

09-3522  
LOCALLY ASSESSED PROPERTY TAX  
TAX YEAR: 2009  
SIGNED: 02-18-2010  
COMMISSIONERS: R. JOHNSON, B. JOHNSON & M. CRAGUN  
EXCUSED: D. DIXON  
GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2,  Petitioner,  v.  UTAH COUNTY BOARD OF EQUALIZATION,  Respondent.	<b>ORDER GRANTING PETITION TO RECONVENE BOARD OF EQUALIZATION</b>  Appeal No. 09-3522  Parcel Nos. #####-1 and #####-2 Tax Type: Property Tax/Locally Assessed Tax Year: 2009  Judge: Nielson-Larios
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STATEMENT OF THE CASE

Petitioner (the "Taxpayer") has requested the State Tax Commission to reconvene the County Board of Equalization to hear an appeal of valuation for the above listed property for the 2009 tax year. The County Board of Equalization did not hear the Taxpayer's appeal because the County determined that the Taxpayer failed to file the appeal within the statutory time frames.

The Taxpayer explained that he filed a timely petition by telephone from his work phone number. He stated that he called the number listed on the valuation notice, was transferred to a voicemail, and left a message that included all required information. He remembers a woman's voice on the voicemail recording. He explained that on November 23, 2009, he noticed that he received no response back from the County, so he went in person to the assessor's office and talked with a female employee there. He stated that the employee said there was no voicemail on the phone number for the valuation notices during the appeals period, but there was a possibility that his call might have gone to one of the other phones in the office, to a woman who retired in March 2009. The Taxpayer also stated that the employee said someone is supposed to retrieve and handle those messages from the phone number for the woman who retired. The Taxpayer also explained that his employer does not have a record of whether or not he called to the number on the valuation notice because his employer does not have a record of local calls. The Taxpayer also stated that a coworker heard him as he was leaving his message. Last, the Taxpayer explained that the County's valuations of the two subject parcels

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increased for 2009, with the market value of Parcel No. #####-1 increasing by %%% percent.

Respondent (the "County") argued that it correctly mailed the 2009 valuation notices; then it stated, "It is our belief . . . that the Property Owner failed to file an appeal by the statutory deadline." The County did not otherwise address the Taxpayer's contention that he filed a timely appeal with the County by telephone.

Utah Code 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). The deadline to appeal the 2009 valuation was September 15, 2009. In this case, the Taxpayer has provided an unrefuted argument that he filed by this deadline. The Taxpayer remembers calling the correct number and leaving all required information on a voicemail. Apparently, a county employee told him that his call could have gone to a voicemail on a county phone for a woman who retired. The County provided no arguments against the Taxpayer's claims. When a county allows taxpayers to file appeals by telephone, the county has the burden to establish that it had procedures to ensure that calls are not misdirected. In this case, the County has provided no arguments that the Taxpayer's alleged phone call was not received. Under the facts of this appeal, the Commission finds that the Taxpayer filed a timely appeal by telephone before the September 15, 2009 deadline. Thus, the Board is to be reconvened to hear the appeal.

DECISION AND ORDER

For the reasons stated, the Taxpayer's request to reconvene the Board of Equalization is granted. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
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

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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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