

TAX TYPE:PROPERTY TAX/LOCALLY ASSESSED
TAX YEAR: 2016, 2017 AND 2018
DATE SIGNED: 6/8/2020
COMMISSIONERS: EXCUSED J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER, Petitioner, v. BOARD OF EQUALIZATION OF WASATCH COUNTY, STATE OF UTAH, Respondent.</p>	<p>ORDER ON PETITIONER’S REQUEST TO RECONVENE BOARD OF EQUALIZATION</p> <p>Appeal No. 20-894</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Years: 2016, 2017 and 2018</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On DATE, 2020, 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”) to reconvene in order to hear his request for the primary residential property tax exemption for parcel no. ##### for tax years 2016, 2017 and 2018. The Property Owner had apparently failed to file an appeal to the County Board of Equalization pursuant to Utah Code §59-2-1004 for any of these tax years to have the matter corrected by the County Board. Pursuant to Utah Code §59-2-1004 the deadline to file an appeal to the County Board is September 15 of each tax year. Therefore, to contest the 2016 assessment, for example, the appeal deadline was September 15, 2016. For all tax years 2016 through 2018 the Property Owner has missed the §59-2-1004 deadline and has also missed the extension for a county to accept an application to appeal provided by Utah Administrative Rule R884-24P-66.

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 59-2-1365.¹

DISCUSSION

The law puts the responsibility on property owners to file applications for property tax exemptions by the deadline set for each tax year and to file an appeal of the County Assessor's property tax assessment by the statutory deadline for that year. Every year counties mail the preliminary valuation notices by the

¹ Utah Code Section 59-2-1365 provides that the final annual settlement is to occur by March 31 of the year subsequent to the tax year at issue. For tax year 2019, the final annual settlement was to occur by March 31, 2020.

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end of July with information on how to file an appeal for that year to the County Boards of Equalization. Every year the deadline to file an appeal to the County Boards of Equalization is September 15, 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 for a county to accept an application to appeal 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. However, the rule also expressly provides a time limit for the extension at Utah Admin. Rule R884-24P-66(14), which is March 31 of the following year, so the extension provided by statute and rule is not indefinite. For tax year 2016, for example, if a property owner had been able to establish that it met criteria under Utah Admin. Rule R884-24P-66(12), it could provide basis to be allowed a late filed appeal up until March 31, 2017. This extension has also long since expired for each tax year 2016 through 2018. There are no provisions in the statute or rule to allow a request after the March 31 extension had expired, even if the property owner was able to establish it met criteria under Utah Admin. Rule R884-24P-66(12). The Property Owner did not submit this request for tax years 2016 through 2018 until DATE, 2020.

DECISION AND ORDER

After reviewing the information presented as well as Utah Code §59-2-1004 and Administrative Rule R884-24P-66, the Property Owner has 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

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Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
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.