

13-809
TAX TYPE-PROPERTY
TAX YEAR- 2012
SIGNED: 06-10-1213
COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO
EXCUSED: D. DIXON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>ORDER DENYING PETITION TO RECONVENE BOARD OF EQUALIZATION</p> <p>Appeal No. 13-809</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2012</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On March 19, 2013, 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 an appeal of the valuation of the above listed property for the 2012 tax year. The County Board of Equalization had not heard the merits of the Property Owner's appeal because they had no record of receiving 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. One of the circumstances provided is if a property owner was unable to file an appeal within the time period because of extraordinary and unanticipated circumstances that occurred during that period and no co-owner of the property was capable of filing the appeal.

The representative for the Property Owner states in the Request to Reconvene that he was certain that he had mailed the appeal to the County Board of Equalization on September 12, 2012. This would have been a timely filing. He states that he called the County Board of Equalization on January 30, 2013, to check on the status of the appeal and was told that the County had no record of the appeal being received. He did resubmit his appeal to the County after that. The County issued a Notice regarding the refilled appeal on February 13, 2013, requesting additional information and then dismissed the appeal on March 14, 2013 as an untimely filing.

The representative for the Property Owner pointed out that he was familiar with the appeal process and filing deadlines. He had filed timely appeals to the County Board and then appealed that decision to the Tax Commission for the 2010 tax year and the 2011 tax year. He points out that there were three conceivable explanations for the appeal not being recorded as received by the county in September 2012: 1) that he was mistaken in his belief that he had mailed the appeal; 2) it was lost in the mail; or 3) it was mishandled by the County. He also explained that he did not have evidence to show that he had mailed the appeal.

The County Board of Equalization responded to the Property Owner's Request to Reconvene by stating the County had dismissed the refilled appeal as the Property Owner had failed to meet the late filed appeal standard. Regarding the Property Owner's argument that the loss of the appeal was an extraordinary and unanticipated circumstance, the County states "It has not been the practice of the SLCoBOE to characterize such claims as extraordinary and unanticipated, therefore, TNE's late appeals failed to meet the late filing criteria."

After reviewing the information presented by the parties in this matter there is no exception under Utah Code Sec. 59-2-1004 or Utah Administrative Rule R884-24P-66 for situations where a property owner states he or she mailed the appeal timely but the County has no record of receipt. There is a burden on the property owner to see that the appeal is filed timely. An assertion by the property owner that he or she had mailed the appeal, without some other evidence of timely mailing, is not sufficient to establish a timely filing. The Property Owner has not provided information that would support the allowance of a late filed appeal.

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 _____, 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 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.