

APPEAL # 24-762
TAX TYPE: PROPERTY TAX / LOCALLY ASSESSED
TAX YEAR: 2023
DATE SIGNED: 05/09/2024
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNERS, Petitioners, 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. 24-762</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 March 11, 2024, the COUNTY-1 Auditor filed with the Utah State Tax Commission a Request to Reconvene the Board of Equalization, Form TC-194A ("Request"), which had been submitted by the Petitioners ("Property Owners") 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 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. On DATE, the Tax Commission had issued to the County a notice that stated the Tax Commission was "giving notice to the County that it may respond to the Property Owners' 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
 - (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 to the County Board of Equalization 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

¹ For COUNTY-1, copies of property tax notices may be found at: REDACTED URL

Equalization for tax year 2023 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 Property Owners, they did not check any of the boxes. When contacted by the Tax Commission Appeals Unit regarding that, they responded by email dated March 25, 2024, that their grounds would be “Extraordinary and unanticipated circumstances.” The Property Owners did submit a letter of explanation with their request. In the letter, they explained that they had an appeal proceeding still pending with the Utah State Tax Commission for Tax Year 2022. They provided a copy of the decision issued by the Utah State Tax Commission on November 28, 2023 for tax year 2022. This decision indicated that a Formal Hearing had been held on November 15, 2023, and at the Formal Hearing the parties had stipulated to a reduction in value to \$\$\$\$ for tax year 2022. The Tax Commission’s order approved this stipulated value for tax year 2022.² The Property Owner explained further, that they thought the County would make the same change for tax year 2023, and they had gone to the County Offices to discuss the County making the change with the County Assessor. They stated, however, that the County Assessor’s “stance is he only has to comply with the court’s findings for 2022, and if we wanted the adjustment in 2023, we would have to go back to court again.”

As noted above, the County had been notified of the Property Owners’ Request and was given the opportunity to respond. The County did not submit a response. The Property Owners submitted an email dated April 15, 2024, asking that the “state rule in our favor and order the county to reduce our taxes per the 2022 agreement . . .” based on the fact that there was no response from the County.

Upon review of the information submitted by the Property Owners, regardless of the fact that the County chose to not respond, the Property Owners have not provided a basis under which the Tax Commission can order the County Board of Equalization to reconvene to hear a late filed appeal for tax year 2023. 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.” The Tax Commission has previously concluded in a number of prior decisions that the existence of a prior year appeal does not constitute “extraordinary and unanticipated circumstances.” As noted

² See Utah State Tax Commission, Findings of Fact, Conclusions of Law, and Final Decision, Appeal No. 22-2057 (11/28/2023).

above, pursuant to Subsection 59-2-1004, the right to appeal and appeal deadlines arise every year, it is not an extraordinary or unanticipated event. For any year that a property owner disagrees with the assessed value, it is the property owner's responsibility to file an appeal for that tax year to the County Board of Equalization by September 15. Had the Property Owners filed an appeal for tax year 2023 to the County Board of Equalization pursuant to Utah Code Sec. 59-2-1004, the County Board of Equalization would have been required to consider whether an adjustment to the subject property's value was warranted. However, since the Property Owners failed to file a tax year 2023 appeal to the County Board of Equalization, the County Board of Equalization was not required to consider making an adjustment for tax year 2023.³

Utah Admin. Rule R884-24P-66(12) provides a number of circumstances under which a late filed appeal may be allowed, but the existence of a pending prior year appeal, on its own, is not a basis to require the County Board of Equalization to accept a late filed appeal under the rule. The Property Owners did not provide information to show that they met any of the criteria set forth in the rule that would warrant the Commission to order the County Board of Equalization to reconvene in this matter.

DECISION AND ORDER

After reviewing the facts and the applicable law in this matter, the Property Owners have failed to establish 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 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

³ The County's Assessor's position, as explained by the Property Owners in their Request, was consistent with these statutory provisions and prior decisions issued by the Utah State Tax Commission, where the Request to Reconvene was based on a prior year's appeal still being pending during the appeal period for the subsequent year.

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.