

14-1399
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED
TAX YEAR: 2013 & YEARS PRIOR
DATE SIGNED: 7-10-2014
COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO
EXCUSED: D. DIXON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER-1 and PETITIONER-2, Petitioner, v. BOARD OF EQUALIZATION OF UTAH COUNTY, STATE OF UTAH, Respondent.	ORDER ON PETITIONER’S REQUEST TO RECONVENE BOARD OF EQUALIZATION Appeal No. 14-1399 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2013 & Years Prior Judge: Phan
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STATEMENT OF THE CASE

On June 26, 2014, Petitioner (“Property Owner”) filed with the Utah State Tax Commission a Request to Reconvene the Board of Equalization, asking the Commission to order the Respondent (“County Board of Equalization”) to reconvene in order to hear an appeal of the valuation of parcel no. ##### for the 2013 tax year and years prior to 2013. The County Board of Equalization did not hear the appeal because the Taxpayer failed to file the appeal within the statutory time period.

APPLICABLE LAW

Utah Code Ann. §59-2-1004(2) provides that the time to file an appeal to the county board of equalization is generally September 15th of the year at issue, as set forth below in pertinent part:

- (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 notices 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).

The Commission has promulgated Administrative Rule R884-24P-66 to establish the circumstances under which a county board of equalization may accept an appeal that has been filed after

the statutory deadline, as follows in relevant part:

- (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:
 - (a) During the period prescribed by Section 59-2-1004(2)(a), the property owner was 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, and no co-owner of the property was capable of filing an appeal.
 - (b) During the period prescribed by Section 59-2-1004(2)(a), the property owner or an immediate family member of the property owner died, and no co-owner of the property was capable of filing an appeal.
 - (c) The county did not comply with the notification requirements of Section 59-2-919.1.
 - (d) A factual error is discovered in the county records pertaining to the subject property.
 - (e) The property owner was unable to file an appeal within the time period prescribed by Section 59-2-1004(2)(a) because of extraordinary and unanticipated circumstances that occurred during the period prescribed by Section 59-2-1004(2)(a), and no co-owner of the property was capable of filing an appeal.
- (14) Appeals accepted under Subsection (13)(d) shall be limited to correction of the factual error and any resulting changes to the Property's valuation.
- (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 settlement under Section 59-2-1365.

DISCUSSION

The statutory provisions place the responsibility on property owners to file an appeal by the deadline set out in Utah Code Sec. 59-2-1004. The deadline is generally September 15, for each tax year. The County may hear an appeal filed after the September 15 deadline only if provisions set out in Utah Admin. Rule R884-24P-66 (Rule 66) are met. Furthermore, even if provisions of that rule have been met, Rule 66 provides only an extended deadline, until March 31 of the following year. There is no provision that would allow the Utah State Tax Commission to order the County to Reconvene for periods filed after the expiration of the extended deadline. For the 2013 tax year the Property Owner had until March 31, 2014, to file under these extended deadline provisions. The Property Owner did not submit this request until June 26, 2014, and, therefore, has missed the extended deadline for 2013 and all prior years.

With the request form, the representative for the Property Owner explains the reason for missing the filing deadline was that her mother had taken care of the bills independently until her death in December 2013. In the process of getting the house ready to sell after her mother's death, "I learned that

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the county records show the house was completely finished, including another bathroom, 2 bedrooms and a fireplace that have never existed.”

The State Tax Commission does not have legal basis to hear or order the County Board of Equalization to reconvene to hear this request for the 2013 tax year and prior years, because the Property Owner failed to file the request within the general deadline for appeals or the even the extended deadline provided under Rule 66.¹

DECISION AND ORDER

Based on the foregoing, the Property Owner’s request to reconvene is hereby denied.

DATED this _____ day of _____, 2014.

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 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.

1 A property owner may have options regarding prior years’ tax assessments with the County Legislative Body, often referred to in Utah County as the Utah County Commission. The Utah County Commission is separate from the Utah County Board of Equalization. The Utah State Tax Commission does not review or oversee decisions made by the County Legislative Body under these provisions. These provisions are set out at Utah Code Secs. 59-2-1321 or 59-2-1347. If the Property Owner’s representative thought she had basis to make a request under these provisions she would need to file her request directly with the Utah County Legislative Body.