

09-3648
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2009
SIGNED 07-22-2010
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: R. JOHNSON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,

Petitioners,

v.

BOARD OF EQUALIZATION OF
SALT LAKE COUNTY, STATE OF UTAH,

Respondent.

INITIAL HEARING ORDER

Appeal No. 09-3648
Parcel Nos. #####- 1
#####- 2
#####- 3
Tax Type: Property Tax / Locally Assessed
Tax Year: 2009
Judge: Chapman

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1, Taxpayer
For Respondent: RESPONDENT REP., from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on June 23, 2010.

At issue is the property tax rate at which the three subject properties were taxed for the 2009 tax year. For 2009 property tax purposes, the three subject properties were included in a tax area¹ that includes the SCHOOL DISTRICT. As a result, the subject properties were taxed at a total rate that included the separate tax rate for the SCHOOL DISTRICT. Prior to 2007, the three subject properties were located in both CITY 2 and in the SCHOOL DISTRICT. In 2007, the three subject properties were annexed into CITY 1. Because the subject properties are now located in CITY 1, the taxpayers ask the Commission to find that the

1 A "tax area" is a geographical area comprised of a unique group of taxing entities.

Appeal No. 09-3648

subject properties should be included and taxed in a tax area that includes CITY 1 School District, not the SCHOOL DISTRICT. The taxpayers assert that the CITY 1 School District tax rate is lower than the SCHOOL DISTRICT tax rate and that their taxes will be reduced if the Commission grants their request. The taxpayers are not contesting the values at which the three subject properties were assessed for 2009.

The Salt Lake County Board of Equalization (“County BOE”) denied the taxpayer’s request, stating that the school district boundaries were not affected by the 2007 annexation into CITY 1 and that the County BOE possesses no jurisdictional power to change tax rates applicable to a specific tax district or change the nomenclature describing the boundaries of a particular school district. At the Initial Hearing, the County did not contend that the Commission lacked jurisdiction to hear the appeal. Instead, the County proffered evidence to show that even though the subject properties were annexed into CITY 1 in 2007, the subject properties are still located in the SCHOOL DISTRICT (i.e., the properties have not been annexed into the CITY 1 School District). Based on this evidence, the County asks the Commission to find that the subject properties are still located in the SCHOOL DISTRICT and to deny the taxpayers’ appeal.

APPLICABLE LAW

Utah Code Ann. §59-2-1006(1) provides that “[a]ny person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission”

UCA §67-1a-6.5 provides that the lieutenant governor shall certify actions affecting local entity boundaries and submit that certification to the Tax Commission, as follows in pertinent part:

-
- (2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

- (a) (i) issue the applicable certificate, if:
 - (A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and
 -
 - (iv) send a copy of the applicable certificate and approved final local entity plat to:
 - (A) the State Tax Commission; [and]
 - (C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and
 -
- (3) Each notice of an impending boundary action shall:
- (a) be directed to the lieutenant governor;
 - (b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;
 - (c) describe the type of boundary action for which an applicable certificate is sought; and
 - (d) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or
 - (ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

....

DISCUSSION

The County proffered a map that shows the boundaries of the SCHOOL DISTRICT and the CITY 1 School District. Even though the subject properties were annexed into CITY 1 in 2007, they were not annexed into the CITY 1 School District at this time or subsequently. The County also proffered evidence from the CITY 1 School District showing that in 2009, the SCHOOL DISTRICT and the CITY 1 School District agreed to allow properties adjacent to the subject properties to be annexed from the SCHOOL DISTRICT into the CITY 1 School District. The County asserts, however, that the two school districts have never agreed for the three subject properties to be annexed into CITY 1 School District.

The boundaries of CITY 1 are not identical to the boundaries of CITY 1 School District. The evidence shows that the three subject properties are located in the SCHOOL DISTRICT, not the CITY 1

Appeal No. 09-3648

School District. The taxpayers, nevertheless, ask the Commission to tax the subject properties at a rate that is applicable to properties located in the CITY 1 School District. The Tax Commission is notified by the lieutenant governor of boundary changes that affect the various taxing entities. Section 67-1a-6.5(2)(a)(iv)(A). The Commission is not authorized to change tax entity boundaries certified by the lieutenant governor and tax a property located in the SCHOOL DISTRICT as though it were located in the CITY 1 School District. Accordingly, the 2009 property tax rate at which the subject properties were taxed is correct.

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies that taxpayers' request to tax the subject properties in a different tax area than the one in which they were taxed for the 2009 tax year. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the taxpayer's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

Appeal No. 09-3648

DATED this _____ day of _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

KRC/09-3648.int