

14-1691
TAX TYPE: PROPERTY TAX/LOCALLY ASSESSED
TAX YEAR: 2013
DATE SIGNED: 10-27-2014
COMMISSIONERS: J. VALENTINE, D. DIXON, M. CRAGUN
EXCUSED: R. PERO
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF UTAH COUNTY, STATE OF UTAH, Respondent.</p>	<p>ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION</p> <p>Appeal No. 14-1691</p> <p>Parcel No. #####-1 and #####-2 Tax Type: Property Tax/Locally Assessed Tax Year: 2013</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On September 4, 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 the above listed parcels for the 2013 tax year. The County Board of Equalization did not hear the appeal for that year 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(15) limits the provisions to an extension of the deadline, to when the treasurer makes the final annual settlement under Section 59-2-1365. This is generally 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 September 4, 2014, and, therefore, has missed the extended deadline for 2013.

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, because the Property Owner failed to file the request within the general deadline for appeals and then missed the extended deadline provided under Rule 66.

DECISION AND ORDER

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

DATED this _____ day of _____, 2014.

John L. Valentine
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.

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