

APPEAL #: 22-1743  
TAX TYPE: PROPERTY TAX/ LOCALLY ASSESSED  
TAX YEAR: 2021  
DATE SIGNED: 01/10/2023  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, AND R.ROCKWELL  
EXCUSED/RECUSED: J.FRESQUES

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PROPERTY OWNER,  Petitioner,  v.  BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,  Respondent.</p>	<p><b>ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION</b></p> <p>Appeal No. 22-1743</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2021</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On DATE, 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 primary residential exemption for parcel no. ##### for the 2021 tax year. Originally the request was processed as a request to determine whether the subject property was eligible to receive a residential exemption for tax year 2022. The County submitted a response to the Property Owner's request on DATE. Upon further review of the Property Owner's request and as confirmed by the County in its response, the Property Owner was, in fact, requesting that the County Board of Equalization be reconvened regarding tax year 2021. The County pointed out in its response that the Property Owner had submitted the application for primary residential exemption on DATE and the County had granted the exemption for tax year 2022. 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 regarding tax year 2021.

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 15<sup>th</sup> 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 issue before the Commission is the primary residential exemption. All tangible taxable property is assessed on the basis of its fair market value, unless otherwise provided by law. There is an exemption for primary residential property at Utah Code §59-2-103 as follows:

(2) 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.

(3) Subject to Subsections (4) through (7) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.

(4) Part-year residential property located within the state is allowed the residential exemption described in Subsection (3) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.

The Commission has promulgated Administrative Rule R884-24P-66 to establish the circumstances under which a county board of equalization may accept a late filed valuation or equalization 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.

#### 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 the deadline to file an appeal pursuant to Utah Code Subsection 59-2-1004(3) is generally September 15 of each tax year. These dates are set by statute. It is the property owner's responsibility to file an appeal by this deadline if there is a disagreement. 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(12) was adopted to provide the circumstances under which a late-filed appeal may be allowed. However, the extension is limited at Utah Admin. Rule R884-24P-66(14) "to appeals filed for a tax year for which the treasurer has not made a final annual settlement under Section 59-2-1365." The treasurer's annual settlement is made on March 31 of the year following the tax year at issue. For tax year 2021, that date was March 31, 2022.

The Property Owner did not file this request regarding tax year 2021 until DATE. There is no basis pursuant to the statute or rule to allow this request, which was submitted after the final annual settlement for tax year 2021 was made on March 31, 2022.

#### DECISION AND ORDER

Based on the foregoing, the Commission denies the Property Owner's request to reconvene the County Board of Equalization for tax year 2021. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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.