

20-366

TAX TYPE: PROPERTY TAX

TAX YEAR: 2018 & 2019

DATE SIGNED: 2/06/2020

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONERS,

Petitioners,

v.

BOARD OF EQUALIZATION OF COUNTY,
STATE OF UTAH,

Respondent.

**ORDER ON PETITIONERS' REQUEST TO
RECONVENE BOARD OF EQUALIZATION**

Appeal No. 20-366

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2019

Judge: Phan

STATEMENT OF THE CASE

On February 24, 2020, Petitioners ("Property Owners") filed with the Utah State Tax Commission a Request to Reconvene the Board of Equalization, asking the Commission to order the Respondent ("County") to reconvene in order to hear an appeal of the valuation of parcel no. ##### for the 2019 tax year. The County Board of Equalization did not hear the appeal because the Property Owners failed to file the appeal within the statutory time period.

APPLICABLE LAW

Utah Code §59-2-1004(3) provides that the time to file an appeal to a County Board of Equalization is generally September 15th of the tax year at issue, as set forth below in pertinent part:

- (a) Except as provided in Subsection (3)(b), for purposes of Subsection (2), 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) 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 (3)(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:

- (12) Except as provided in Subsection (14), 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 Subsection 59-2-1004(3)(a) if any of the following conditions apply:
 - (a) During the period prescribed by Subsection 59-2-1004(3)(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 Subsection 59-2-1004(3)(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 Subsection 59-2-1004(3)(a) because of extraordinary and unanticipated circumstances that occurred during the period prescribed by Subsection 59-2-1004(3)(a), and no co-owner of the property was capable of filing an appeal.
- (13) Appeals accepted under Subsection (12)(d) shall be limited to correction of the factual error and any resulting changes to the property's valuation.
- (14) The provisions of Subsection (12) 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

Utah Code Sec. 59-2-1004 puts the responsibility on property owners to file a property tax appeal each year by the statutory deadline for each year. There is no statutory basis that precludes the need to file an appeal by the deadline if a prior year's assessed value is still under appeal. Every year Counties mail the preliminary valuation notices to all property owners by the end of July with information on how to file an appeal for that year to the County Boards of Equalization if they disagree with the value. Every year the deadline to file an appeal to the County Boards of Equalization is September 15 for that year, or the next business day if the 15th falls on a weekend. See Utah Code Sec. 59-2-1004. Utah Code Sec. 59-2-1004 and Utah Admin. Rule R884-24P-66(12) provide an extended deadline if some very specific factors are met. The law and rule are very specific as to what factors are considered to provide grounds for this extension.

On the Request to Reconvene form, for the reason they were requesting the late appeal, the Property Owners checked the boxes for "Extraordinary and Unanticipated Circumstances" and "Factual Error in the

Appeal No. 20-366

County's Records." The explanation the Property Owners provided was, "For the tax year 2018 we successfully appealed the property value. However, this took so long, that the county didn't get the information or didn't process it. By the time we realized the new values had not been applied, the appeal date was past. Interestingly, the County has the results of the appeal, and chooses not to apply them to 2019." The Property Owners do not state when their 2018 tax year appeal was resolved. Upon review of Tax Commission records, the 2018 assessed value had been appealed to the State Tax Commission, and was assigned Appeal No. 19-304. Appeal No. 19-304 was resolved by Stipulation between the parties, which reduced the value and an Order of Approval issued by the Tax Commission on October 29, 2019. The County clearly would not have had the October 29, 2019 decision for tax year 2018 prior to assessing the 2019 value.

After reviewing the statute and rule, the Property Owners' request is denied as the facts do not meet the requirements under Utah Code §59-2-1004 and Administrative Rule R884-24P-66 for allowing a late filed appeal. Each year the County must assess each property within that County by May 15 for that year and must mail out the valuation notices by the end of July for that year. These notices provide the value that has been set as well as instructions on how to appeal the valuation to the County Board of Equalization. It is the property owner's responsibility to file an appeal by the deadline if there is a disagreement as to the assessed value. The assertion of the Property Owners that they had a 2018 appeal ongoing and did not notice the 2019 value within the time to file a 2019 appeal is not basis to allow a late filed appeal pursuant to Rule R884-24P-66.

DECISION AND ORDER

After reviewing the information presented by the parties as well as Utah Code §59-2-1004 and Administrative Rule R884-24P-66, the Property Owners have not provided sufficient basis to grant the request, therefore the request is denied. It is so ordered.

DATED this _____ day of _____, 2020.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
Commissioner

Appeal No. 20-366

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.