

18-1702  
TAX TYPE: PROPERTY TAX  
TAX YEAR: 2018  
DATE SIGNED: 11/5/18  
COMMISSIONERS: J. VALENTINE, M. CRAGUN, L. WALTERS  
EXCUSED: R. ROCKWELL  
GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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TAXPAYERS,  Petitioners,  v.  BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,  Respondent.	<b>ORDER ON PETITIONERS' REQUEST TO RECONVENE BOARD OF EQUALIZATION</b>  Appeal No. 18-1702  Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2018  Judge: Phan
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STATEMENT OF THE CASE

On September 26, 2018, Petitioners ("Property Owners") filed with the Utah State Tax Commission a Request to Reconvene the Board of Equalization, asking the Commission to order the Respondent ("County") to reconvene in order to hear an appeal of the valuation of parcel no. ##### for the 2018 tax year. The Property Owners had not filed an appeal regarding the assessment of the subject property to the County Board of Equalization by the deadline of September 15, 2018 for tax year 2018. This is the statutory deadline to file an appeal to County Boards of Equalization, set out at Utah Code Sec. 59-2-1004. The County submitted a response to the Property Owners' request on October 19, 2018.

APPLICABLE LAW

Utah Code §59-2-1004(2) provides that the time to file an appeal to a County Board of Equalization is generally September 15<sup>th</sup> of the tax year at issue, as set forth below in pertinent part:

- (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), 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

mails the notices 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 (2)(a).

The Commission has promulgated Administrative Rule R884-24P-66 to establish the circumstances under which a county board of equalization may accept an 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(2)(a) if any of the following conditions apply:
  - (a) During the period prescribed by Subsection 59-2-1004(2)(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(2)(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 Subsection 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(2)(a) because of extraordinary and unanticipated circumstances that occurred during the period prescribed by Subsection 59-2-1004(2)(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) The provisions of Subsection (12) apply 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 these provisions, "factual error" is defined at Utah Admin. Rule R884-24P-66(1) as follows:

- (a) “Factual error” means an error that is: (i) objectively verifiable without the exercise of discretion, opinion, or judgment; (ii) demonstrated by clear and convincing evidence; and (iii) agreed upon by the taxpayer and the assessor.
- (b) Factual error includes: (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 under: (A) Section 59-2-103; or (B) Title 59, Chapter 2, Part 11; (iv) an error in the classification of a property that is eligible for assessment under Title 59, Chapter 2, Part 5; (v) valuation of a property that is not in existence on the lien date; and (vi) 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; or (iii) any other adjustment to a valuation methodology.

### DISCUSSION

The law puts the responsibility on property owners to file a property tax appeal each year by the statutory deadline for that year. Every year Counties mail the valuation notices by the end of July with information on how to file an appeal for that year to the County Boards of Equalization. Every year the deadline to file an appeal to the County Boards of Equalization is September 15, or the next business day if the 15<sup>th</sup> falls on a weekend. See Utah Code Sec. 59-2-1004. Utah Code Sec. 59-2-1004 and Utah Admin. Rule R884-24P-66(12) provide an extended deadline if some very specific factors are met. The law and rule are very specific as to what factors are considered to provide grounds for the extension.

On the Request to Reconvene Form, which does list the factors that may be considered basis to allow a late filed appeal, the Property Owners had checked the boxes “Factual Error in the County’s Records” and “Medical Emergency” as the reasons for filing the request. She wrote in the space provided:

My Husband, TAXPAYER-1, and I have been dealing with a recurrence of his prior issue, extreme anxiety due to post traumatic stress linked to an incident in 2001. He is dealing with this with our doctor, NAME-1 in CITY. We were at the same time trying to get our youngest son off to college. When I finally was able to sit down today to being the process, I saw that the deadline was 8 days ago.

The Property Owners provided no additional information and nothing to explain why they thought there had been a factual error in the County’s records.

After reviewing the statute and rule, the Property Owners’ request is denied as the facts do not meet

Appeal No. 18-1702

the requirements under Utah Code §59-2-1004 and Administrative Rule R884-24P-66 for allowing a late filed appeal. The Tax Commission has previously determined that for purposes of the “medical emergency” exception set out at Utah Admin. Rule R884-24P-66(12)(a) the medical emergency needed to occur during the time period to file the appeal, which is generally from August 1 to September 15 of the tax year at issue. Further, the Commission has previously ruled that chronic conditions that have been ongoing for a number of years do not constitute medical emergency alone, however, a significant relapse that required hospitalization during the appeal period may be sufficient.<sup>1</sup> Additionally a property owner must show that no co-owner of the property was capable of filing an appeal. The Property Owners have not submitted enough information to establish a “medical emergency” for purposes of this subsection. The Property Owners have not provided any information in regards to a factual error.

DECISION AND ORDER

After reviewing the information presented by the parties as well as Utah Code §59-2-1004 and Administrative Rule R884-24P-66, the Property Owners have not presented a basis for the Tax Commission to grant this request and therefore, the request is denied. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Lawrence C. Walters  
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.

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<sup>1</sup> *Utah State Tax Commission Order on Petitioner’s Request to Reconvene the Board of Equalization Appeal No. 14-193* (April 14, 2014).