

10-2709  
LOCALLY ASSESSED PROPERTY  
TAX YEAR: 2009  
SIGNED: 06-21-2011  
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN  
EXCUSED: R. JOHNSON

---

BEFORE THE UTAH STATE TAX COMMISSION

---

<p>PETITIONER 1 &amp; PETITIONER 2,  Petitioners,  vs.  BOARD OF EQUALIZATION OF UTAH COUNTY, STATE OF UTAH,  Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 10-2709</p> <p>Account Nos. #####-1, #####-2 Tax Type: Property Tax/Locally Assessed Tax Year: 2009</p> <p>Judge: Phan</p>
---	--

---

**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER 1  
PETITIONER 2  
For Respondent: RESPONDENT REP. 1, Tax Administration  
RESPONDENT REP. 2, Utah County  
RESPONDENT REP. 3, Utah County

STATEMENT OF THE CASE

Petitioners (“Taxpayers”) bring this appeal from the decision of the Utah County Board of Equalization (“the County”) to deny greenbelt assessment under the Farmland Assessment Act to the above listed parcels for the 2009 tax year. This matter was argued in an Initial Hearing on May 9, 2011, in accordance with Utah Code §59-1-502.5. The County denied greenbelt status because the Property Owner had been untimely in filing its application.

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.

....

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:

....

- (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 . . .

....

Utah Code Ann. Sec. 59-2-103 (1) provides the basis for assessment as follows:

All tangible taxable property shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

“Fair market value” is defined as follows at Utah Code Ann. 59-2-102(12):

“Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

### DISCUSSION

After some discussion at the Initial Hearing it was clarified that the Property Owners were contesting the County’s denial to grant the subject parcels greenbelt assessment status for the 2009 tax year under the Farmland Assessment Act. The subject land at issue had not been on greenbelt previously. It had been valued previous to 2009 as agricultural land. The Property Owners had filed an application for the 2009 tax year for greenbelt assessment on September 30,

2009. The County, considered the application to be untimely and did not act on the application to issue a written decision until September 28, 2010, nearly one year later. The County's decision was to deny the application because it was untimely. It was the County's position that for the 2009 tax year, an application for greenbelt assessment must have been filed by May 1, 2009.

The Property Owners explained that they had been unaware the subject parcels had not been valued as greenbelt under the Farmland Assessment Act because prior to the 2009 tax year the land had been valued as agricultural land and the assessed value had been fairly low. They explained that they owned a number of small and medium sized parcels of property which they used for their horses. They indicated that these other parcels were assessed as greenbelt so they just assumed the subject was as well because of the values.

They explained that three or four years ago the subject land was incorporated into CITY 1 city limits and rezoned as industrial. It was their understanding from these proceedings with the city that this would not affect the value as long as their use of the property remained the same. Eventually, the County reappraised the area for the 2009 tax year and determined a fair market value taking into consideration the incorporation into the city and zoning change. It was the County's conclusion that the fair market value was significantly higher than what it had been assessed at for prior years.

The Property Owners state that they did come in and speak with someone at the County in September 2009 and had been told it was too late to file an application for greenbelt assessment. Then later they were told they could file an appeal and the County processed their request but denied it as being untimely.

After review of the law and the facts in this matter the deadline to file an application for greenbelt status for a property not previously in that status is May 1 of the tax year, in this case May 1, 2009. See Utah Code Sec. 59-2-508. The Commission has previously considered whether there would be basis to allow a late filed application for greenbelt and concluded to the contrary in Tax Commission Appeal No. 10-2614 which was issued on February 24, 2011. There is no statutory or other legal authority that would provide basis to extend the deadline for filing the application under the facts in this appeal. Therefore, the application was properly denied by the County. Further, the law requires that unless exempt under the Farmland Assessment Act or other provisions, properties are assessed on the basis of their fair market value. See Utah Code Sec. 59-2-103. Utah Code Ann. §59-2-102 defines "fair market value" as the amount at which property would exchange hands between a willing buyer and seller and takes into account zoning. On this

Appeal No. 10-2709

basis the County properly took into account the incorporation into the city and the zoning change in determining the assessment.

The Property Owners' appeal should be denied. It is so ordered.

---

Jane Phan  
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission denies the Property Owners' appeal. It is so ordered.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file 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 Petitioner'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.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner