

20-796

TAX TYPE: PROPERTY TAX

TAX YEAR: 2019

DATE SIGNED: 6/12/2020

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>ORDER ON PETITIONER’S REQUEST TO RECONVENE BOARD OF EQUALIZATION</p> <p>Appeal No. 20-796</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2019</p> <p>Judge: Phan</p>
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STATEMENT OF THE CASE

On April 17, 2020, 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 parcel no. ##### for the 2019 tax year. The Property Owner failed to file an appeal to the County Board of Equalization for tax year 2019 within the statutory time period set by Utah Code §59-2-1004, which was September 15, 2019. In addition to missing the September 15 deadline, the Property Owner also has missed the extension for the county to accept an application for a late filed appeal provided by Utah Administrative Rule R884-24P-66.

APPLICABLE LAW

Utah Code §59-2-1004(3) 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 (3)(b), 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 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 (3)(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(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) 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 59-2-1365.¹

DISCUSSION

The law puts the responsibility on property owners to file a property tax appeal each year by the statutory deadline for that year to contest the assessed value for that tax year. Every year Counties mail the preliminary 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 15th falls on a weekend. See Utah Code Sec. 59-2-1004. Utah Code Sec. 59-2-

¹ Utah Code Section 59-2-1365 provides that the final annual settlement is to occur by March 31 of the year subsequent to the tax year at issue. For tax year 2019, the final annual settlement was to occur by March 31, 2020.

1004 and Utah Admin. Rule R884-24P-66(12) provide an extended deadline for a county to accept an application for a late filed appeal if some very specific factors are met. The law and rule are very specific as to what factors are considered to provide grounds for this extension. However, the rule also expressly provides a time limit for the extension at Utah Admin. Rule R884-24P-66(14), which is March 31 of the next year, so the extension provided by statute and rule is not indefinite. For tax year 2019, if a property owner had been able to establish that it met criteria under Utah Admin. Rule R884-24P-66(12), it could provide basis for the county to accept an application for a late filed appeal up until March 31, 2020. There are no provisions in the statute or rule to allow a request after the March 31 extension had expired, even if the property owner was able to establish it met criteria under Utah Admin. Rule R884-24P-66(12).

On the Request to Reconvene form, for the reason for requesting the late appeal, the Property Owner checked the boxes “Factual Error in the County’s Records” and “Extraordinary and Unanticipated Circumstances.” The explanation the Property Owner provided was that there had been an appeal still pending for tax year 2018 on this parcel and the Property Owner was unaware it needed to file an appeal for tax year 2019 if the 2018 appeal was still pending. In addition the Property Owner argued that there had been a factual error as there was a duplicate assessment of the subject acreage. The Property Owner did not provide the appeal number, however upon review of Tax Commission records, the 2018 tax year appeal was Appeal No. 19-509 and the Tax Commission had issued its Initial Hearing Order on February 18, 2020, in which the Tax Commission found that this parcel assessment was a duplicate assessment. However, even if the Property Owner had been able to establish a factual error as that is defined by Utah Admin. Rule R884-24P-66(1), there is no basis in law or rule to allow a Request to Reconvene filed after the March 31 extension. The Property Owner’s representative did state in the request that the reason for being as late as they were in filing the Request to Convene had been due to COVID-19 complications, noting its STATE-1 offices were closed since the beginning of March 2020 and its COUNTY-1 and COUNTY-2 offices also closed during this time period. As noted in Utah Admin. Rule R884-24P-66(12)(e) if a property owner was unable to file an appeal during the appeal period set out at Subsection 59-2-1004(3)(a) “due to extraordinary and unanticipated circumstances that occurred during the period prescribed by Subsection 59-2-1004(3)(a)” that could have provided basis to reconvene the County Board. However, the period prescribed by Subsection 59-2-1004(3)(a), for tax year 2019 was from August 1 to September 15 of 2019. There were no stay at home orders or issues relating to COVID-19 as early as September 2019. There is no basis in the statute or rule to reconvene the County Board in this case.

DECISION AND ORDER

After reviewing the information presented as well as Utah Code §59-2-1004 and Administrative Rule R884-24P-66, the Property Owner has not provided sufficient basis to grant the request, therefore the request is denied. It is so ordered.

DATED this _____ day of _____, 2020.

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.