

APPEAL #: 22-1965  
TAX TYPE: PROPERTY TAX / LOCALLY ASSESSED  
TAX YEAR: 2022  
DATE SIGNED: 3/7/2023  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

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BEFORE THE UTAH STATE TAX COMMISSION

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PROPERTY OWNER,

Petitioner,

v.

BOARD OF EQUALIZATION OF COUNTY-1,  
STATE OF UTAH,

Respondent.

**ORDER ALLOWING APPEAL TO  
PROCEED UNDER UTAH CODE SEC.  
59-2-1006**

Appeal No. 22-1965

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2022

Judge: Phan

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STATEMENT OF THE CASE

On December 6, 2022, Respondent (“County”) forwarded to the Tax Commission a Request to Reconvene the Board of Equalization form in which the Petitioner (“Property Owner”) asked the Commission to order the County to reconvene in order to hear an appeal regarding the assessed value for parcel no. ##### for the 2022 tax year. The Property Owner had submitted this Request to Reconvene to the County on DATE. A Request to Reconvene is the form to file when a property owner had failed to file an appeal to the County Board Of Equalization by the appeal deadline set out at Utah Code Sec. 59-2-1004, which is generally September 15, and it is used to request that the Tax Commission order the County Board of Equalization to reconvene to hear a late filed appeal. However, based on the information submitted, the Property Owner had filed an appeal regarding the primary residential exemption to the County Board of Equalization pursuant to Utah Code Sec. 59-2-1004 by the statutory appeal deadline for tax year 2022 of September 15, 2022. The County Board of Equalization had heard the appeal and on DATE, issued its decision, which granted the exemption but made no change to the value. Therefore, the request to reconvene is procedurally improper. Procedurally, the Property Owner had the right to appeal the decision of the County Board of Equalization to the Utah State Tax Commission pursuant to Utah Code Sec. 59-2-1006. It appears that the Property Owner was attempting to file a Section 59-2-1006 appeal, but had filed the wrong appeal form. The County submitted its response to the request on DATE.

APPLICABLE LAW

Utah Code Sec. 59-2-1006 provides a property owner the right to appeal a decision of the County Board of Equalization to the Utah State Tax Commission, but also provides the following deadline:

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission by:

(a) filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board or entity with designated decision-making authority described in Section 59-2-1101;

...

Utah Admin. Rule R861-1A-9 provides procedures for appeals filed pursuant to Utah Code Secs. 59-2-1006 and 59-2-1004. Rule R861-1A-9(6) provides in relevant part:

(a) The commission shall consider the facts and evidence presented to the commission, including facts and evidence presented by a party that was submitted to the county board.

(b) A party may raise a new issue before the commission.

DISCUSSION

Based on the information submitted in this matter it appears that the Property Owner's submission was an attempt to appeal the DATE decision issued by the County Board of Equalization on the issue of the valuation of the subject property to the Utah State Tax Commission. A property owner has the right to appeal a decision of the County Board of Equalization to the Utah State Tax Commission pursuant to Utah Code Sec. 59-2-1006, if the appeal is filed within thirty-days from the date the County Board of Equalization issued its decision. To file this type of appeal, the Property Owner should have filed a form TC-194-Request for Redetermination of County Board of Equalization Decision. Instead the Property Owner submitted the incorrect form, the TC-194A-Request to Reconvene. However, the Property Owner had submitted the Request to Reconvene within the thirty-day period to file an appeal provided in Utah Code Sec. 59-2-1006. Utah Code Sec. 59-2-1006 provides a statutory right to appeal and does not require the appeal be on a specific form, it merely requires, "filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board . . ." The Property Owner had indicated the grounds for the appeal on the form he

submitted.

As the County has pointed out in its response, the County’s decision had granted the Property Owner’s primary residential exemption, but left the value of the property unchanged. Based on the record from the County Board of Equalization hearing, the only issue the Property Owner raised to the County Board of Equalization had been the primary residential exemption. However, pursuant to Utah Admin. Rule R861-1A-9(6)(b) on an appeal of the County Board of Equalization's decision to the Utah State Tax Commission “[a] party may raise a new issue before the commission.”

Based on the submissions and applicable law, it is clear that the Property Owner had the right to appeal the decision of the County Board of Equalization to the Utah State Tax Commission pursuant to Utah Code Sec. 59-2-1006 as long as the appeal was filed within thirty-days of that decision. The Property Owner also had the right to raise a new issue before the Tax Commission pursuant to Utah Admin. Rule R861-1A-9(6)(b). The Property Owner did file his request within the thirty-day deadline, and although the Property Owner used the incorrect form, he had indicated the grounds for the appeal. Therefore, the matter should proceed before the Utah State Tax Commission as an appeal of the County Board of Equalization's decision and not as a Request to Reconvene.

DECISION AND ORDER

Based upon the foregoing, the Utah State Tax Commission accepts the Property Owner’s request as a timely appeal filed pursuant to Utah Code Sec. 59-2-1006 and will schedule the appeal for an administrative hearing on the merits. 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