include: (i) an alternative approach to value; (ii) a change in a factor or variable used in an approach to value; or (iii) any other adjustment to a valuation methodology.

DISCUSSION

The statutory provisions place the responsibility on property owners to file a valuation appeal by the deadline set out in Utah Code Sec. 59-2-1004 for each tax year. The property owner also has the responsibility to provide a good mailing address to the County for the notices. The deadline to file an appeal for all counties within Utah is on or around September 15, each year. The County may hear an appeal filed after the September 15 deadline if provisions of Utah Code Sec. 59-2-1004 and Utah Admin. Rule R884-24P-66 (Rule 66) has been met. However, if a property owner fails to show that circumstances under Rule 66 have been met, there is no basis to allow the late filed appeal. Rule 66 is provided above. One of the circumstances listed in Rule 66(13)(c) is if the County failed to comply with the notification requirements of Utah Code Section 59-2-919.1.

The Property Owner explains on the request form and a letter attached that they did not receive the valuation notice because it was sent to the address of the property that is the subject of this request, rather than Petitioner's home address in CITY-1, Utah. The Property Owner stated that a "business partner's assistant" had called about the property several times but did not receive the tax notice. The Property Owner had just purchased the property in May 2015 and indicates that the assessed value was much higher than the purchase price for the property and an appraisal value for the property. The Property Owner also indicated unfamiliarity with procedures in RURAL COUNTY.

The County Board of Equalization responded to the Property Owner's Request to Reconvene, pointing out that the County had mailed the notice to the address provided on the Warranty Deed, therefore, complying with Utah Code 59-2-919.1. The County provided a copy of the Warranty Deed which confirmed this contention. The County indicated that had the Property Owner contacted them about the notice or provided them with an updated address, the County would have provided a copy of the notice and updated the mailing address. It was the County's position that the Property Owner had not provided a basis to reconvene the County Board in this matter.

Upon review of the information provided by the Property Owner, there is not sufficient basis to allow for the late filed appeal under Rule 66. The County mailed the valuation notice to the address of record for the subject property as provided on the Warranty Deed. If the Property Owner wanted notices to be mailed to a different address, it is the Property Owner's responsibility to provide that address to the County on the Warranty Deed or subsequently. Failure to receive notice is not basis to allow a late filed

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appeal unless the County failed to mail the valuation notice to the address of record. Rule 66 and its provisions are listed above and the Property Owner has not established a basis for the late filed appeal under the Rule. Furthermore, the notice requirements and deadlines are the same throughout the state.

DECISION AND ORDER

Based on the foregoing, the Property Owner's Request to Reconvene the County Board of Equalization to hear the late filed appeal is denied. It is so ordered.

DATED this _____ day of _____, 2015.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. 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.