

APPEAL #: 23-1591
TAX TYPE: PROPERTY TAX/LOCALLY ASSESSED
TAX YEAR: 2023
DATE SIGNED: 1/25/2024
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

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. 23-1591</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2023</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On November 22, 2023, Petitioner ("Property Owner") filed with the Utah State Tax Commission a Request to Reconvene the Board of Equalization, Form TC-194A ("Request"), asking the Commission to order the Respondent ("County") to reconvene in order to hear an appeal regarding parcel no. ##### for the 2023 tax year. The Property Owner had failed to file an appeal to the County Board of Equalization by the statutory deadline for tax year 2023, which was September 15, 2023, as set by Utah Code §59-2-1004. The Tax Commission issued an Order to the County to show cause as to whether the County Assessor recognized a factual error and to provide a written response to the Request on DATE. The County submitted a response on DATE. The Property Owner did not submit a reply to the County's response.

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 is required to accept an application to 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.

For purposes of Administrative Rule R884-24P-66(12), "factual error" is defined at Administrative Rule R884-24P-66(1), as follows:

(1)(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, deferral, reduction, or abatement under Section 59-2-103;

(iv) valuation of a property that is not in existence on the lien date; and

- (v) 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;
 - (iii) any other adjustment to a valuation methodology; or
 - (iv) an assertion of an error in the classification of property as residential property eligible to receive a residential exemption if:
 - (A) an application for the residential exemption is required under Section 59-2-103.5; and
 - (B) the application described in Subsection (1)(c)(iv)(A) was not timely filed.

Counties are required to mail a valuation notice to property owners no later than July 22 for each tax year at Utah Code Sec. 59-2-919.1, as follows:

- (1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.
- (2) The notice described in Subsection (1) shall:
 - (a) except as provided in Subsection (5), be sent to all owners of real property by mail 10 or more days before the day on which:
 - (i) the county board of equalization meets; and
 - (ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;
 - (b) be on a form that is:
 - (i) approved by the commission;

...

DISCUSSION

If a property owner disagrees with the assessed value of their property for any tax year, the law puts the responsibility on the property owner to file a property tax appeal by the statutory deadline for that tax year. Every year the County mails the valuation notice by July 22. The valuation notice explains the assessed value and the proposed tax amount. It also states the deadline to file an appeal and provides appeal instructions. Every year the deadline to file an appeal for that year, 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 end of July. If a property owner has not received the valuation notice, they can contact the County for a copy or obtain a copy online.¹ For any year that a property owner disagrees with the assessed value, it is the property owner's responsibility to file an appeal by the statutory deadline for that year. *See* Utah Code Subsection 59-2-1004(3). This does place the burden on the property owner to review the assessment and file an appeal by the statutory deadline each year when warranted. In this matter, the Property Owner failed to

¹ For COUNTY-1 Notices can be found at REDACTED LINK.

file a Utah Code §59-2-1004 appeal to the County Board of Equalization by the tax year deadline of September 15, 2023.

As established by administrative rule, an extension of the appeal deadline to March 31 of the following year may be allowed under limited circumstances, if certain requirements have been met. Utah Admin. Rule R884-24P-66(12) (“Rule 66”) was adopted to provide the criteria under which a late filed appeal may be allowed. On the Request form, 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 Request form, the Property Owner had checked the box for “County did not comply with the notification requirements” and provided the following explanation:

I did not receive the tax notice as it went to an old PO Box address (which I no longer have), despite changing my mailing address with the city in May when I rescinded my primary residence exemption.

The Property Owner also checked the box for “Factual Error,” but her only information regarding factual error was in the following statement:

I was recently chatting with one of my neighbors who mentioned the tax increased this year based on a HUGE increase in the appraised value of our units . . . This communication made me realize that I never received our tax statement which led me to search for it online. I finally found it online and have added it to this letter. The reason I never received it is because the mailing address is an old PO Box which I no longer have. I changed my mailing address when I rescinded my primary residence exemption in May of this year. I have the document on file which I will include. This document was filed with PERSON-1 in COUNTY-1. Since I never received the document I was not aware of this massive value increase which I believe to be inaccurate. I’d like to appeal this appraisal.

The Property Owner provided with her Request a copy of the 2023 Tax Notice, which was addressed to her at ADDRESS-1. The Property Owner also provided a copy of the Application for Residential Exemption, on which she had checked the box to request that the property be classified as Non-Primary. The Property Owner had signed the form. All other information on the form was typed in. The date typed on the form as the date the Property Owner had signed the form was DATE. The date at the top of the form was DATE. There is a place on the form for “Mailing Address” as well as a place on the form for “Physical Address.” Under the “Mailing Address” section there were actually two addresses listed. The first address listed was ADDRESS-1 and the second address listed was ADDRESS-2. Under the “Physical Address” section, both the property situs address and the CITY-1, Utah address were listed.

The County submitted a response to the Property Owner’s Request, which was dated DATE. That response stated, “The Assessor’s office does not agree that there was a factual error. The notifications were sent correctly to the address provided by the owner(s).” The County asked that the request be

denied. The County further stated:

- (1) DATE, PROPERTY OWNER requested in her Signed Statement of Primary Residence that her address be ADDRESS-1 (attached).
- (2) On DATE, PROPERTY OWNER called PERSON-1 in the Assessor's office and requested that the primary exemption be removed from Parcel ##### (screen shot attached).
- (3) The Assessor's office never received a formal application requesting that the primary exemption be removed and so never received any address change request.

The County provided a copy of the screen shot from the County's computer record that indicated on DATE, there had been a "call from PROPERTY OWNER to remove primary." The County had also attached the May 2015 application for primary residence that had been submitted by the Property Owner. The County pointed out the mailing address provided by the Property Owner on that form was ADDRESS-1. There was no reply from the Property Owner to the County's response.

Upon review of the information submitted in this appeal by the parties, the Property Owner is indicating that she submitted an Application for Residential Exemption, which she had signed on DATE, to change the subject property to non-primary and that she had notified the County at this time to change her mailing address. The County asserts the change from primary to nonprimary was made by a telephone call on DATE and no address change request was received. Even if the County had received it, the Application form dated DATE listed the ADDRESS-1 as the first mailing address, while the new address in CITY-1 was also listed on the form as a mailing address, it was listed second. The County continued to mail the notices to the ADDRESS-1, which was a reasonable action given that the Application form listed the ADDRESS-1 as the first mailing address. Utah Admin. Rule R884-24P-66(12)(c) does require a county board of equalization to accept a late filed appeal if the County failed to comply with the notification requirements of Section 59-2-919.1. However, the notification requirements of Section 59-2-919.1 are that the County mail the valuation notice to the address of record no later than July 22 of the tax year. In this case, the County was not in error in mailing the valuation notice to the first address listed on the Application form under the space for "Mailing Address." Therefore, the Property Owner did not establish that the County failed to comply with the notification requirements of Section 59-2-919.1. Additionally, the fact that the value increased substantially is also not a basis for the Commission to order the County Board of Equalization to reconvene absent a showing that at least one of the circumstances provided in Utah Admin. Rule R884-24P-66(12) is met. In this case, the Property Owner did not assert or establish that any such circumstance was met.

DECISION AND ORDER

After reviewing the facts submitted by the parties and the applicable law in this matter, the Property Owner has failed to establish a basis to grant the Request to Reconvene the County Board of Equalization pursuant to Utah Code Subsection 59-2-1004(3) and Utah Admin. Rule R884-24P-66(12). Therefore, the Request is denied. It is so ordered.

DATED this ____ day of ____, 2024.

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.