

APPEAL # 24-259
TAX TYPE: PROPERTY TAX/ LOCALLY ASSESSED
TAX YEAR: 2023
DATE SIGNED: 3/28/2024
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

PROPERTY OWNERS, Petitioners, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent.	ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION Appeal No. 24-259 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2023 Judge: Phan
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STATEMENT OF THE CASE

On January 31, 2024, the COUNTY-1 Auditor forwarded to the Utah State Tax Commission a Request to Reconvene the Board of Equalization, Form TC-194A ("Request"), which had been filed by Petitioners ("Property Owners"), 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 Owners 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 DATE, a notice of the Request and allowed the County the opportunity to respond to the Request by DATE. The County submitted a response, but it was not submitted until 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 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 places 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 Owners 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.

¹ Information is available at: REDACTED URL

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. The Request had been submitted by the Property Owner, PROPERTY OWNER-1. PROPERTY OWNER-1 had checked the box for “Medical emergency,” “Death of owner or immediate family member,” “Extraordinary and unanticipated circumstance” and “Factual error.” Then he wrote on the Request form that the individual who had died was his father. Furthermore, he explained that the only co-owner of the subject property was his spouse, PROPERTY OWNER-2, who was helping him with his father’s situation. The Property Owner provided a copy of the Obituary for PERSON-1, which indicated the date of death was DATE and the funeral was DATE. The Property Owner explained the circumstances that arose because of the death as follows:

My ##### year old father, who I had the responsibility of his cared (sic) living w/us, unexpectedly passed away while we were out of town - we were gone for 4 months taking care of funeral & Estate Issues.

We were traveling when my father passed away very unexpectedly of a heart attack while in CITY-1, STATE-1. We had to deal with an investigation of his death-get his body to Utah, arrange a funeral and deal with estate issues in Utah. The tax notice went to our house in STATE-2. We were in Utah for 4 months.

Although the Property Owners had not checked the box for “factual error,” they had checked the sub box “Other similar circumstance” on the Request form. The Property Owners only provided the statement “Incorrect Valuation of the Property,” but no documentation to support the existence of a factual error was provided. The Request form does provide a check box, which was checked by the Property Owners, right above the signature line that states, “I understand I have the burden of establishing that I meet the requirements of R884-24P-66, and have attached copies of all documents supporting my request.”

The County submitted a response to the Request on DATE, which was a late response to this Request. The County did acknowledge this was a difficult time for PROPERTY OWNERS, and stated that COUNTY-1 had no objections to the Property Owners’ request to Reconvene to hear a late appeal based on the unforeseen and personal challenges faced by the Property Owners.

Upon review of the information submitted by the Property Owners and the applicable law, the Property Owners have established that they met the criteria of Utah Admin. Rule R884-24P-66(12) for a late filed appeal. Rule R884-24P-66(12)(b) provides that a late appeal may be allowed if “[d]uring 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.” For tax year 2023, the period prescribed by Subsection 59-2-1004(3)(a) was from the date the valuation notice was mailed on or before July 22, 2023, until September 15, 2023. PROPERTY OWNER-1’s father had died unexpectedly prior to this period, so this criterion was not met. However, resulting from his death were some extraordinary and unanticipated events that occurred during the appeal period. Rule R884-24P-66(12)(e) provides for a late appeal 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.” PROPERTY OWNER-1’s father suffered a heart attack and died while in CITY-1, STATE-1. The Property Owners had to go through an investigation of his death, bring his body back to Utah, arrange for a funeral and deal with estate issues. These events kept them in Utah for 4 months. Additionally, the County did not object to the request. The Property Owners provided PROPERTY OWNER-1’s father's obituary that verified the date of his father’s death, as well as the date of the funeral. The Property Owners have established a basis for the County Board of Equalization to reconvene to hear this late filed appeal pursuant to Utah Code R884-24P-66(12).

DECISION AND ORDER

After reviewing the facts and the applicable law in this matter, the Property Owners have established a basis to grant their 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 granted. It is so ordered.²

DATED this ____ day of _____, 2024.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

² Within twenty (20) days from the date of this order, the Property Owners should contact the COUNTY-1 Board of Equalization and fill out the form to file an appeal to the County Board of Equalization for tax year 2023, provide their supporting documentation for the merits of their appeal and include a copy of this order.

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.