

16-1307

TAX TYPE: CENTRALLY ASSESSED PROPERTY

TAX YEAR: 2016

DATE SIGNED: 12-22-2016

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO, R. ROCKWELL

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. PROPERTY TAX DIVISION OF THE UTAH STATE TAX COMMISSION, Respondent.	ORDER OF DISMISSAL Appeal No. 16-1307 Tax Type: Centrally Assessed Property Tax Year: 2016 Judge: Phan
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Petitioner (“Property Owner”) had filed on August 17, 2016 an appeal of the 2016 value for the subject property. Because under Utah Code §59-2-1007 the deadline to file the appeal was June 1, 2016, an Order to Show Cause why the appeal should not be dismissed was issued on August 23, 2016. The Property Owner submitted a response to the Order to Show Cause on September 1, 2016. The Division then submitted a response on November 22, 2016. While the decision on the Order to Show Cause was pending, Petitioner submitted a Request for Alternative Relief on November 22, 2016 and the Division a Response to Petitioner’s Request for Alternative Relief on November 29, 2016.

In the September 1, 2016 Response to the Order to Show Cause, the Property Owner’s representative explained the reason the Property Owner had failed to file by the appeal deadline was that, “A notification letter was sent to “PETITIONER” from the Property Tax Division stating a valuation had been completed, however, several conflicting valuation statements had been posted through the Taxpayer Access Point. No notice was mailed explaining the different valuation notices. Because of Taxpayer unfamiliarity with on-line letters posted, the valuations were not noticed until a statement was mailed to the taxpayer from COUNTY. . .” The Property Owner also explained that it had purchased the property for \$\$\$\$\$ on December 18, 2015, and that as of January 1, 2016 the mine was “not legally capable of economic production due to the

fact that the Utah mining permit was not transferred from [the prior owner] until April of 2016 . . .”

The Division submitted a response on November 22, 2016, in which it asserted that the notice had been mailed to the Property Owner by certified mail as required by Utah Code Subsection 59-2-201(4). The certified mail notice had stated that the property tax annual assessment was available through the Taxpayer Access Point (“TAP”) and the notice stated, “Please review your *Annual Assessment* and file any appeal **before June 1, 2016**. (Emphasis in the Original).” It also states, “If you have any questions, please call the Property Tax Division” and then provides contact information. The Division’s representative did acknowledge that preliminary notices are also available on the TAP system, but points out that they were titled “Preliminary” or “Prelim.” The Division points out that there was only one “Notice of Assessment” posted.

Regarding the Property Owner’s Request for Alternative Relief, the Property Owner relies on Utah Code Subsection 59-2-1347(1)(b) for the position that the Utah State Tax Commission has discretion to make an adjustment to the taxes levied. That section provides that “a sum less than the full amount due may be accepted where, in the judgment of the commission, the best human interests and the interests of the state and the county are served.” Although Subsection 59-2-1347(1)(b) gives discretion to the Commission to make an adjustment to the amount of tax levied, this is outside of the appeal process that is set out at Utah Code Sec. 59-2-1007, and outside the Commission’s formal hearing and adjudicative functions. The Commission considers this to be a public policy action, which the Commission would consider at a scheduled and noticed public meeting. For the Commission to consider a request under Utah Code Subsection 59-2-1347(1)(b), the Property Owner would need to file an application to the Commission consistent with the application requirements set out at Utah Code Subsection 59-2-1347(2)¹ and then, if the Commission accepted the request, the Commission would schedule a time at a publicly noticed meeting for the Property Owner to present the request and interested

¹ Attached to this Order is an Application for Settlement or Deferral of Centrally Assessed Property Tax –Form TC-470.

parties like the County, Division, or members of the general public to provide comment.² The Property Owner may proceed through the Sec. 59-2-1347 process, but it would occur outside the formal appeal procedures. The Request for Alternative Relief is not grounds to leave the subject appeal open.

ORDER

The deadline and process for filing a formal administrative valuation appeal for a centrally assessed property is set by Utah Code Sec. 59-2-1007 and there are no statutory provisions allowing the Commission to extend the appeal deadline for cause. After reviewing the information provided by the parties, the Division adequately complied with the notice requirements under Utah Code Sec. 59-2-201. The Property Owner does not deny receipt of the certified mail notice, but instead asserts it did not understand the notice or the process. Given that the certified mail notice was clear as to the assessment being available on the TAP system, that it stated there was an appeal deadline of June 1, 2016, and contact information was provided if there were questions, there is no indication the Property Owner was denied due process in this matter. Therefore, the appeal process set out at Utah Code Sec. 59-2-1007 is not available to the Property Owner and the appeal under Utah Code Sec. 59-2-1007 is hereby dismissed. The Property Owner may proceed under its 59-2-1347 request by filing the proper application with the Utah State Tax Commission. It is so ordered.

DATED this _____ day of _____, 2016.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner

² Although the request under Utah Code Sec. 59-2-1347(1)(b) would be presented by the Property Owner at a public meeting, if the Property Owner is presenting confidential commercial information under Utah Code Sec. 59-1-404, the Commission may hear the discussion of that information confidentially. Under Utah Code Sec. 59-2-1347(4) the Commission is required to publish in the county the property is located any adjustment made pursuant to Sec. 59-2-1347(1)(b).

Appeal No. 16-1307

Notice of Appeal Rights: If you disagree with this order you have twenty (20) days after the date of this order to file a Request for Reconsideration with the Commission in accordance with Utah Code Ann. §63G-4-302. 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.