

01-0322
PROPERTY
TAX YEAR: 2001
SIGNED: 04-03-2001
COMMISSIONERS: P. HENDRICKSON, R. JOHNSON, P. DEPAULIS, M. JOHNSON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

COUNTY,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Petitioner,)	AND FINAL DECISION
)	
v.)	Appeal No. 01-0322
)	
PROPERTY TAX DIVISION OF)	
THE UTAH STATE TAX)	Tax Type: Property Tax
COMMISSION,)	
)	Judge: Hendrickson
Respondent.)	

Presiding:

Pam Hendrickson, Commission Chair
R. Bruce Johnson, Commissioner
Palmer DePaulis, Commissioner
Marc B. Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER REP. 1, COUNTY Commission Chairman
PETITIONER REP. 2, COUNTY Commissioner
PETITIONER REP. 3, COUNTY Administrator
PETITIONER REP. 4, COUNTY Auditor
PETITIONER REP. 5, COUNTY Chief Deputy Auditor

For Respondent: RESPONDENT REP. 1, Assistant Attorney General
RESPONDENT REP. 2, Property Tax Division Director
RESPONDENT REP. 3, Property Tax Division Deputy Director
RESPONDENT REP. 4, Property Tax Division Standards Section
Manager

Appeal No. 01-0322

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 26, 2001. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The issue in question concerns property tax rates.
2. The year in question is the 2001 tax rate year.
3. COUNTY (“County”) seeks permission to impose an aggregate 2001 tax rate that exceeds its aggregate 2001 certified tax rate, specifically to increase the individual tax rates for its county general fund and county health fund.
4. The County is an entity that sets its budget on a calendar year basis.
5. In December 2000, the County held its annual budget meeting for the calendar year 2001, after advertising the date, time and place for the budget meeting. However, no evidence was presented to show that the advertisement contained information related to the County increasing its 2001 tax rate above its certified tax rate. At this budget meeting, the County Commission discussed the need to raise additional revenue and whether rising oil prices would increase the County’s “Centrally-Assessed” values to the degree necessary to generate the additional revenue through “new growth.”
6. On January 30, 2001, the Property Tax Division (“Division”) informed the County

that the Division would not approve a 2001 tax rate for the County that exceeded its certified tax rate
Appeal No. 01-0322

because the County did not advertise its intention to increase the tax rate prior to its December, 2000,
budget meeting.

7. The County requests that the Tax Commission allow it, through the acts of publishing
a notice of tax increase and holding a public meeting in accordance with the truth-in-taxation statutes
in the Summer of 2001, to adopt a 2001 tax rate that exceeds its certified tax rate.

APPLICABLE LAW

1. Utah Code Ann. §59-2-918(1)(a) provides that:

. . . a taxing entity may not budget an increased amount of ad valorem tax
revenue exclusive of new growth as defined in Subsection 59-1-924(2)
unless it advertises its intention to do so at the same time that it advertises its
intention to fix its budget for the forthcoming fiscal year.

2. Subsection 918(3) provides that the advertisement described in Subsection 918(1)
must contain specific information and meet “specific size, type, placement, and frequency
requirements.”

CONCLUSIONS OF LAW

The County has petitioned the Tax Commission to allow it to increase its 2001 tax rate above
its certified tax rate. Before the Tax Commission may approve a tax rate greater than the certified
rate, an entity must meet the statutory requirements relating to a tax increase. A calendar year entity,
such as the County, must advertise its intention to increase its tax rate twice, once when the budget
is adopted in December (as set forth under Utah Code Ann. §59-2-918) and a second time when the

tax rate is adopted the following Summer (as set forth under Section 919). An entity must comply
Appeal No. 01-0322

with both sections prior to imposing a tax increase. The December budget hearing for the 2001 tax rate year has already passed. Accordingly, whether the County has met the statutory requirements set forth in Section 918 will determine if the County can still qualify for a tax increase.

Testimony established that the County published an advertisement prior to its December, 2000 budget meeting that contained the date, time, and place of the budget meeting. The County does not contend, however, that the notice contained the specific tax increase information required under Section 918(3). The County also concedes that the need to appropriate additional funds for health care was known at the time the budget was set in December, 2000. The proposed tax increase is not required by any change in law or fact that occurred after the budget hearing was held.

The County does argue, however, that a tax increase may not have been necessary if “new growth” from the oil and gas producing properties in the County had been sufficient. The County could not determine the actual amount of such “new growth” until the Division completed its assessments on May 1, 2001. We recognize that a calendar year entity, in determining its need for a tax increase, must estimate the revenue that will be generated by “new growth” months before the assessed values are known. This is particularly difficult for a county such as COUNTY, where a large portion of its assessed valuation is comprised of oil and gas properties whose values may fluctuate greatly from year to year. If such an entity chooses to rely on new growth to fund its needs, however, it must assume the risk that such new growth may be lower than anticipated. Thus, a conservative approach would be to advertise and hold a truth-in-taxation hearing in December. If

new growth is sufficient to cover the budget needs, the tax increase would not have to be implemented. If

Appeal No. 01-0322

the new growth is not sufficient, as appears to be the case here, the statutory truth-in-taxation requirements would have to been met. While such a procedure is politically difficult and, for small entities, expensive, it is the procedure required by law.

Because the advertisement actually published in this case was not sufficient to qualify as an advertisement required under Section 918(1), the County cannot comply with the totality of requirements necessary to impose a tax increase. Accordingly, the Tax Commission may not allow the County to increase its 2001 tax rate above its certified tax rate.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the County's petition to allow it to set its 2001 tax rate above its certified tax rate. It is so ordered.

DATED this ____ day of _____, 2001.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
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. 63-46b-13. 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 and 63-46b-13 et. seq.

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