

APPEAL # 22-1769
TAX TYPE: PROPERTY TAX/ LOCALLY ASSESSED
TAX YEAR: 2022
DATE SIGNED:01/17/2023
COMMISSIONERS: M.CRAGUN, R.ROCKWELL AND J.FRESQUES
EXCUSED/RECUSED: J.VALENTINE

BEFORE THE UTAH STATE TAX COMMISSION

PROPERTY OWNER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent.	ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION Appeal No. 22-1769 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2022 Judge: Phan
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STATEMENT OF THE CASE

On November 3, 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 of the valuation 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 generally 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. Although notified of the Property Owner's Request to Reconvene, the County did not submit a response to the request. After a request from the Appeals Unit, the Property Owner provided some additional information regarding the co-owner of the property via email on DATE.

APPLICABLE LAW

Utah Code Ann. §59-2-1004(3) provides that the time to file an appeal to the county board of equalization is generally September 15th of the year at issue, as set forth below in pertinent part:

...

- (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 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) Subsection (12) applies only to appeals filed for a tax year for which the treasurer has not made a final annual settlement under Section 59-2-1365.
- (15) This rule applies only to appeals to the county board of equalization. For information regarding appeals of county board of equalization decisions to the Commission, please see Sections 59-2-1006 and R861-1A-9.

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 by the statutory deadline if there is a disagreement as to the assessed value. As

established by administrative rule, a late filed 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 the 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 checked the box for "Death of owner or immediate family member." She listed that her father-in-law had died on DATE. She also provided the following information regarding his medical condition leading up to his death. She explained he was hospitalized on DATE in COUNTRY-1 and she had flown there a couple of days later. She stated that he had ended up having two strokes and a number of seizures, and died in the hospital on DATE. She explained that she had stayed in COUNTRY-1 until after his funeral, returning on DATE.

Because the Property Owner had left the section on Form TC-194A regarding "Additional Owners" blank, the Appeals Unit did reach out to the Property Owner regarding this missing information. On DATE, the Property Owner explained that her current spouse PERSON-1 was a co-owner of the subject property, although they were currently dealing with a title company to put the residence in her name only. She explained in the email that he "has not had anything to do with that side of the house affairs." She also stated in the email "the paperwork was all in my work file and with all the running round with my father in law passing I was not even thinking of property taxes and dates etc." She also explained that her current husband, PERSON-1, was not related to her father-in-law who had died in DATE. She explained that she was a widow before she married PERSON-1 and the father-in-law who had died in DATE was her first husband's father, who she described as "the only father I ever had." Regarding PERSON-1's ability to file an appeal, the Property Owner stated in her email, "PERSON-1 is also really bad at any modern technology and would never have been able to do it. He still has a flip phone. He does not even text."

Upon reviewing the facts and the law in the matter, it is clear that there was a medical emergency that culminated with the death of the Property Owner's family member that occurred during the period to file an appeal. The issue is whether the co-owner was capable of filing the appeal. Utah Admin. Rule R884-24P-66(12) provides that a county board of equalization shall accept an application to appeal the valuation or equalization of a property that is filed after the September 15 deadline if certain circumstances are established by the property owner. One of those circumstances is a medical emergency and another is the death of the property owner or immediate family member of the owner. Utah Admin. Rule R884-24P-66(12)(a) provides, "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.” As stated in the rule, the medical emergency needed to occur during the period prescribed by Subsection 59-2-1004(3), which is the period that began when the County Auditor mailed the Valuation Notice through the September 15 appeal deadline. The medical emergency to the Property Owner’s father-in-law occurred during this time period. The Property Owner stated she had traveled to COUNTRY-1 to be with him until his death, which occurred after the time period to file an appeal had expired, but does support the serious nature of the medical emergency which had occurred during the time period for filing an appeal. However, there was a co-owner of the property. The medical emergency did not occur to the co-owner or his immediate family member and would not have prevented him from filing the appeal. From the Property Owner’s statement, she was planning on filing the appeal, she said PERSON-1 “has not had anything to do with that side of the house affairs,” and she indicated he was not good with technology. These factors do not indicate that he was incapable of filing an appeal. Therefore, the Property Owner has not established that she met the criteria for a late filed appeal pursuant to Subsection 59-2-1004(3) and Utah Admin. Rule R884-24P-66(12).

DECISION AND ORDER

After reviewing the information presented in this matter, the Property Owner has not established that she met the criteria for a late filed appeal pursuant to Subsection 59-2-1004(3) and Utah Admin. Rule R884-24P-66(12). The Property Owner’s request is denied. 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.

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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.