

19-325
TAX TYPE: PROPERTY TAX/ LOCALLY ASSESSED
TAX YEAR: 2018
DATE SIGNED: 04/10/2019
COMMISSIONERS: J. VALENTINE, R. ROCKWELL, L. WALTERS
EXCUSED: M. CRAGUN
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER,	ORDER ON PETITIONER'S REQUEST TO RECONVENE BOARD OF EQUALIZATION
Petitioner,	Appeal No. 19-325
v.	Parcel Nos. #####-1 through #####-72
BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,	Tax Type: Property Tax/Locally Assessed
Respondent.	Tax Year: 2018
	Judge: Phan

STATEMENT OF THE CASE

On February 12, 2019, Petitioner ("Property Owner") 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 72 parcels for the 2018 tax year. The County Board of Equalization did not hear the appeal because the Property Owner failed to file the appeal within the statutory time period.

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 15th 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 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(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.

Utah Code §59-2-1365 provides when a County Treasurer is to make the final annual settlement, in part:

- (2) Except as provided in Subsections (3) and (4), the county treasurer shall:
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 - (b) make a final annual settlement on March 31 with each taxing entity and tax notice charge entity, including providing the entity a written statement for the most recent calendar year of the amount of:
 - (i) total taxes and tax notice charges charged;
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DISCUSSION

The Property Owner states in the Request to Reconvene that the reason for missing the filing deadline

was based on ‘Extraordinary and Unanticipated Circumstances’ and ‘Medical Emergency.’ The Property Owner provided the explanation that he is involved with community service as the “Fire Council Chairman” and spends much of his time preparing for fire safety events. The Property Owner provided the timeline that surrounded the WORDS REMOVED Fire that occurred in CITY-1, Utah starting July 2018. The Property Owner explained that during this period he was required to evacuate from his residence for a period of time, he spent much of his time recovering his property as well as helping neighbors retrieve personal items that were moved during the evacuation period and dealing with the fire damage. He also began donating his time to the community to help prepare for the WORDS REMOVED Fire Aid events.

The Property Owner further explains that he and his wife are the primary care providers for his father who has ongoing health concerns. He stated that his father was admitted to the hospital in June 2018 and was released in late September 2018. During his father’s hospital stay, the Property Owner and his wife had to travel to and from CITY-2 to visit his father and to work with his father’s doctors on his father’s recovery.

NAME-1, Deputy COUNTY Attorney, submitted to the Utah State Tax Commission on March 7, 2019 its Objection to Petitioner’s Request to Reconvene the County Board of Equalization. In its Objection, the County explained that the County Treasurer made its final annual settlement under Section 59-2-1365 on February 5, 2019. The Property Owner did not file its Request to Reconvene until February 12, 2019, after the final annual settlement had been made. Therefore, it was his argument that the exceptions in Subsection (12) do not apply and that the Property Owner’s Request should be denied on that basis.

Alternatively, the County objects to the Property Owner’s claim that his busy community service schedule prevented him from filing an appeal timely. The County notes that the Property Owner met with the COUNTY Commissioners on November 5, 2018 requesting that the County lower the values on his 72 parcels. The County indicates that a representative for the County Commissioners called the Property Owner by telephone and told him the Commissioners had denied his request on November 12, 2018. However, the Property Owner did not file his Request to Reconvene with the Utah State Tax Commission until February 12, 2019, three months after the County Commission’s denial.

DECISION AND ORDER

After reviewing the information presented by the parties, as well as Utah Code Ann. §59-2-1004, Administrative Rule R884-24P-66 and Utah Code Ann. §59-2-1365, the Commission finds that the County’s basis for denying this request is inappropriate. Under Administrative Rule R884-24P-66(14) the Property Owner had until the county treasurer “made a final annual settlement under Section 59-2-1365” to file a

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Request to Reconvene for tax year 2018. Utah Code §59-2-1365(2) makes it clear the “annual settlement” is to occur “on March 31.” It does not say “on or before” or “prior to” March 31. Therefore, if the County made its final settlement on February 5, 2019, it was in violation of this statutory provision. Regardless, March 31 is the date set out in the statute and the deadline to file the request under Administrative Rule R884-24P-66.

Furthermore, even though the Property Owner had met with the County Commissioners in November, there is no indication the County Commissioners issued a written decision denying his request or provided the Property Owner with any information regarding when or how he could pursue a Request to Reconvene. The Property Owner did meet the March 31, 2019 deadline, has provided extraordinary and unanticipated circumstances due to the fire, which required evacuation from his home, and medical emergency requiring hospitalization of an immediate family member that occurred during the period that included the September 15 filing deadline. The Property Owner’s request is hereby granted and the Tax Commission orders the COUNTY Board of Equalization to reconvene to hear the Property Owner’s appeal. It is so ordered.

DATED this _____ day of _____, 2019.

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.