

APPEAL #:23-1604
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>PETITIONER, 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. 23-1604</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 27, 2023, Petitioner¹ 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 the assessed value of 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 had issued to the County on December 12, 2023 a notice of the Request and allowed the County the opportunity to respond to the Request. The County did not submit a response to the Request.

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

¹ Based on information on the County’s website at REDACTED LINK Petitioner is not the owner or joint owner of the subject property. The subject property is owned by “PROPERTY OWNER”

(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.² 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 file

² Information is available at: REDACTED LINK.

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 was adopted to provide the circumstances under which a late filed appeal may be allowed. On the Request 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 Request submitted by the Petitioner, she had checked the box for “Extraordinary and Unanticipated Circumstance.” She provided very limited information on the Request form and with the initial request. On the Request form the Petitioner explained:

It was just a busy month getting school age boys back to school and two unanticipated travels due to family situations cause[d] me to be delayed in my paperwork. When I settled back in at home, I opened my mail and saw I had missed the date. I sent it a week late but did not sign so I am resending again.

The Petitioner listed the date of the “extraordinary and unanticipated circumstance” to be from DATE to DATE and she stated, “Traveling family emergencies caused delays. 1) August court hearing for EVENT-1 in COUNTRY-1. 2) Elderly mother (inlaw) visit in CITY-1 after surgery.”

Because Petitioner had not completed the “Additional Owner(s)” section of the Request form and had not provided any documentation to support the request, a Tax Appeals Clerk had reached out to the Petitioner for more information via email dated DATE. The Petitioner did submit a response via email on that same date. In response to the question regarding the “Additional Owner(s)” section, the Petitioner stated, “My husband and I own the property” and “My husband opened the letter and gave it to me to handle.” The Petitioner did not provide her husband’s name. The Petitioner also provided confirmation of airline tickets to COUNTRY-1 for DATE, and from CITY-1 to CITY-2 for DATE. She stated that she had traveled to COUNTRY-1 to support her brother at a EVENT-1 hearing due to his wife taking his baby to COUNTRY-1 and remaining there.

Upon review of the information submitted by the Petitioner, the Commission first notes that Petitioner failed to establish that she is authorized to act on behalf of the property owner. Although the Petitioner stated she owned the subject property jointly with her husband, the subject property is not titled as a jointly owned property and instead appears to be owned by a trust. Utah Admin. Rule R884-24P-66(12)(e) provides that a late appeal may be allowed where “[t]he 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.” For tax year 2023, the period prescribed by Subsection 59-2-1004(3)(a) was from the date the valuation notice was mailed until

September 15, 2023. There was no information presented in this matter as to why the “property owner” was unable to file the appeal. Getting children back in school is not an extraordinary or unanticipated circumstance, it happens every year. Although Petitioner did travel twice during the time period for filing an appeal there was no information to demonstrate that the Petitioner's travel resulted in the “property owner” being unable to file an appeal.

DECISION AND ORDER

After reviewing the facts and the applicable law in this matter, the Petitioner has failed to establish a basis to grant her Request to Reconvene the COUNTY-1 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.