

12-2418

TAX TYPE: PROPERTY TAX-LOCALLY ASSESSED

TAX YEAR: 2012

DATE SIGNED: 11-7-2012

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

EXCUSED: M. JOHNSON

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

v.

BOARD OF EQUALIZATION OF RURAL
COUNTY, STATE OF UTAH,

Respondent.

**ORDER DENYING REQUEST TO
RECONVENE BOARD OF
EQUALIZATION**

Appeal No. 12-2418

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2012

Judge: Phan

STATEMENT OF THE CASE

On October 9, 2012, 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 RURAL COUNTY Board of Equalization to reconvene to hear an appeal of the classification of the above listed property for the 2012 tax year. The RURAL COUNTY Board of Equalization had not heard the Property Owner's appeal because the Property Owner had failed to file the appeal within the statutory period.

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(13). This includes an appeal for factual error discovered in the County records pertaining to the property.

The Property Owner states in the Request to Reconvene that the reason for missing the general filing deadline of September 15, 2012 was that he had been traveling from July through September for business. He states that he did not see the notice until he had returned and even then "incorrectly assumed that the property

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was correctly classified.”

The County responded to the Property Owner’s Request to Reconvene by stating that the Property Owner has not yet filed the required request for primary residential exemption as required by County ordinance. The representative indicated that all properties in RURAL COUNTY are assessed at 100% (non-primary) unless the property owner files a written request and provides the supporting documentation.

Utah Administrative Rule R884-24P-66(13) provides various circumstances under which a late appeal may be allowed as long as it is filed prior to March 31 of the following year. One of those circumstances, at Subsection 66(13)(d), is for a “factual error.” “Factual Error” is defined at Subsection 66(1) to include an error in the classification of the property regarding the primary residential exemption. However, that section requires under (1)(a) that the factual error is, “(i) objectively verifiable without the exercise of discretion, opinion or judgment; (ii) demonstrated by clear and convincing evidence; and (iii) **agreed upon by the taxpayer and the assessor.** (Emphasis Added)” In this matter, the County’s response to the Property Owner’s Request to Reconvene was that the Property Owner had not provided documentation of the primary residence status and asked that the Property Owner’s Request to Reconvene be denied. If the Property Owner provides the information requested by the County and is able to reach an agreement with the County that the non-primary classification of the subject property constitutes a “factual error” then the Property Owner may refile a Request to Reconvene based on “factual error.” The Property Owner’s request must be prior to the March 31, 2013 deadline.

DECISION AND ORDER

For the reasons stated, the Property Owner's Request to Reconvene the Board of Equalization to hear the late-filed appeal is denied. It is so ordered.

DATED this _____ day of _____, 2012.

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

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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.