

12-1090  
TAX TYPE: PROPERTY TAX-LOCALLY ASSESSED  
TAX YEAR: 2011  
DATE SIGNED: 3-29-2013  
COMMISSIONERS: D. DIXON, M. CRAGUN, R. PERO  
EXCUSED: B. JOHNSON  
GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,  Petitioner,  v.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,  Respondent.	<b>ORDER AFFIRMING COUNTY'S DISMISSAL OF APPEAL</b>  Appeal No. 12-1090  Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2011  Judge: Phan
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STATEMENT OF THE CASE

On February 23, 2012, Petitioner (the Property Owner) filed with the Utah State Tax Commission a Request for Redetermination of County Board of Equalization Decision, to appeal the County's decision to dismiss his valuation appeal for the 2011 tax year. The Property Owner had filed the 2011 valuation appeal to the County Board of Equalization on December 1, 2011, after the September 15, 2011 deadline to file. The County then issued a notice to the Property Owner on January 17, 2012, in which the County explained that the appeal was late, provided a reference to Utah Admins. Rule R884-24P-66 and told the Property Owner that his "petition does not provide sufficient evidence to meet the stated reasons for accepting appeals beyond the original due date." It goes on to state, "You must provide clear and convincing reason for late filing as set forth with the aforementioned Rule." The Property Owner responded by the deadline, by providing documentation that he had a CT Scan on September 9, 2011. The County Board considered the response but determined that it was not sufficient to establish a medical emergency. Therefore, the County dismissed the Property Owner's appeal.

DISCUSSION

The law makes the property owner responsible for raising objections to property tax valuations in an appeal with the county within the time frame outlined in Utah Code Section 59-2-1004, which is generally September 15, of the tax year at issue. Section 59-2-1004 of the Utah Code and Utah Administrative Rule R884-24P-66 establish the circumstances under which a Board of Equalization may

accept an appeal that has been filed after the statutory deadline. Under these provisions an extension of time for filing an appeal until March 31, of the following year is allowed for specified circumstances listed at Utah Admin. Rule R884-24P-66. One of those circumstances is if during the period set by statute to file an appeal the property owner is incapable of filing an appeal as a result of a medical emergency to the property owner or an immediate family member of the property owner.

Utah Admin. Rule R861-1A-9(7) provides that upon an appeal from a dismissal by a county board, the only matter that will be reviewed by the commission is the dismissal itself, not the merits of appeal.

At the hearing before the Commission the Property Owner argued that he should not have to disclose personal medical information to the County to show that he had a medical emergency during the period to file the appeal. It was his concern that his medical information was protected by HIPPA and he argued that the County should just have accepted his statement that he had a medical emergency during this period. At the hearing before the Tax Commission the Property Owner acknowledged that he had not been hospitalized during the period to file an appeal or had a surgery. But he did state he had some serious concerns regarding his health during this period that led to a diagnostic medical test in August 2011, the CT scan in September 9, 2011, and some additional lab work also in September 2011. He stated that other members of his immediate family had medical issues during this period as well, but that he felt he could not disclose their personal information.

The County representative stated that the County does not consider diagnostic tests alone to be a medical emergency under Utah Admin. Rule R884-24P-66. The representative also stated that the Property Owner had the burden of proving he met one of the criteria under the rule. It was the County representative's contention that he was not interested in knowing the medical condition of the Property Owner, but the County was obligated to look at the evidence to make a determination on whether it constituted a medical emergency. The County considered a medical emergency to be an unexpected, sudden, serious medical event and also noted that the statute and rule provide a strict deadline. It was the County representative's position that the County is not a medical provider so HIPPA is not applicable to the County.

After reviewing the information and arguments presented by the parties in this matter, although the Commission understands the Property Owner's reluctance to provide personal medical information, it was the Property Owner who raised the argument that he should be allowed the late filed appeal based on

the medical emergency criteria. Once a property owner raises this as a basis to support their appeal, he or she needs to be prepared to provide evidence that there was, in fact a medical emergency that occurred during the period to file an appeal. The Commission considers a medical emergency to be a sudden event that is serious enough to make the property owner incapable of filing an appeal. This would be an event serious enough that person was physically unable to file due to hospitalization or serious bed rest, surgery or other medical treatment. Having some diagnostic tests during the appeal period does not rise to the level of medical emergency without a showing of more serious medical conditions. The Commission agrees with the County's position that a property owner has the burden to establish a medical emergency if he or she raises that as the basis to allow a late filed appeal. The Property Owner did not provide adequate evidence to the County of a medical emergency and, therefore, the County's dismissal of the appeal is appropriate under Utah Code Sec. 59-2-1004 or Utah Administrative Rule R884-24P-66.

At the hearing the Property Owner also asserted that he had not received the valuation notice, which was mailed in July of 2011. He did point to the fact that when he had appealed for the 2010 tax year, the appeal was set up in the name of the prior owner. However, the prior owner had owned the property at the time the appeal was filed to the County Board for 2010. The records from the 2011 file indicate that the address had been updated to the Property Owner's address. The assertion that a notice was not received is also not basis to allow for a late filed appeal, without a showing that the notice was not sent to the address of record for the property.

DECISION AND ORDER

For the reasons stated, the County's dismissal of the Property Owner's 2011 appeal as untimely filed was appropriate and is hereby sustained. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
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

Appeal No. 12-1090

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.