

14-461
TAX TYPE: LOCALLY ASSESSED PROPERTY
TAX YEAR: 2013
DATE SIGNED: 8-24-2015
COMMISSIONERS: M. CRAGUN, R. PERO, R. ROCKWELL
EXCUSED: J. VALENTINE

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>WEBER COUNTY BOARD OF EQUALIZATION, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 14-461</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2013</p> <p>Judge: Chapman</p>
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This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process.

Pursuant to Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Robert P. Pero, Commissioner
Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE FOR PETITIONER, Trustee of the PETITIONER
For Respondent: RESPONDENT-1, from the Weber County Assessor's Office
RESPONDENT-2, from the Weber County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on May 18, 2015.

Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The tax at issue is property tax.
2. The tax year at issue is 2013, with a lien date of January 1, 2013.

3. The subject property is located in CITY-1, Weber County, Utah and is identified as Parcel No. #####. The subject property is owned by the PETITIONER (“Petitioner” or “taxpayer”). REPRESENTATIVE FOR PETITIONER is the taxpayer’s trustee.

4. The subject property is comprised of #####-acres of land that is separated by the CANAL into two somewhat similarly-sized portions. The “upper portion” is relatively steep and is not improved. It also appears to be void of any significant vegetation. The “lower portion” is less steep and is improved with IMPROVEMENTS. The lower portion of the subject property contains hundreds of mature pine trees and approximately 75 fruit trees and is adjacent to REPRESENTATIVE FOR PETITIONER home (which is on another parcel). Until 2013, the subject property had been assessed for approximately 30 years under the Utah Farmland Assessment Act (which is commonly referred to as “greenbelt” assessment).¹

5. This matter arose because of two actions taken by the Weber County Board of Equalization (“Respondent” or “County BOE”) concerning the subject property in 2013. The first action concerned the taxpayer’s appeal to the County BOE of the subject’s 2013 assessed value. The County originally assessed the subject property’s fair market value, as of January 1, 2013, to be \$\$\$\$\$. On December 13, 2013, the County BOE issued its “Hearing Results,” in which it reduced the subject’s 2013 value to \$\$\$\$\$.²

6. The second action arose because of the County’s May 9, 2013 decision to remove or withdraw the subject property from greenbelt assessment and to impose a “rollback tax” based, in part, on the subject’s assessed values for the five preceding years (i.e., 2008 through 2012).³ The County

¹ REPRESENTATIVE FOR PETITIONER explained that until her late husband became ill around 2008, he had raised pine trees on the subject property to supply to nurseries for landscaping purposes. Since 2008, the taxpayer has not harvested pine trees to sell to nurseries. In addition, the taxpayer no longer sells the fruit produced by the fruit trees.

² Neither party submitted a copy of the County’s December 13, 2013 Hearing Results letter as evidence at the Formal Hearing. However, the County included a copy of this letter in the file it forwarded to the Tax Commission to initiate the appeal.

³ Respondent’s Exhibit 1 (“Exhibits R-1”) (May 9, 2013 Rollback Tax letter and Tax Statement of Tax Due and Lien).

calculated the rollback tax amount to be \$\$\$\$\$ using the assessed values that existed on County records for the 2008 through 2012 tax years, which are as follows:

<u>Tax Year</u>	<u>Fair Market Value</u>
2008	\$\$\$\$\$
2009	\$\$\$\$\$
2010	\$\$\$\$\$
2011	\$\$\$\$\$
2012	\$\$\$\$\$

The taxpayer also appealed this action to the County BOE. It appears that at the same time the County BOE reduced the subject's 2013 value in the December 13, 2013 Hearing Results letter, the County BOE also sustained the County's action to remove the subject property from greenbelt and impose the rollback tax.⁴

7. On or around February 13, 2014, the taxpayer appealed the County BOE's decision to the Tax Commission.⁵ In a letter dated February 14, 2014 that accompanied the taxpayer's appeal form, REPRESENTATIVE FOR PETITIONER asked the Commission to reduce the rollback tax that resulted from the subject's removal from greenbelt by \$\$\$\$\$ (i.e., from \$\$\$\$\$ to \$\$\$\$\$).

8. The Commission held an Initial Hearing in this matter and, on December 19, 2014, issued its Initial Hearing Order. On January 9, 2015, the taxpayer requested to proceed to a Formal Hearing. In the request to proceed to a Formal Hearing, REPRESENTATIVE FOR PETITIONER asked the Commission to reduce the rollback tax that resulted from the subject's removal from greenbelt by \$\$\$\$\$.

⁴ The County BOE's December 13, 2013 Hearing Results letter does not expressly mention the subject's greenbelt status or the rollback tax. This letter, however, does indicate that the taxpayer owes a "direct charge" of \$\$\$\$\$, which would appear to include the rollback tax amount of \$\$\$\$\$ that the County had calculated on May 9, 2013. Furthermore, the County submitted a copy of the "Hearing Officer Findings and Recommendations" dated December 11, 2013 (dated two days before the Hearing Results letter was issued), in which the hearing officer agreed with the County's action to withdraw the subject property from greenbelt. Exhibit R-3.

⁵ The taxpayer signed a Request for Redetermination of County Board of Equalization Decision appeal form on February 13, 2014 and indicated on it that "[a]ppeal form received on Feb. 13, 2014." The County did not contend that the taxpayer's appeal to the Tax Commission was untimely.

She stated her belief that the “State is capable of granting a compassionate exception, or exemption, in this matter.”

9. At the Formal Hearing, REPRESENTATIVE FOR PETITIONER stated that she was not contesting the County BOE’s action to reduce the subject’s 2013 value to \$\$\$\$\$. In addition, she made clear that she was not contesting the County’s 2013 determination that the subject property no longer qualifies for greenbelt assessment and that a rollback tax is due. The only issue she is contesting is the amount of rollback tax that the County calculated.⁶

10. In regards to calculating the rollback tax, REPRESENTATIVE FOR PETITIONER objects to using the subject’s 2008 through 2012 assessed values as reflected on County records for these years. She contends that the subject’s assessed values for these five years, which range between \$\$\$\$\$ and \$\$\$\$\$, are too high to represent the subject’s fair market value for each of these years. She claims that the County BOE’s decision to reduce the subject’s value from \$\$\$\$\$ to \$\$\$\$\$ for the 2013 tax year shows that the subject property was overvalued for the five preceding years.⁷ For these reasons, she asks the Commission to reduce the rollback tax to reflect a value of \$\$\$\$\$ for each of the 2008 through 2012 tax years.

11. She does not, however, ask the Commission to apply the applicable property tax rate for each of the 2008 through 2012 years to this \$\$\$\$\$ value when calculating the rollback tax.⁸ Instead, she multiplies the subject’s 2013 tax liability of \$\$\$\$\$⁹ by five to arrive at a proposed rollback tax liability of.

⁶ Prior to the County BOE hearing in December 2013, REPRESENTATIVE FOR PETITIONER indicated to the County that she was contesting the County’s decision to remove the subject property from greenbelt. Exhibit R-1 (June 19, 2013 Letter). At the Formal Hearing, however, she made clear that she is no longer contesting the County’s decision to remove the subject property from greenbelt. Furthermore, the letters she has written to the Tax Commission to appeal the County BOE’s decision only address her request for the rollback tax to be adjusted downward by approximately \$\$\$\$\$.

⁷ The taxpayer contends that the higher value of around \$\$\$\$\$ represented the value of “flat” land, not the value of the subject property, a portion of which is relatively steep.

⁸ For the 2008 through 2012 tax years, the property tax rate applicable to the subject property ranged from ##### in 2008 to ##### in 2012. Exhibit R-1 (Statement of Tax Due and Lien).

⁹ The December 13, 2013 Hearing Results letter shows that the subject’s 2013 assessed value was reduced to \$\$\$\$\$, which resulted in a 2013 tax liability of \$\$\$\$\$. For this assessed value to produce this

\$\$\$\$\$. The taxpayer's proposed rollback tax liability is \$\$\$\$ less than the \$\$\$\$ of rollback taxes calculated by the County on its May 9, 2013 Statement of Tax Due and Lien.¹⁰ On this basis, the taxpayer asks the Commission to reduce its rollback tax liability by \$\$\$\$.

12. REPRESENTATIVE FOR PETITIONER admits that the taxpayer did not appeal any of the values at which the subject property was assessed for the 2008 through 2012 tax years. However, she asks the Commission to consider that her late husband was ill from 2008 until he passed away in 2012. She contends that her husband would have acted to have the 2008 through 2012 values reduced had he known that the subject property would be removed from greenbelt. She also asks the Commission to consider that she is doing her best to "pick up the pieces" and handle these tax matters, which are new to her. For these reasons, she contends that the Commission should "grant a compassionate exception" and reduce the rollback tax liability by \$\$\$\$ to ensure that the rollback tax is not based on "inflated values."

13. Should the Commission not be able to grant her primary request, she made an alternative request at the Formal Hearing. The alternative request, like the primary request, would involve using reduced values to calculate the rollback tax. However, the alternative request would involve not calculating the rollback tax until 2017 when the subject's assessed values would, presumably, have been at or around \$\$\$\$ for the five years prior to the calculation. The taxpayer states that this, too, would result in a rollback tax amount that is fairer and that reflects the actual fair market values of the subject property for the five years on which the calculation is based instead of basing the rollback tax on "inflated" values from 2008 through 2012.

14. The County asks the Commission not to grant either of the taxpayer's requests. The County contends that because the taxpayer did not contest any of the subject's assessed values for the 2008 through 2012 tax years, the Commission cannot now change these values when determining the amount of the rollback tax. The County asserts that a person only has until March 31st of the following

amount of tax liability, the 2013 property tax rate applicable to the subject property must have been 1.4006%.

¹⁰ Exhibit R-1.

year to file a late appeal and that the taxpayer has not appealed any of the 2008 through 2012 tax years by March 31st of the subsequent year. For these reasons, the County contends that the subject's assessed values for the 2008 through 2012 tax years, not its 2013 value, should be used to calculate the rollback tax. Lastly, the County contends that the rollback tax must be calculated at the time a property is removed from greenbelt assessment because the tax becomes a lien at that time. As a result, the County also asks the Commission to find that the taxpayer's alternative proposal to delay the rollback tax from being calculated until 2017 is not allowable under Utah law.

15. The taxpayer did not appeal any of the values at which the subject property was assessed for the 2008 through 2012 tax years. In addition, the taxpayer did not request a "late appeal" of the subject's annual assessed value by March 31st of the following year for any of the 2008 through 2012 tax years.

APPLICABLE LAW

1. Utah Code Ann. §59-2-103(1) provides that "[a]ll tangible taxable property shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law."

2. UCA §59-2-102(12) defines "fair market value" to mean "the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. . . ."

3. Article XIII, Section 2(3) of the Utah Constitution provides that "[t]he Legislature may provide by statute that land used for agricultural purposes be assessed based on its value for agricultural use." In UCA §59-2-503, the Legislature has provided by statute that property may qualify for greenbelt assessment based on its value for agricultural use, if certain requirements are met.

4. However, once a property no longer meets greenbelt requirements and is withdrawn from greenbelt assessment, UCA §59-2-506 provides that land may be subject to a rollback tax, as follows in pertinent part:

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

....

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

- (i) the tax paid while the land was assessed under this part; and
- (ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

- (i) begins on the later of:
 - (A) the date the land is first assessed under this part; or
 - (B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and
- (ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

- (i) collect the rollback tax; and
- (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:
 - (A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and
 - (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

....

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

- (i) the land is withdrawn from this part;
- (ii) the land is subject to a rollback tax under this section; and
- (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

- (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

- (i) the rollback tax; and
- (ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

- (i) arise upon the imposition of the rollback tax under this section;
- (ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and
- (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

....

5. UCA §59-2-1006(1) provides that “[a]ny person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board.”

6. UCA §59-2-1004 provides that a taxpayer can file an appeal with a county board of equalization, as follows in pertinent part:

- (1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:
 - (i) filing the application with the county board of equalization within the time period described in Subsection (2); or
 - (ii) making an application by telephone or other electronic means within the time period described in Subsection (2) if the county legislative body passes a resolution under Subsection (7) authorizing applications to be made by telephone or other electronic means.
- (2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:
 - (i) September 15 of the current calendar year; or
 - (ii) the last day of a 45-day period beginning on the day on which the county auditor mails the notice under Section 59-2-919.1.
- (b) Notwithstanding Subsection (2)(a), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (2)(a).

....
(6) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as prescribed in Section 59-2-1006.

....

7. For purposes of Section 59-2-1004(2)(b), the Commission has promulgated Utah Admin. Rule R884-24P-66 (“Rule 66”) to provide those circumstances when a county board of equalization is required to accept a “late-filed” appeal, as follows in pertinent part

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(13) Except as provided in Subsection (15), a county board of equalization shall accept an application to appeal the valuation or equalization of a property owner's real property that is filed after the time period prescribed by Section 59-2-1004(2)(a) if any of the following conditions apply:

....
....

(15) The provisions of Subsection (13) apply only to appeals filed for a tax year for which the treasurer has not made a final annual statement under Section 59-2-1365.

....

8. UCA §59-2-1365(2) provides that the “the county treasurer shall . . . (b) make a final annual settlement on March 31. . . .”

9. For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must: 1) demonstrate that the value established by the County BOE contains error; and 2) provide the Commission with a sound evidentiary basis for reducing or increasing the valuation to the amount proposed by the party. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm’n*, 590 P.2d 332, (Utah 1979); *Beaver County v. Utah State Tax Comm’n*, 916 P.2d 344 (Utah 1996); and *Utah Railway Co. v. Utah State Tax Comm’n*, 5 P.3d 652 (Utah 2000).

10. UCA §59-1-1417 provides that the burden of proof is upon the petitioner in proceedings before the Commission, with limited exceptions as follows:

(1) In a proceeding before the commission, the burden of proof is on the petitioner except for determining the following, in which the burden of proof is on the commission:

- (a) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;
- (b) whether the petitioner is obligated as the transferee of property of the person that originally owes a liability or a preceding transferee, but not to show that the person that originally owes a liability is obligated for the liability; and
- (c) whether the petitioner is liable for an increase in a deficiency if the increase is asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the increase in the deficiency is the result of a change or correction of federal taxable income:
 - (i) required to be reported; and
 - (ii) of which the commission has no notice at the time the commission mails the notice of deficiency.

....

CONCLUSIONS OF LAW

1. Utah Code Ann. §59-1-1417(1) provides that the burden of proof is on a petitioner in proceedings before the Tax Commission, with limited exceptions that are not applicable to this case. Accordingly, the taxpayer has the burden of proof to show that the subject’s rollback tax should be

calculated with values that are significantly less than the subject's assessed values for the five years preceding its withdrawal from greenbelt assessment.

2. In 2013, the County withdrew the subject property from greenbelt assessment after determining that it no longer met the statutory requirements to qualify for such assessment. The taxpayer does not contest the County's determination that the subject property no longer qualifies for greenbelt assessment. With limited exceptions, Section 59-2-506(1) provides that "if land is withdrawn from [greenbelt assessment], the land is subject to a rollback tax in accordance with this section." None of the exceptions set forth by the Legislature are applicable to the subject property. Accordingly, upon the County's withdrawal of the subject property from greenbelt assessment in 2013, the subject property became subject to the rollback tax as imposed in Section 59-2-506(1).

3. The subject property had been assessed under greenbelt for approximately 30 years before it was withdrawn by the County. Section 59-2-506(3) provides that the County Assessor shall determine the amount of the rollback tax by computing for the five-year rollback period the difference between "the tax paid while the land was assessed under [greenbelt]" and "the tax that would have been paid had the property not been assessed under [greenbelt]."

4. To determine the amount of the subject's rollback tax under Section 59-2-506(3), the County first determined "the tax that would have been paid had the property not been assessed under [greenbelt]." To obtain this tax amount for each of the five rollback years (i.e., 2008 through 2012), the County multiplied the subject's assessed value for each year by the property tax rate applicable to the subject property for that year. The County then subtracted "the tax paid while the land was assessed under [greenbelt]" from the amount it would have paid had the property not been under greenbelt to obtain the tax "difference" for each year. The County added the tax differences obtained for all five

rollback years to obtain a final rollback tax amount of \$\$\$\$\$.¹¹ The County's calculation of the rollback tax complies with Section 59-2-506(3).¹²

5. REPRESENTATIVE FOR PETITIONER, however, asks the Commission to use a different methodology to calculate the rollback tax because she believes that the assessed values used in the calculation do not reflect the subject's fair market value from 2008 through 2012. Specifically, the taxpayer asks the Commission to take the subject's 2013 tax liability and multiply it by five to obtain the amount of the subject's rollback tax. The primary objective of the taxpayer's proposed methodology is for the rollback tax to be calculated with lower assessed values than actually existed for the five rollback years. Such a methodology, however, is contrary to the provisions of Section 59-2-506(3).

6. The taxpayer's proposed methodology underestimates "the tax that would have been paid had the property not been assessed under [greenbelt]" for each of the five rollback years because it substitutes a value for the subject property that is significantly lower than the subject's assessed value for each of these years. Accordingly, the taxpayer's proposed rollback tax amount of \$\$\$\$\$ does not reflect the rollback tax amount established under Section 59-2-506(3).

7. Furthermore, Utah law does not authorize the Commission to adjust the subject's value for each of the 2008 through 2012 rollback years in this appeal so that the taxpayer's proposed rollback tax calculation would better comply with the provisions of Section 59-2-506(3). Section 59-2-1006(1) authorizes the Commission to address final actions of the County BOE. The County BOE, however, has not issued final actions concerning any of the subject's 2008 through 2012 assessed values because the taxpayer did not appeal any of these values to the County BOE. Accordingly, the Commission is not

¹¹ Exhibit R-1 (Statement of Tax Due and Lien).

¹² It also appears to comply with guidance found in Sections 7.9.3 and 7.9.4 of the Farmland Assessment Act Standards of Practice, which is published by the Property Tax Division of the Utah State Tax Commission to assist in the administration of property taxes.

authorized under Section 59-2-1006(1) to adjust any of the subject's assessed values for the 2008 through 2012 tax years for purposes of calculating the subject's rollback tax.¹³

8. Nor does Utah law provide that the taxpayer's appeal should be considered a "late appeal" to contest any of the subject's assessed values for the 2008 through 2012 tax years. Each year, all property owners generally have until September 15th to appeal a property's assessed value for that year. Section 59-2-1004(2)(a)(i). For some property owners who miss this deadline, however, the Legislature has authorized a late appeal to be filed pursuant to Section 59-2-1004(2)(b), in which it also directed the Commission to make rules providing for the circumstances under which a property owner may file a late appeal.

9. In compliance with Section 59-2-1004(2)(b), the Commission adopted Utah Admin. Rule R884-24P-66 ("Rule 66"), in which it prescribed that a late appeal for a specific tax year must be filed by March 31st of the following year, the date by which a treasurer must make his or her final annual statement. Rule 66(15) and Section 59-2-1365. The taxpayer's 2013 appeal was not filed by March 31st of the following year for any of the 2008 through 2012 tax years that comprise the subject's five-year rollback period. As a result, the Commission may not reduce any of the subject's assessed values for 2008 through 2012 when determining the amount of the subject's rollback tax in accordance with Section 59-2-506(3). Accordingly, the Commission may not reduce the subject's rollback tax by the \$\$\$\$ amount proposed by the taxpayer.

10. In the alternative, the taxpayer asks the Commission to find that the rollback tax should not be calculated until 2017 so that a five-year rollback period for 2013 through 2017 would reflect lower values for the subject property than existed for 2008 through 2012. This proposal, however, is also contrary to Utah law. Once a property is withdrawn from greenbelt, Section 59-2-506(3)(b)(ii) provides that the rollback period "ends the day on which the county assessor mails the notice required by

¹³ In *Blaine Hudson Printing v. Utah State Tax Commission*, 870 P.2d 291 (Utah App. 1994), the Utah Court of Appeals explained that "[t]he Tax Commission, while created by constitutional mandate, is limited in its power and scope by the Legislature."

Subsection (5).” Because the County mailed the notice required under Subsection 59-2-506(5) on May 9, 2013, the rollback period ended on this date, not five years subsequent to this date as the taxpayer proposes. For these reasons, the Commission should find that the taxpayer’s alternative proposal to change the subject’s rollback period to the 2013 through 2017 tax years is also inconsistent with Utah law.

11. The Commission has found that the taxpayer has not met its burden of proof to show that the amount of rollback tax calculated by the County is incorrect. The Commission, however, notes that REPRESENTATIVE FOR PETITIONER asks the Commission to grant “a compassionate exception,” in part, because she believes that the County will receive an unjust amount of rollback taxes if it is based on values that she believes to be erroneous for the 2008 through 2012 tax years. The Legislature, however, has not authorized the Tax Commission to reduce a person’s tax liability where that liability has been calculated in compliance with the law. Furthermore, it is the County legislative body, not the Tax Commission, that has been authorized under UCA §59-2-1321 to reduce taxes on property that has been either “erroneously or illegally assessed.”¹⁴ For these reasons, the Commission should deny the taxpayer’s appeal and sustain the rollback tax calculated by the County.

Kerry R. Chapman
Administrative Law Judge

¹⁴ See *Blaine Hudson Printing; see also Woodbury Amsource, Inc. v. Salt Lake County*, 73 P.3d 362 (Utah 2003). It is also noted that in these cases, the Courts make clear that the Tax Commission is not authorized to hear an appeal of a decision made by a county legislative body pursuant to Section 59-2-1321. Such decisions, unlike a decision issued by a county board of equalization, must be appealed to the district court.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the taxpayer's request to adjust the rollback tax that the County imposed when it withdrew the subject property from greenbelt assessment. It is so ordered.

DATED this _____ day of _____, 2015.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
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 Ann. §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 Ann. §§59-1-601 et seq. and 63G-4-401 et seq.