
BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2, Petitioners, v. UTAH COUNTY BOARD OF EQUALIZATION, Respondent.	ORDER DENYING PETITION TO RECONVENE BOARD OF EQUALIZATION Appeal No. 08-1970 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2001-2006 Judge: Nielson-Larios
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STATEMENT OF THE CASE

Petitioners have requested the Tax Commission reconvene the Board of Equalization of Utah County to hear an appeal of the valuation of the above listed property for the 2001-2006 tax years. The County Board of Equalization did not hear Petitioners' appeal because Petitioners failed to file the appeal within the statutory time frame.

Petitioners indicate that they did not appeal earlier because they were unaware of the errors in the Utah County records. They indicate that the Utah County records overstated the square footage, number of bathrooms, and number of fireplaces. They discovered these errors when they appealed the 2007 value. They explain that the County confirmed the errors on February 25, 2008 and corrected the 2007 value. Petitioners now seek a refund of the taxes relating to the errors, which taxes they paid for 2001-2006. They state that they originally sought a refund for the 2001-2006 years on September 26, 2007, when they made their request to the Board. They also provided a copy of a second written request to the County, dated July 25, 2008.

Respondent indicates that the valuation notices for the Petitioners were mailed each year in a timely manner and that none of these notices were returned as undeliverable. Also, Respondent asserts that the Petitioners never contested the market value. Additionally, the Respondent states that the county assessor will have to determine if there was a factual error in the value of the property.

The Commission considers the parties' explanations and the applicable law. The law makes

the property owner responsible for raising objections to property tax valuations in an appeal with the county within the time frame outlined in Utah Code Ann. § 59-2-1004, under which the deadline is generally September 15 of the tax year at issue. In this case, under § 59-2-1004 the deadline for 2006 was September 15, 2006. The deadlines for the prior years were earlier. From the information in the file, the earliest date on which the Petitioners may have appealed the 2001-2006 values was September 26, 2007 when they made a statement before the Board primarily addressing the 2007 value. This September 26, 2007 date was a year after the September 15, 2006 deadline.

Section 59-2-1004 and Utah Admin. Code R884-24P-66 (“Rule 66”) establish the circumstances under which the Board of Equalization must accept an appeal that has been filed after the statutory deadline. Rule 66B.4. extends the filing time for “[a] factual error . . . discovered in the county records pertaining to the subject property.” Under Rule 66A.1., a factual error is “objectively verifiable” and “demonstrated by clear . . . evidence.” Under Rule 66A.2., a “[f]actual error includes: a) a mistake in the description of the size, use, or ownership of a property.” In this case, the Petitioners are arguing that there were factual errors for the 2001-2006 tax years.

Rule 66.D. provides the time limit for filing an appeal for factual errors. It states: “The provisions of B. [which includes the factual error exception] 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.” Section 59-2-1365(2) requires the treasurer to “make a final annual settlement on March 31 . . . for the most recent annual year . . .” In this case, the factual error exception in Rule 66B.4. can only apply if the Petitioners filed their appeal before the annual settlement dates. The annual settlement date for 2006 was March 31, 2007. The annual settlement dates for 2001-2005 were earlier. Petitioners did not file before these annual settlements. Their earliest request was on September 26, 2007 before the Board, about six months after the latest annual settlement date

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of March 31, 2007. Therefore, the County Board of Equalization has no statutory basis to hear Petitioners' late-filed appeal even if there were factual errors for 2001-2006.

Because Petitioners failed to timely file an appeal with the County Board of Equalization or within the extended period to correct a factual error, the only recourse Petitioners may have in this matter is under the discretion of the Utah County Commission pursuant to Utah Code Ann. §§ 59-2-1321, 59-2-1322 or 59-2-1347 and not the Utah County Board of Equalization. Under those statutory provisions, Petitioners may ask the County Commission directly for relief based on erroneous assessment. The State Tax Commission does not have jurisdiction or authority to order the County Commission to hear Petitioners' request under those statutory provisions. The Utah County Commission has discretion to make its own determination. Therefore, to pursue this process Petitioner must take its request directly to the Utah County Commission.

DECISION AND ORDER

For the reasons stated, Petitioners' Request to Reconvene the Board of Equalization to hear the late-filed appeal is denied. It is so ordered.

BY ORDER OF THE UTAH STATE TAX COMMISSION.

DATED this _____ day of _____, 2009.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
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 Sec. 63G-4-302. A Request for Reconsideration must

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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 Secs. 59-1-601 et seq. and 63G-4-401 et seq.

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