

08-26-76  
LOCALLY ASSESSED PROPERTY  
03-23-09

---

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	<b>ORDER DENYING PETITION TO RECONVENE BOARD OF EQUALIZATION</b>
Petitioner,	Appeal No. 08-2676
v.	Parcel No. #####
UTAH COUNTY BOARD OF EQUALIZATION,	Tax Type: Property Tax/Locally Assessed
Respondent.	Tax Year: 2008
	Judge: Nielson-Larios

---

STATEMENT OF THE CASE

Petitioner has requested the Tax Commission to reconvene the Board of Equalization to hear an appeal of the valuation of the above listed property for the 2008 tax year. The County Board of Equalization did not hear Petitioner's appeal because Petitioner failed to file his appeal within the statutory time frame.

Petitioner provided a copy of the valuation notice that showed the County mailed the notice to the property's address: "ADDRESS CITY UT ZIP." However, the property was vacant land. The Petitioner's also argued that he disagrees with the County's assessed value, stating, "We bought this property for \$\$\$\$\$. Tax amount should be less, as our real estate agent mentioned to us."

Respondent stated that Petitioner's valuation notice was correctly mailed to the property address that was on the warranty deed filed by ( X ). Respondent argued that Petitioner's title company erroneously provided the County with the wrong address. Upon request, Respondent provided a copy of the Warranty Deed, which stated that the Petitioner's address was "ADDRESS CITY UT ZIP." UtahCode Ann. § 59-2-1004 provides the deadline for filing an appeal with the Board of Equalization. Generally, a taxpayer must file an appeal by September 15 of the current calendar year. § 59-2-1004(2)(a). Because the 2008 valuation is being appealed, the deadline was September 15, 2008. In this case, the parties agree that the

Appeal No. 08-2676

Petitioner filed after the deadline.

Section 59-2-1004(2)(b) 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. These circumstances include a medical emergency, a death, a notification not complying with § 59-2-919(4), a factual error, and an extraordinary circumstance occurring during the period prescribed by § 59-2-1004(2)(a). *See* Rule 66B. We will consider whether Petitioner’s explanation meets the notification, factual error, or extraordinary circumstance exceptions for a late-filed appeal.

Notification Exception

For notification not complying with § 59-2-919(4) (“Notification Exception”), Subsection B-B.3. of Rule 66, provides:

[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 . . . 3. The county did not comply with the notification requirements of Section 59-2-919(4).

The current version of Utah Code Ann. § 59-2-919(4) is located in § 59-2-919.1, which provides that “[o]n or before July 22 of each year, the county auditor shall notify, by mail, each owner of real estate as defined in Section 59-2-102 who is listed on the assessment roll.” In this case, the county auditor sent proper notice by mail to the address on the Warranty Deed. While it is regrettable that the notice was mailed to the address of the vacant land, the County did not cause this address error. Petitioner’s appeal does not meet the Notification Exception.

Factual Error Exception

Subsection B-B.4. of Rule 66, provides:

[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 . . . 4. A factual

error is discovered in the county records pertaining to the subject property.

Subsection A. of Rule 66, explains what a factual error is, providing:

1. "Factual error" means an error that is: a) objectively verifiable without the exercise of discretion, opinion, or judgment, and b) demonstrated by clear and convincing evidence.
2. Factual error includes: a) a mistake in the description of the size, use, or ownership of a property; b) a clerical or typographical error in reporting or entering the data used to establish valuation or equalization; c) an error in the classification of a property that is eligible for a property tax exemption . . . ; d) valuation of a property that is not in existence on the lien date; and e) a valuation of a property assessed more than once, or by the wrong assessing authority.

Disagreements about valuation are not factual errors. Rather, valuation relies on opinions and is inherently subjective; valuation is not "objectively verifiable without the exercise of discretion, opinion, or judgment." *See* Rule 66A.1.a). In this case, Petitioner's main disagreement is with valuation because he purchased the property for \$\$\$\$\$, less that the assessed value. However, a disagreement such as this can only be resolved by comparing people's opinions. Therefore, Petitioner's appeal does not meet the Factual Error Exception.

#### Extraordinary Circumstances Exception

Subsection B-B.5. of Rule 66 provides:

[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 . . . 5. The property owner was unable to file an appeal within the time period prescribed by Section 59-2-1004(2)(a) [by September 15, 2008] 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.

In general, transfers of property are not extraordinary or unanticipated. Rather, they regularly occur. Additionally, the assessed values and the sales prices of transferred properties often differ.

Appeal No. 08-2676

Likewise, in this case Petitioner's appeal does not meet the Extraordinary Circumstances Exception.

For the reasons discussed, Petitioner has not met the requirements of Rule 66 allowing a late-filed appeal. While it is unfortunate that Petitioner disagrees with the property's assessed value, the County Board of Equalization has no statutory basis to hear the Petitioner's late-filed appeal.

DECISION AND ORDER

For the reasons stated, Petitioner's 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 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.

*ALN/08-2676.rec.doc*