

APPEAL # 23-1769
TAX TYPE: PROPERTY TAX/ LOCALLY ASSESSED
TAX YEAR: 2023
DATE SIGNED: 2/6/2024
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER/PROPERTY OWNER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,</p> <p>Respondent.</p>	<p>ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION</p> <p>Appeal No. 23-1769</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2023</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On December 20, 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 January 2, 2024 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:

¹ The property owner is PROPERTY OWNER. The Request form was filed by PETITIONER on behalf of PROPERTY OWNER. PETITIONER did not provide documentation to support that she was authorized to act for the limited liability company.

- (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.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

² Information is available at: REDACTED URL.

appeal by the statutory deadline each year when warranted. In this matter, the property owner failed to 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 (“Rule 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 did not check any of the boxes, but she had filled out some information in the space for “Extraordinary and Unanticipated Circumstance.” She had noted that the dates for her “extraordinary and unanticipated circumstance” were from DATE to DATE. She provided a letter of explanation, which noted that the taxes had increased 100% and she explained in part:

I was supposed to be working in Utah and I was sent to STATE-1 for a work project. This was not planned and we never received the tax statement in the mail that was forwarded to me in STATE-1. I did not see the 100% increase until a couple weeks ago and you can imagine how shocked we are.

The Petitioner provided airline ticket itineraries and credit card receipts that indicated she flew to STATE-1 in DATE, and there was some back and forth travel to Utah and STATE-1 through DATE. The Petitioner also answered on the Request form the section of the form asking about Additional Owners. The Petitioner explained that there was an additional owner, PERSON-1. For the question asking why the additional owner was unable to file the appeal by the statutory deadline, the Petitioner stated, “PERSON-1 is a silent partner and lives in STATE-2.”

The County did not submit a response to the Property Owner’s request. As it was somewhat unclear what the Petitioner meant about not receiving the Tax Notice, the County’s website provides a copy of the 2023 Valuation Notice and 2023 Tax Notice. These Notices were both addressed to PROPERTY OWNER, ADDRESS-1. This was the same address as listed on the 2022 notices.

Upon review of the information submitted by the Petitioner, the Commission first notes that the Petitioner failed to establish that she is authorized to act on behalf of the property owner. Assuming that she is authorized to act on behalf of the property owner, 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. Petitioner

indicated she had been out of town due to a work requirement from DATE to DATE. Therefore, the circumstance she described did not commence during the period “prescribed by Subsection 59-2-1004(3)(a).” It had commenced prior to the date the Valuation Notice would have been mailed, which would have been on or before July 22. Travel out of town is not a circumstance set out in Rule R884-24P-66(12). There was insufficient information provided that supported that the Petitioner’s circumstances rose to the level of extraordinary and unanticipated circumstances for purposes of Rule R884-24P-66(12)(e). Additionally, these were the Petitioner’s circumstances, not the property owner’s circumstances. The property owner is a limited liability company. There was at least one other owner or member who could have filed the appeal. The Tax Commission has previously found that the fact that one owner is the person who typically handles the tax filings, does not mean the other owner was incapable of filing the appeal. The additional owner PERSON-1 could have filed the appeal. The additional assertions that the Valuation Notice was not received without establishing an error on the part of the County, or that the taxes increased substantially, are not grounds for the Commission to order the County Board of Equalization to reconvene to hear a late filed appeal absent a showing that the criteria listed in Rule R884-24P-66(12) have been met.

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

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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.