

10-2614
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2010
SIGNED: 06-01-2011
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: R. JOHNSON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, vs. UTAH COUNTY BOARD OF EQUALIZATION, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 10-2614 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2010 Judge: Nielson-Larios
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Presiding:

Aimee Nielson-Larios, Administrative Law Judge

Appearances:

For Petitioner: Ms. PETITIONER
Ms. PETITIONER REP., Representative
For Respondent: Mr. RESPONDENT REP. 1, Utah County Assessor
Ms. RESPONDENT REP. 2, Utah County Assessor

STATEMENT OF THE CASE

On October 12, 2010, Petitioner (the "Taxpayer") filed with the State Tax Commission a Request to Reconvene the Board of Equalization for a 2010 greenbelt issue. On November 4, 2010, Respondent (the "County") responded that the County Board of Equalization heard the 2010 greenbelt issue on September 28, 2010 and denied the 2010 greenbelt request because the Taxpayer filed her greenbelt application after May 1, 2010.¹ On December 9, 2010, a telephone status conference was held, at which the Taxpayer indicated that only the 2010 greenbelt status was at issue.² On January 4, 2011, an Initial

¹ The County also explained that the greenbelt status was allowed for the 2011 tax year.

² The Taxpayer explained that she agreed with the 2010 market value of \$\$\$\$ approved by the County Board of Equalization in November 2010.

Hearing was held to address whether the County Board of Equalization properly denied the Taxpayer's 2010 greenbelt request.

APPLICABLE LAW

Utah Code Ann. § 59-2-505 states:

- (1) (a) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:
 - (i) that meets the requirements of Section 59-2-503 to be assessed under this part; and
 - (ii) **for which the owner has:**
 - (A) **made a timely application in accordance with Section 59-2-508 for assessment under this part for the tax year for which the land is being assessed;** and
 - (B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the county assessor.
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- (2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:
 - (a) Section 59-2-919.1; and
 - (b) Section 59-2-1317.³
- (3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.

(Emphasis added.)

Utah Code Ann. § 59-2-508 states in part:

- (1) If an owner of land eligible for assessment under this part wants the land to be assessed under this part, the owner shall submit an application to the county assessor of the county in which the land is located.
- (2) **An application required by Subsection (1) shall:**
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 - (c) be submitted by:
 - (i) **May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted . . .**
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- (6) (a) All owners applying for participation under this part and all purchasers or lessees signing statements under Subsection (7) are considered to have given their consent to field audit and review by:
 - (i) the commission;
 - (ii) the county assessor; or
 - (iii) the commission and the county assessor.
- (b) The consent described in Subsection (6)(a) is a condition to the acceptance of any application or signed statement.

³ Consistent with § 59-2-505(2), Utah Administrative Code R884-24P-24(3) states, "Real estate assessed under the Farmland Assessment Act of 1969 must be reported at full market value, with the value based upon Farmland Assessment Act rates shown parenthetically."

- (7) Any owner of land eligible for assessment under this part because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-503, may qualify the land for assessment under this part by submitting with the application required under Subsection (2), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-503 for assessment under this part.

(Emphasis added.)

Utah State Tax Commission, Property Tax Division, Standards of Practice, Standard 7.8⁴ states in part:

7.8.0 Application

The owner of land eligible for valuation under the FAA [Farmland Assessment Act] must submit an application to the assessor of the county in which the land is located to receive assessment under the FAA. If there is no current FAA application on file in the county assessor's office, a parcel shall not receive FAA assessment.

7.8.1 Deadline for Applications

Applications shall be processed if filed prior to May 1 of the tax year in which FAA assessment is requested. The January 1 lien date applies to the market value of any FAA property; however, FAA assessment is to be granted for a particular tax year provided the application is submitted before May 1. (Section 59-2-508)

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DISCUSSION

The Taxpayer's representative, PETITIONER REP., explained that the subject property has been in agricultural use for some time. She said that PERSON 1, who has farmed and taken care of the land for a number of years, thought the property was in greenbelt. PETITIONER REP. asserted that the property qualifies for greenbelt for 2010 other than the fact that the paperwork was not completed on a timely basis. Consistent with this, the County explained that the application for greenbelt was dated July 29, 2010 and was received by the county in early August 2010. The County said the minutes of the County Board of Equalization show that the Board heard the 2010 greenbelt request on September 28, 2010 and wanted to grant the request, but the Board believed it lacked authority to do so because the application was filed after the May 1, 2010 deadline. The request was granted for the 2011 tax year, though.

PETITIONER REP. explained that the greenbelt application was filed after May 1, 2010 for multiple reasons. She said that before May 1, 2010 the Taxpayer, PETITIONER, did not understand what greenbelt was because her husband did not discuss the land with her. He passed away on DATE. PETITIONER REP. explained that after he passed away, PETITIONER was in her 80s, in poor health,

⁴ Subsections of 7.8.0 and 7.8.1 of Section 7. Farmland Assessment, Standards of Practice, is available at <http://propertytax.utah.gov/standards.html> by selecting "7. Farmland Assessment" then scrolling to page 13.

and unable to travel to learn more about the land, so PETITIONER paid the taxes for the 2008 and 2009 tax years without questioning the assessments. PETITIONER REP. further explained that because the property taxes for the subject property continued to increase, PETITIONER could not afford the 2010 taxes so she approached PETITIONER REP. in July 2010 to sell the property. PETITIONER REP. explained that she learned in July 2010, after PETITIONER had contacted her, that the property was not in greenbelt status. PETITIONER REP. asserted that these reasons caused the Taxpayer to not file her application for greenbelt by May 1, 2010.

In general, Utah Code Ann. § 59-2-505 requires a county assessor to value property as greenbelt when an owner has made a *timely* application that has been approved by the county assessor. Utah Code Ann. § 59-2-508(1) requires that an owner who wants greenbelt submit an application to the county. Section 59-2-508(2)(c)(i) provides the May 1 deadline for submitting an application for land that was not assessed as greenbelt before. Standards of Practice, subsection 7.8.0 requires that an owner submit an application before a county grants the greenbelt status. Standards of Practice, subsection 7.8.1 provides the May 1 filing deadline and requires a county to assess property as greenbelt when an application is submitted by May 1, then processed and approved.

If each code section and standard is read separately, a *timely* application might not be required for the county to grant the greenbelt status for a given tax year. However, if the statutes and standards are read together, a taxpayer must submit a timely application before the county may grant greenbelt status. The general principles of statutory construction require statutes for tax credits and exemptions to be interpreted narrowly, against a taxpayer.⁵ In this case, it is clear based on § 59-2-508(1)-(2) that Taxpayer's application should have been submitted by May 1, 2010 because the property was not assessed as greenbelt before. Because § 59-2-505 requires the county to value the property as greenbelt when there is a *timely* application approved by the county assessor, when this statute is read alone it could be unclear whether the statute applies to the case at hand involving an *untimely* appeal. However, although § 59-2-505 does not explicitly address situations involving *untimely* applications, it is reasonable to infer that such situations are not allowed when §§ 59-2-508(1)-(2) and 59-2-505 are read together. Furthermore, when Standards 7.8.0 and 7.8.1 are read with the statutes discussed above, the Standards also require a taxpayer to file a *timely* application before a county can grant the greenbelt status. Thus, the county did not have authority to grant the Taxpayer's greenbelt request for 2010 because the Taxpayer filed her application after the May 1, 2010 deadline.

In conclusion, the County's denial of the Taxpayer's greenbelt application for 2010 was proper because the Taxpayer's application for 2010 was untimely.

⁵ See *Parson Asphalt v. Utah State Tax Commission*, 617 P.2d 397 (Utah 1980).

However, an avenue of recourse the Taxpayer may have in this matter is under the discretion of the Utah County Commission and not with the Utah County Board of Equalization. Under Utah Code § 59-2-1347, the Taxpayer may ask the Utah County Commission directly for relief based on a claim that the best human interests and the interests of the state and county would be served. Thus, the Utah County Commission has authority to “adjust” the Taxpayer’s property taxes if that commission makes such a determination.

Aimee Nielson-Larios
Administrative Law Judge

ORDER

Based upon the foregoing, the County’s denial of the Taxpayer’s 2010 greenbelt application is sustained. It is so ordered.

DATED this _____ day of _____, 2011.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Notice and Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Commission 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 Sec. 59-1-601 et seq. and 63G-4-401 et seq.

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