

APPEAL # : 22-438

TAX TYPE: CIRCUIT BREAKER/ INDIGENT ABATEMENT

TAX YEAR: 2021

DATE SIGNED: 12/06/2022

COMMISSIONERS: J.VALENTINE, M.CRAGUN, AND J.FRESQUES

EXCUSED/RECUSED: R.ROCKWELL

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER, Petitioner, v. COUNTY-1 COUNCIL-TAX ADMINISTRATION, STATE OF UTAH, Respondent.</p>	<p>ORDER ON COUNTY’S DENIAL OF LATE FILED TAX RELIEF APPLICATION</p> <p>Appeal No. 22-438</p> <p>Parcel No. ##### Tax Type: Circuit Breaker/Indigent Abatement Tax Year: 2021</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioners: PROPERTY OWNER

For Respondent: RESPONDENT'S REP -1, Deputy District Attorney, COUNTY-1

RESPONDENT'S REP -2, Tax Administration, COUNTY-1

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on November 1, 2022, for a Hearing on County’s Denial. Petitioner (“Property Owner”) had filed an appeal of Respondent's (“County’s”) denial of the Property Owner’s late filed tax relief application for tax year 2021. The County had denied both circuit breaker and the indigent abatement tax relief for tax year 2021 because the County had no record of the Property Owner submitting the application for relief prior to the September 1, 2021 deadline. The County issued its order denying the circuit breaker and indigent tax relief on DATE. In that order the County explained the reason for the denial was “application submitted after the statutory filing deadline which is September 1st of each year.” After receipt of the order, the Property Owner filed this appeal of the County’s decision to the Utah State Tax Commission.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

However, various exemptions, abatements, and tax relief are provided in the Property Tax Act. Part 12 of the Property Tax Act provides circuit breaker tax relief under Utah Code Ann. §59-2-1208 as follows:

- (1)(a) Subject to Subsections (2) and (4), for a calendar year beginning on or after January 1, 2021, a claimant may claim a homeowner's credit that does not exceed the following amounts . . .

The law, however, requires a property owner to file an application for the credit each year and sets out the application deadline at Utah Code Ann. §59-2-1206(1) as follows:

- (a) A claimant applying for a homeowner's credit shall file annually an application for the credit with the county in which the residence for which the claimant is seeking a homeowner's credit is located before September 1.
- (b) The application under this section shall:
 - (i) be on forms provided by the county that meet the requirements of Section 59-2-1211; and
 - (ii) include a household income statement signed by the claimant . . .

Property Owners have a limited right to appeal decisions of the county regarding circuit breaker tax relief as set out at Utah Code Ann. §59-2-1217, which states:

Any person aggrieved by the denial in whole or in part of relief claimed under this part, except when the denial is based upon late filing of claim for relief, may appeal the denial to the commission by filing a petition within 30 days after the denial.

In addition to the circuit breaker tax relief, Utah Code Ann. §59-2-1804 also provides an indigent abatement tax relief as follows:

- (1)(a) Except as provided in Subsection (1)(b), an applicant for deferral or abatement for the current tax year shall file an application on or before September 1 with the county in which the applicant's property is located.
- (b) If a county finds good cause exists, the county may extend until December 31 the deadline described in Subsection (1)(a).
- (c) An indigent individual may apply and potentially qualify for deferral, abatement, or both.
- (2) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral or abatement.
- (3) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:
 - (a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(4) If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

The County Legislative Body also has authority to grant some relief as follows at Utah Code §59-2-1347:

(1)(a) If an interested person applies to a county legislative body for an adjustment or deferral of taxes levied against property located in the county, the county legislative body may accept a sum less than the full amount due, or defer the full amount due, where, in the judgment of the county legislative body, the best human interests and the interests of the state and the county are served.

(b) Nothing in this section prohibits a county legislative body from granting a retroactive adjustment or deferral if the criteria established in this section are met.

DISCUSSION

The Property Owner explained at the Hearing that he was ##### years old and had been retired for ##### years. He stated that he lives in severe poverty and he has qualified for the circuit breaker and indigent abatement programs for many years. He stated that he starts applying for this tax relief the last week of August every year and he would get the circuit breaker and indigent abatement. He also pointed out that for tax year 2022, he had filed the application on time and had been granted the 2022 tax relief. He explained that he mailed in his application for tax year 2021 on or about DATE. He stated that he always waited until then to see if his circumstances had changed.¹ He states that after he mailed his application to the County, he started realizing there were issues with his mail. He stated he was receiving other people's mail and he was hearing about problems with the mail. At some point he found out from the County that the County never received his application. The Property Owner stated that he then called the post office and the person he spoke with told him that %%% of the postal employees had quit and that the post office was getting mail lost or messed up. He did submit the application to the County a second time, which the County received on DATE.

The County's representative explained the County had no record of receiving an application from the Property Owner prior to DATE. So the Property Owner had missed the filing deadline of September 1,

¹ Since the tax relief is based on a person's household income as that is defined at Utah Code Subsection 59-2-1202(7) to be the income from the calendar year preceding the calendar year in which the property owner is requesting the relief, there does not appear to be a reason for a taxpayer to wait until the end of August to submit the application. For tax year 2021 the household income was based on the Property Owner's income from calendar year 2020.

2021 for both the circuit breaker and indigent abatement tax relief for tax year 2021. The County requested that the Property Owner's appeal regarding the circuit breaker tax relief be dismissed, pointing to Utah Code Sec. 59-2-1217. For the circuit breaker tax relief, Utah Code Sec. 59-2-1217 does provide a right to appeal the County's decision, but not where the County's denial is based on the late filing of a claim for relief. The County had denied the Property Owner's application because it was submitted after the filing deadline, so it was a late filing of a claim for relief. Based on this express statutory provision, the County points out the Property Owner does not have the right to appeal the denial of the circuit breaker tax relief to the Tax Commission. The County did explain that the circuit breaker tax relief would have been about \$\$\$\$\$.

Regarding the indigent abatement, the County pointed out that the statute providing for appeal rights is different from the circuit breaker statute. Utah Code Subsection 59-2-1804(4) states, "If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006." Based on that provision, the County acknowledged that the Tax Commission could review the denial regarding the indigent abatement. The County pointed out that the amount of tax relief from the indigent abatement, had it been granted, would have been \$\$\$\$\$.

However, the County's representative explained that the County had provided an additional type of property tax relief, which he referred to as hardship relief, under Utah Code Sec. 59-2-1347. The County's representative stated that in situations where the County could not grant circuit breaker and indigent abatement tax relief, the County could consider this hardship relief. In this situation, where the County had denied the circuit breaker and indigent relief, the County did review the Property Owner's application for hardship relief and had granted the Property Owner \$\$\$\$\$ in hardship relief.² The representative stated that if the County had allowed any of the circuit breaker or indigent abatement relief, it would not have allowed the hardship relief. The representative also pointed out that the deadline for submitting the application for both the circuit breaker and indigent abatement relief was set in the statute and was September 1 of the tax year at issue. He stated that the County has to follow the statute and pointed out that the Tax Commission must also follow the statute.

After reviewing the information presented by the parties and the applicable law, the Tax Commission is required to dismiss the Property Owner's appeal regarding the circuit breaker property tax relief. The law is clear at Utah Code Subsection 59-2-1206(1) that in order to receive this relief a property owner must file the application before September 1. It is also clear at Utah Code Sec. 59-2-1217 that when the application is denied for being filed after the deadline, that decision is not appealable.

² Decisions made pursuant to Utah Code Sec. 59-2-1347 are made by the County's Legislative Body and are not appealable to the Tax Commission.

Therefore, the appeal regarding the circuit breaker property tax relief is not properly before the Tax Commission and must be dismissed.

Regarding the indigent abatement, which would have been \$\$\$\$ if it had been granted, the Property Owner does have a statutory right to appeal the County's denial to the Utah State Tax Commission pursuant to Utah Code Subsection 59-2-1804(4). The statute also states the application deadline for this relief is September 1, but does go on to provide, "If a county finds good cause exists, the county may extend until December 31 the deadline . . ." See Subsection 1804(1)(b). Based on this plain reading of this statute, the legislature gave the County discretion to determine if good cause existed to extend the deadline. Because it is clear the legislature intended the County to have the discretion to make this decision, the Commission would only consider overturning the County if abuse of discretion is shown. In this matter, the County determined not to extend the deadline to December 31. The County denied the indigent abatement relief due to the late filed application and instead considered the late application as a request for hardship relief. By acting in this manner, the County granted the Property Owner much more relief than it could have as indigent abatement relief. The County's actions do not show abuse of discretion in its decision to deny the indigent abatement relief based on the late application.

DECISION AND ORDER

Based on the foregoing, the Utah State Tax Commission dismisses the Property Owner's appeal regarding the circuit breaker tax relief and sustains the County's denial of the indigent abatement tax relief for tax year 2021. It is so ordered.

DATED this _____ day of _____, 2022.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
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.