

05-0056  
Locally Assessed Property Tax  
Signed 03/30/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	05-0056
	)	Parcel No.	#####
v.	)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION	)		Exempt Property
OF SALT LAKE COUNTY,	)	Tax Year:	2004
STATE OF UTAH,	)		
	)	Judge:	Davis
Respondent.	)		

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**This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.**

**Presiding:**

G. Blaine Davis, Administrative Law Judge

**Appearances:**

For Petitioner:      PETITIONER REPRESENTATIVE  
For Respondent:     RESPONDENT REPRESENTATIVE, Deputy, Salt Lake District Attorney

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on March 7, 2005.

Petitioner operates a charter school, which is chartered by ( X ). The real property from which it operates the charter school is leased from a private entity, i.e., COMPANY.

The county does not dispute that the property is used exclusively for educational purposes. However, the Salt Lake County Board of Equalization denied the exemption because Petitioner is not the owner of the property.

APPLICABLE LAW

1. Utah Code Ann. §59-2-1101(2) provides in relevant part as follows:

(2) The following property is exempt from taxation:

••••

(b) property owned by a non-profit entity which is used exclusively for religious, charitable, or educational purposes;

2. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. §59-1-210(7).

3. 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 Tax Commission. In reviewing the county board's decision, the Commission may admit additional evidence, issue orders that it considers to be just and proper, and make any correction or change in the assessment or order of the county board of equalization. Utah Code Ann. §59-2-1006(3)(c).

4. To prevail, the Petitioner must (1) demonstrate that the County's assessment was erroneous, and (2) provide the Commission with a sound evidentiary basis for granting the relief requested by Petitioner. *Nelson V. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

DISCUSSION

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In this matter, it is acknowledged and agreed by all parties that the property is used for educational purposes, and that Petitioner is a non-profit entity. However, it is also agreed by all parties that the property is not owned by the non-profit entity. Therefore, the Commission determines that Petitioner does not meet the statutory requirements for the property to be exempt from property taxes.

At the hearing, Petitioner's representative argued that it was unreasonable for them to be required to take money out of the monies they receive from taxes in order to pay to the landlord the amount for property taxes. However, that is a legislative issue, and the legislation requires that the property be owned by the non-profit entity.

DECISION AND ORDER

Based upon the foregoing, the Commission determines that the subject property is not owned by the non-profit entity that is using it in its educational purposes, and it is therefore not exempt from property taxes. The Petition for Redetermination is hereby denied. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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G. Blaine Davis  
Administrative Law Judge

Appeal No. 05-0056

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner

Marc B. Johnson  
Commissioner

*GBD/ssw/05-0056.int*