

APPEAL #: 22-1572
TAX TYPE: PROPERTY TAX/ LOCALLY ASSESSED
TAX YEAR: 2022
DATE SIGNED: 11/01/2022
COMMISSIONERS: M.CRAGUN, R.ROCKWELL, AND J.FRESQUES
EXCUSED/RECUSED: J.VALENTINE

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent.</p>	<p>ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION</p> <p>Appeal No. 22-1572</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2022</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On September 23, 2022, 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 an appeal regarding the property tax assessment of parcel no. ##### for the 2022 tax year. The Property Owner had not submitted an appeal for tax year 2022 to the County Board of Equalization by the statutory deadline of September 15, 2022, which is the deadline to file a valuation or equalization appeal set by Utah Code Sec. 59-2-1004. The Property Owner now asks the Tax Commission to order the County Board of Equalization to reconvene to hear the Property Owner's late filed appeal. Respondent submitted a response regarding the Property Owner's request by letter dated DATE, in which the County asked that the Request to Reconvene be denied. The Property Owner did not submit a reply to the County's response.

APPLICABLE LAW

Utah Code Ann. §59-2-1004 provides that the time to file an appeal to the county board of equalization regarding valuation or equalization is generally September 15th of the year at issue, as set forth below in pertinent part:

(3) (a) Except as provided in Subsection (3)(b) and 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 provides the notice 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 a late appeal 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.

For purposes of these provisions, "factual error" is defined at Utah Admin. Rule R884-24P-66(1) as follows:

- (a) "Factual error" means an error described in Subsection (1)(b):
 - (i) that is objectively verifiable without the exercise of discretion, opinion, or judgment;
 - (ii) that is demonstrated by clear and convincing evidence; and
 - (iii) the existence of which is recognized by the taxpayer and the county assessor.
- (b) Subject to Subsection (1)(c), "factual error" includes an error that is:
 - (i) a mistake in the description of the size, use, or ownership of a property;
 - (ii) a clerical or typographical error in reporting or entering the data used to

- establish valuation or equalization;
- (iii) an error in the classification of a property that is eligible for a property tax exemption under: (A) Section 59-2-103; (B) Title 59, Chapter 2, Part 11; (C) Title 59, Chapter 2, Part 18; or (D) Title 59, Chapter 2, Part 19;
- (v) valuation of a property that is not in existence on the lien date; and
- (iv) a valuation of a property assessed more than once, or by the wrong assessing authority.
- (c) "Factual error" does not include:
 - (i) an alternative approach to value;
 - (ii) a change in a factor or variable used in an approach to value; or
 - (iii) any other adjustment to a valuation methodology.

DISCUSSION

The law puts the responsibility on property owners to file a property tax appeal each year by the statutory deadline for that year. Every year the County mails the Valuation Notice by the end of July and every year the deadline to file an appeal pursuant to Utah Code Subsection 59-2-1004(3) is generally September 15. These dates are set by statute and are the same dates every year so a property owner should expect to receive the valuation notice by the first week in August. It is the property owner's responsibility to file an appeal if there is a disagreement as to the assessed value by the statutory deadline. As established by administrative rule, a late application to appeal may be allowed under limited circumstances if certain requirements have been met. Utah Admin. Rule R884-24P-66 was adopted to provide the circumstances under which a late filed appeal may be allowed. On Request to Reconvene the Board of Equalization - Form TC-194A, each of the circumstances set out in Rule 66 are listed with a check box for property owners to indicate which of the circumstances apply.

On the Form TC-194A submitted by the Property Owner, the Property Owner did not check any of the boxes for the circumstances set out in the rule. The Property Owner provided no supporting documentation and only this brief explanation:¹

Unfortunately I did not receive my notice of reassessment before we left for vacation and we returned last week. (DATE) We have a 2nd home in CITY-1 that we spend time with family. Our mail was on notice & held for us at the USPS until our return when I first saw the Auditors statement of 100% valuation change. We XX XXXX and travel to see family.

In the County's response to the Property Owner's request to reconvene, the County Assessor explained that pursuant to Utah Code Subsection 59-2-1004(3), the time to file an appeal to the county board of equalization was generally September 15th of year at issue and Utah Admin. Rule R884-24-P-66 establishes the circumstances under which a county board of equalization may accept the late appeal. She stated, "A planned trip or vacation, as provided by the taxpayer as the reason for this request, is not listed

¹ The statement was handwritten and there were two words that were not legible and are noted by XXXs.

in those circumstances.” She also pointed out that the burden to follow through and make timely applications lies with the property owner.

Upon reviewing the facts and the law in the matter, the Property Owner has not met the burden of establishing that he met the requirements of R884-24P-66(12). As the County has pointed out, a planned trip or vacation is not a factor listed in R884-24P-66(12) and it is a property owner’s responsibility to file an appeal by the statutory deadline, which is the same deadline every year.

DECISION AND ORDER

After reviewing the information presented by the parties, the Property Owner has not provided a basis to grant his request, therefore, the request is denied. 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.