

09-3525
TAX TYPE: PROPERTY
TAX YEAR: 2009
DATE SIGNED: 6-14-2010
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: B. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER Petitioner, v. UTAH COUNTY BOARD OF EQUALIZATION, Respondent.	ORDER GRANTING PETITION TO RECONVENE BOARD OF EQUALIZATION Appeal No. 09-3525 Parcel No. ##### 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 Tax Commission to reconvene the 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 Taxpayer failed to file the appeal within the statutory time frames.

The Taxpayer stated under “Property Type” that the property is “vacant, raw land [with] seasonal access only.” Additionally, he or she attached a Tax Valuation Screen printout, on which he or she crossed out “RESIDENTIAL” and wrote in “RAW (VACANT) LAND.”

The County explained that it mailed the notice to the last known address of the owner of record as of January 1, 2009. The County also stated that the valuation notice was returned as undeliverable and that the Taxpayer requested an address change which was updated on November 12, 2009.

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, no facts suggest that an appeal was filed by this deadline.

Section 59-2-1004(2)(b) and Utah Admin. Code R884-24P-66 (“Rule 66”)¹ establish the

¹ Rule 66 is available online at <http://tax.utah.gov/research/effective/r884-24p-066.htm>.

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circumstances under which the Board of Equalization must accept an appeal that has been filed after the statutory deadline. For this case, we will consider the notification and factual error exceptions.

For notification, Utah Code Ann. § 59-2-919.1 requires the county auditor to mail the valuation notices on or before July 22 of each year to each owner of real estate who is listed on the assessment roll. The notification exception applies when there is an error by a County employee, causing the County to mail a valuation notice late or to an incorrect address. In this case, there has been no showing of an error by a County employee.

For the factual error exception, a factual error must be discovered in the county records. A factual error is objectively verifiable without the exercise of discretion, opinion, or judgment, and it must be demonstrated by clear and convincing evidence. When a county board of equalization is reconvened for a factual error, the appeal is limited to correction of that error and any resulting changes in valuation. In this case, the Board should be reconvened for the limited purpose of hearing the Taxpayer's claim that the property is incorrectly classified as "Residential." If the Board agrees with the Taxpayer, then the property's valuation should be adjusted to reflect the proper classification. The Taxpayer's valuation arguments unrelated to the residential classification are not allowed under the factual error exception.

DECISION AND ORDER

For the reasons stated, the Taxpayer's request to reconvene the Board of Equalization to hear the late-filed appeal 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 order to pursue

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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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