

09-2281  
LOCALLY ASSESSED PROPERTY  
TAX YEAR: 2008  
SIGNED: 02-18-2010

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BEFORE THE UTAH STATE TAX COMMISSION

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| <p>PETITIONER,<br/><br/>    Petitioner,<br/><br/>    v.<br/><br/>BOARD OF EQUALIZATION OF UTAH<br/>COUNTY, STATE OF UTAH,<br/><br/>    Respondent.</p> | <p><b>COMBINED ORDER OF CONSOLIDATION<br/>AND GRANTING TAXPAYER'S<br/>REQUEST TO RECONVENE COUNTY<br/>BOARD OF EQUALIZATION</b></p> <p>Appeal No.     09-2281<br/>Parcel No.     #####-1<br/>Tax Type:     Property Tax/Locally Assessed<br/>Tax Year:     2008</p> <p>Judge:         Nielson-Larios</p> |
| <p>PETITIONER,<br/><br/>    Petitioner,<br/><br/>    v.<br/><br/>BOARD OF EQUALIZATION OF UTAH<br/>COUNTY, STATE OF UTAH,<br/><br/>    Respondent.</p> | <p>Appeal No.     09-0058<br/>Parcel Nos.    #####-1; #####-2;<br/>                  #####-3; and #####-4<br/>Tax Type:     Property Tax/Locally Assessed<br/>Tax Year:     2008</p> <p>Judge:         Marshall</p>  |

The Petitioner ("Taxpayer") has filed two separate Requests to Reconvene the County Board of Equalization for Parcel No. #####-1 for the 2008 tax year. In response to the first request, the Commission issued on March 11, 2009 its Order Denying in Part and Granting in Part Petition to Reconvene Board of Equalization ("Order") for Appeal No. 09-0058. In that Order, the Commission granted the Taxpayer's request to reconvene the Board for Parcel No. #####-1 for the limited purpose of addressing the alleged factual error. Additionally, the Order stated the following: "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. . . . If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. . . ."

On June 23, 2009, the Taxpayer filed with the Utah County Auditors Office a second Request to Reconvene the Board of Equalization. This second request was forwarded to the Utah State Tax Commission,

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resulting in Appeal No. 09-2281 being opened. In the second request, the Taxpayer asked that the scope of the Order for Appeal No. 09-0058 be broadened so that the Board would address areas affecting value, not just those relating to the alleged factual error. The Taxpayer asserted that she had medical problems in the summer and fall of 2008 and a major surgery in January 2009 that affected her ability to file a timely appeal.

As part of the County's response to the Taxpayer's second request, the County attached partial copies of the minutes from two meetings of the Board of Equalization. On the minutes for March 31, 2009, the Board's item titled "Hear Appeal of 2008 Property Valuation for PETITIONER, s/n #####-1" was continued to its next meeting on April 28, 2009. On the minutes for April 28, 2009, the Board approved the following motion: "The motion is for County to petition the State Tax Commission, on behalf of PETITIONER, Parcel No. #####-1, to broaden the scope of the decision to allow county to address the value of the land due to medical hardship last year." Then, the Board again continued its hearing of PETITIONER' appeal.

Because Appeal Nos. 09-0058 and 09-2281 are both Requests to Reconvene for Parcel No. #####-1 for the 2008 tax year, they should be consolidated and considered together.

The Order for Appeal No. 09-0058 constitutes final agency action because neither party filed a Request for Reconsideration within 20 days of the date of the Order. The Order for Appeal No. 09-0058 became the final agency action on April 1, 2009, 21 days after the Order was signed.

The Taxpayer's second request, however, could also be considered a new petition to the County Board of Equalization alleging a new ground for hearing an untimely appeal, that is, that she was incapable of filing a timely appeal because of her medical condition. This would be an acceptable ground for additional time under Rule R884-24P-66.B.1. The new request under Rule 66 must be filed before the county treasurer makes his annual settlement with the taxing entities in the county on March 31, 2009. The March 31, 2009 minutes from the Board of Equalization clearly establish that her second petition was received on or before the requisite due date. Moreover, from the April 28, 2009 minutes, it appears that the Board felt her medical conditions would indeed meet the requirements of Rule 66, inasmuch as they moved to petition the Tax Commission to allow such relief.<sup>1</sup>

In short, the Taxpayer has alleged two grounds for relief under Rule 66. In her first petition, she alleged a factual error. Any relief under this provision would be limited to the effect of the factual error. In her second petition, she alleged a medical condition that prevented timely filing. Relief under that provision is not limited to any particular issue. Both petitions were filed with the County before March 31, 2009.

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<sup>1</sup> Although the Board discussed petitioning the State Tax Commission on behalf of PETITIONER during its April 28, 2009 meeting, the Tax Commission has received nothing from the Board. In the absence of any objection from the

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Accordingly, this case is remanded to the Board of Equalization for consideration of any arguments the Taxpayer may wish to make regarding the valuation of her property as of January 1, 2008.

This decision applies to the unique and specific circumstances of this case.

ORDER

Based upon the Commission's review of the interests at issue, Appeal Nos. 09-2281 and 09-0058 are hereby consolidated for all purposes under Appeal No. 09-0058, and Appeal No. 09-2281 is hereby closed as a duplicate appeal. Appeal No. 09-0058 is hereby remanded and the County Board of Equalization is hereby ordered to reconvene and hear arguments consistent with this Order.

DATED \_\_\_\_\_ day of \_\_\_\_\_ 2010.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

**NOTICE:** You have thirty (30) days after the date of this order to pursue judicial review of this order pursuant to Utah Code Ann. §§59-1-601 et seq. and 63G-4-302 et seq.

*aln/09-0058.cons.drc & 09-2281.cons.drc*

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County, however, we have no reason to believe that the minutes do not accurately reflect the Board's decision.