

10-2974

TAX TYPE: PROPERTY TAX / LOCALLY ASSESSED

TAX YEAR: 2010

DATE SIGNED: 8-25-2011

COMMISSIONERS: B. JOHNSON, M. JOHNSON, D. DIXON, M. CRAGUN

GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,

Petitioner,

v.

BOARD OF EQUALIZATION OF UTAH  
COUNTY, STATE OF UTAH,

Respondent.

**ORDER ACCEPTING JURISDICTION  
OVER LATE FILED APPEAL OF COUNTY  
BOARD'S DECISION ON PROPERTY TAX  
EXEMPTION**

Appeal No. 10-2974

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2010

Judge: Phan

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STATEMENT OF THE CASE

On November 24, 2010, Petitioner (the Property Owner) filed with the Utah State Tax Commission a Request to Reconvene the Board of Equalization, asking the State Tax Commission to order the County Board of Equalization to reconvene to hear a late filed appeal regarding the property tax exemption for the 2010 tax year. The Commission, by letter dated July 20, 2011, requested additional information from the parties. Respondent (the "County") provided additional information on August 5, 2011 and the Property Owner on August 12, 2011. This decision is issued based on the written submissions of the parties.

DISCUSSION

The underlying issue in this appeal is a property tax exemption under Utah Code Sec. 59-2-1101. Procedures for filing an application for the exemption, review of the application for exemption by the County Board of Equalization, the Board's holding a hearing and issuing a written decision are set out at Utah Code Sec. 59-2-1102. Additionally, procedures for filing an appeal of the decision of the County Board regarding the exemption are set out at Utah Code Secs. 59-2-1102(7) and 59-2-1006. These sections give property owners the right to appeal the County Board's decision to the State Tax Commission within thirty days. In this case, from the original information provided, it was unclear whether the County Board had followed the statutory procedures set out at Utah Code Sec. 59-2-1102 including the issuance of a written decision. The Commission would expect that a written decision would include a reference to appeal rights and the thirty-day deadline under Utah Code Secs. 59-2-1102(7) and 59-2-1006. It was clear from the original information that the

Property Owner did not file an appeal of the County Board's decision until November 24, 2010.

After reviewing the subsequent information submitted by the parties on August 5, 2011 and August 12, 2011, it does not appear that a written decision was ever issued by the County Board of Equalization. There had been notice to the Property Owner of "a hearing on your status [concerning qualification for the exemption] on May 25, 2010." Then on May 25, 2010, minutes confirm a "Public Electronic Meeting of the Board of Equalization" in which NAME was present for the Property Owner and at which the board voted to deny the continued exemption. However, the County was unable to provide a copy of a written decision or other documentation that a written decision had ever been prepared or mailed to the Property Owner. The County instead notes that the Property Owner would have been informed verbally at the hearing/meeting of the decision.

The Property Owner had originally filed this action to the state Tax Commission as a Request to Reconvene the County Board of Equalization to hear a late filed appeal as allowed under Utah Admin. Rule R884-24P-66. This is the provision for when a property owner fails to file a valuation or equalization appeal to the County Board of Equalization by the September 15 deadline under Utah Code Sec. 59-2-1004. However, the statutory processes for exemptions are under 59-2-1102 and those provisions would be directly controlling.<sup>1</sup>

#### DECISION AND ORDER

The Property Owner's affidavit for exemption was reviewed by the County Board, there was a meeting/hearing and a verbal decision was issued by the Board. Some of the statutory process may not have been followed to the letter and there was no written decision issued. The Commission would expect a written decision to include a reference to appeal rights and the thirty-day period to file. The County's omission likely contributed to the Taxpayer's failure to file an appeal of that decision with the Commission within the statutory period provided in Utah Code Secs. 59-2-1102 and 59-2-1006.

Based on the County Board's action to deny the exemption and omission to issue a written decision, the Commission takes jurisdiction over the Property Owner's request rather than remand the matter back to the County. However, the Commission accepts it not as a Request to Reconvene the County Board, but instead as a Petition for Redetermination of the County Board's decision to deny the property tax exemption under Utah

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<sup>1</sup> The Commission does recognize Utah Rule R884-24P-66 includes property exemptions in its definition of factual error, but the Commission does not reach a conclusion in this decision on whether the rule is in conflict with 59-2-

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Code Secs. 59-2-1102 and 59-2-1006. The matter will be scheduled for a hearing at the State Tax Commission.  
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 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 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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1102, or if there may be situations where it would properly apply to exemptions.