

APPEAL # 22-1975  
 TAX TYPE: PROPERTY TAX/ LOCALLY ASSESSED  
 TAX YEAR: 2022  
 DATE SIGNED: 2/7/2023  
 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.	<p style="text-align: center;"><b>ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION</b></p> <p>Appeal No. 22-1975</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2022</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On December 1, 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. The County submitted a response to the Request to Reconvene on DATE and the Property Owner submitted a reply 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 15<sup>th</sup> 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 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, which was signed and dated DATE, the Property Owner checked the boxes for Medical Emergency, Extraordinary and Unanticipated Circumstances and Factual Error. On the form the Property Owner had filled out the dates of the medical emergency and the dates of the extraordinary or unanticipated circumstances to be from July 9, 2022 to July 19, 2022. However, the Property Owner attached a letter of explanation and from what was stated in the letter, the emergency or extraordinary and unanticipated circumstances were also occurring in September 2022, right around the deadline to file the appeal. In the letter, he explained that he had been diagnosed with abdominal cancer more than a year ago and had gone through chemotherapy treatments and “a significant surgery” at the time. He provided a copy of documentation confirming his diagnosis in DATE. He then explained further in his letter, “recently I’ve had to go back on chemo treatment since the cancer has revived.” He explained that the chemotherapy treatments resulted in his having an impaired short and medium term memory. In his DATE letter he stated:

Also in the last two weeks, I suffered serious chemo side effects, laying me up for a time, impairing mobility; in the last two weeks, I was working this with the med team. I was on treatment up until yesterday. With all this medical problem interference and the problems chemo treatment caused with memory, and everything else going on, until this morning, I believed I had time to appeal this assessment.

I was at the county offices this morning, getting the necessary documents to appeal the assessment, and I was informed I’d missed [the] deadline by a few days.

The Property Owner explained on the request form that PROPERTY OWNER-2 was a co-owner of the property, but he explained that she did not receive the valuation notice because the notice was sent to the Property Owner and “she lives apart.” In his reply the Property Owner further explained that he “was in the process of divorce, and could not account for the activities of joint owner . . .” The Property Owner also explained that the subject property was a residence under construction and construction had been halted “2 years ago when my spouse filed for divorce.” He indicated that the property “has been idle and has deteriorated since.”

In the County’s response, the County pointed out that Utah Code Subsection 59-2-1004(3) provides the time to file an appeal is September 15th of the year at issue and that Utah Admin. Rule R884-24P-66 establishes circumstances under which the county board may accept a late appeal. The County indicated that the Property Owner’s situation “seems to be a long-term illness as opposed to something more unexpected.” The County also pointed out that the tenant in common, PROPERTY OWNER-2, “should have been able to make timely application.” The County’s response states that the County estimated the home to be 60% complete as of the lien date and stated that the County did not

agree to the existence of a factual error.

In his reply, the Property Owner argued that the chemotherapy treatments should be considered a medical emergency because they produce memory lapses, but if not a medical emergency, he argued he should still qualify under extraordinary or unanticipated circumstances or the appeal should be allowed based on factual error.

Upon reviewing the facts and the law in the matter, the Property Owner has shown that he was unable to file the appeal by the deadline due to a medical emergency. The issue is whether the co-owner could have timely filed 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. 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 from when the County Auditor mailed the Valuation Notice to the September 15 appeal deadline. The Property Owner had written his letter on DATE and indicated he was suffering serious side effects from the chemotherapy treatments during the period for filing an appeal. However, there was a co-owner for this property who could have filed a timely appeal. As noted above, although Utah Admin. Rule R884-24P-66(12)(a) provides an exception where "the property owner was incapable of filing an appeal as a result of a medical emergency," there is the additional requirement that "no co-owner of the property was capable of filing an appeal." There was no information to indicate that the co-owner was incapable of filing due to the Property Owner's medical emergency, such as no assertion that she was unable to file an appeal because she was providing care for PROPERTY OWNER. There was no reason offered that the co-owner could not have filed the appeal, had she taken steps to find out about the assessment and decided it was a concern. The notice was mailed to the address of record for the property. The co-owner was no longer living at that address, but property owners are responsible for providing a correct mailing address to the County for tax mailings. The co-owner could have reached out to the County for a copy of the valuation notice and filed the appeal herself.

DECISION AND ORDER

After reviewing the information presented in this matter, the Property Owner has not established that he 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. 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.