

12-2783
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED
TAX YEAR: 2012
DATE SIGNED: 2-14-2013
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF UTAH COUNTY, STATE OF UTAH, Respondent.</p>	<p>ORDER GRANTING REQUEST TO RECONVENE LIMITED TO REVIEW FOR FACTUAL ERROR</p> <p>Appeal No. 12-2783</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2012</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On November 21, 2012, Petitioner (the Property Owner) filed with the Utah State Tax Commission a Request to Reconvene the Board of Equalization, asking the State Tax Commission to order the County Board of Equalization to reconvene to hear an appeal of the valuation of the above listed property for the 2012 tax year. The County Board of Equalization had not heard the Property Owner's appeal because the Property Owner had failed to file the appeal within the statutory period.

The law makes the property owner responsible for raising objections to property tax valuations in an appeal with the county within the time frame outlined in Utah Code Section 59-2-1004, which is generally September 15, of the tax year at issue. Section 59-2-1004 of the Utah Code and Utah Administrative Rule R884-24P-66 establish the circumstances under which a Board of Equalization may accept an appeal that has been filed after the statutory deadline. Under these provisions an extension of time for filing an appeal until March 31, of the following year is allowed for specified circumstances listed at Utah Admin. Rule R884-24P-66. One of the circumstances listed is factual error in the county records. "Factual error" is defined in Rule 66(1) to be an error that is objectively verifiable, demonstrated by clear and convincing evidence and agreed upon by both the Property Owner and the County. If the County Board is reconvened on the basis of factual error, the review is limited under Subsection 66(14) to the correction of the factual error and any resulting changes to the property's valuation.

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The Property Owner states in the Request to Reconvene that the reason for missing the filing deadline was that the apartments were listed as 6 bedroom and 5 bathroom units, when they were actually 5 bedroom and 3 bathroom units.

The County Board of Equalization responded to the Property Owner's Request to Reconvene by pointing out that it had mailed the valuation notice to the address of record and it was not returned as undelivered by the Post Office. The County states, "It is our belief that the 2012 valuation notice was sent in a timely manner and that the Property Owner failed to file an appeal on or before the statutory deadline. The County, however, notes that there may be a factual error and would request to reconvene to correct any factual error in the county's records."

After reviewing the information presented, the only representation from the Property Owner as a basis for the late filed appeal is on factual error and the County has indicated it is willing to review the 2012 assessment based on factual error.

DECISION AND ORDER

For the reasons stated, the Property Owner's Request to Reconvene the Board of Equalization to hear the late-filed appeal is granted, but limited to the County's review for factual error and any change in value that might result from correction of any factual error found. It is so ordered.

DATED this _____ day of _____, 2013.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
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 Sec. 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 Secs. 59-1-601 et seq. and 63G-4-401 et seq.