

11-1661
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2010
SIGNED: 10-21-2011
COMMISSIONERS: R. JOHNSON, M. JOHNSON, D. DIXON, M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

v.

BOARD OF EQUALIZATION, RURAL
COUNTY, STATE OF UTAH,

Respondent.

**ORDER REMANDING MATTER TO THE
COUNTY BOARD OF EQUALIZATION TO
ISSUE A DECISION**

Appeal No. 11-1661

Parcel No. #####-1 & #####-2

Tax Type: Locally Assessed Property

Tax Year: 2010

Judge: Phan

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission by the Request for Redetermination of County Board of Equalization filed by Petitioner (Property Owner) on June 20, 2011. The Property Owner had filed the request to appeal the decision issued by the RURAL COUNTY Board of Equalization for the above parcels. In the request he stated that he did not receive the decision from the RURAL COUNTY Board of Equalization until June 18, 2011. He had included a copy of the decision and it was dated December 15, 2010. As the appeal appeared to have been filed after the thirty-day statutory deadline provided at Utah Code Sec. 59-2-1006 and did not appear to have been filed with the RURAL COUNTY Auditor, a Notice of Appeal & Order to Submit Response was mailed on August 10, 2011. RURAL COUNTY submitted its response on August 15, 2011, and the Property Owner a reply on September 13, 2011.

DISCUSSION

In its response the County's Board of Equalization Clerk provided a copy of all the information that she had mailed to the Property Owner on December 17, 2010, including what she referred to as "the decision that came from his informal hearing with RURAL COUNTY." She indicated that this decision had been sent with a cover letter on December 17, 2010, to the Property Owner at the address he had provided, along with instructions on how to file an appeal and a form for the Property Owner's use. The County representative states she did not know why he did not receive the decision. She provided copies of the cover letter, which did not

Appeal No. 11-1661

identify an address, parcel number, or the Property Owner's name. The cover letter states, "Enclosed you will find a copy of the decision made by the Hearing Officer regarding the BOE hearing on your property." She also provided a copy of the decision, which identified the parcel numbers and Property Owner's name. This document was titled "RURAL COUNTY 2010 Board of Equalization Property Tax Appeal Response." On the decision at the top in it lists a 2010 Total Value of \$\$\$\$ in one column and a 2010 Amended Value of \$\$\$\$ in another column. Then in the body of the decision it states:

Hearing Officer Recommendation: It is assumed the home will be razed and does not provide contributory value over that of the lot, the land value is the property value. Based on the appraisal and the recommendation of the [Property Owner] it is recommended the value be reduced to \$\$\$\$.

Then immediately after this hearing officer recommendation, with no statement that the County Board of Equalization either approved or rejected the hearing officer's recommendation, it is signed by the County Assessor, the Hearing Officer and someone identified as the "Board Officer." Based on the document containing two different values and no explanation as to which one was the value conclusion of the County Board, the Commission is unable to determine what action was taken.

Utah Code Sec. 59-2-1004 provides that a taxpayer dissatisfied the valuation of the taxpayer's real property may file an appeal to the County Board of Equalization. At subsection (4) of the statute it specifies that the County Board of Equalization shall meet, hold hearings and "make a decision on each appeal." It further provides at Subsection (4)(d) that the decision of the County Board shall contain a determination of the value based on fair market value.

The Property Owner had argued in this matter that he did not receive the County's decision in December 2010. Under Utah Admin. Rule R861-1A-9 (C)(1) there is a presumption that it was mailed by the County, so this assertion by the Property Owner is not basis to allow the late filed appeal. However, the documentation mailed by the County on December 17, 2010, is not sufficient to meet the requirement of mailing a decision of the County Board of Equalization because it does not contain a clear statement of the County Board's determination of fair market value for the property. It provides a hearing officer's decision of \$\$\$\$\$, an amended value that significantly conflicts with the hearing officer's decision at \$\$\$\$\$ and no explanation as to which value the County Board of Equalization approved. Further, although the Commission does not have concerns with the County Board relying on hearing officers, ultimately pursuant to Utah Code Sec. 59-2-1004 it is the County Board that must issue a decision. If the County Board chooses to approve the hearing officer's recommendation a statement to that affect added to the decision would clarify that it is, in

Appeal No. 11-1661

fact, the Board's action. If the County Board rejects the hearing officer's recommendation and finds a different value, it needs to issue a decision that is clear as to its action.

ORDER

The deadline to file an appeal of a County Board of Equalization decision is set by statute at Utah Code Sec. 59-2-1006, which provides that a property owner dissatisfied with the decision of the County Board of Equalization may file an appeal to the Tax Commission. It also provides that the appeal must be filed within thirty-days from the date of the decision of the County Board of Equalization. This is a jurisdictional requirement and generally the Commission does not have jurisdiction over an appeal of the Decision of the County Board of Equalization unless this has been met.

However, upon review of the information submitted, the County Board has not issued a decision that provides its determination of the fair market value for the property. What was issued is unclear as to what value the County Board determined. Therefore, this matter is remanded back to the County Board to issue a decision to the Property Owner that clearly states its fair market value determination for the subject property. The Property Owner then has thirty-days to appeal that decision to the State Tax Commission by filing a Request for Redetermination of County Board of Equalization Decision with the County Auditor, along with a copy of the County Board's newly issued decision. It is so ordered.

DATED this _____ day of _____, 2011.

R. Bruce Johnson
Commissioner Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Notice of Appeal Rights: If you disagree with this order 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-4-401et seq.