

APPEAL #24-1988
TAX TYPE: LOW INCOME ABATEMENT
TAX YEAR: 2024
DATE SIGNED: 12/18/2025
COMMISSIONERS: J. VALENTINE, J. FRESQUES AND J. DEEDS
EXCUSED: R. ROCKWELL

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>COUNTY-1 COUNTY COUNCIL - TAX ADMINISTRATION, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;">INITIAL HEARING ORDER</p> <p>Appeal No. 24-1988</p> <p>Parcel No: #####</p> <p>Tax Type: Low Income Abatement¹</p> <p>Tax Year: 2024</p> <p>Judge: Phan</p>
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Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER’S REP-1, Representative
PETITIONER’S REP-2, Representative
For Respondent: RESPONDENT’S REP-1, Tax Administration
RESPONDENT’S REP-2, Tax Administration

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the COUNTY-1 County Council - Tax Administration (“County”) under Utah Code §59-2-1804(5). This matter was argued in an Initial Hearing on June 10, 2025, in accordance with Utah Code §59-1-502.5. Petitioner is appealing the County’s decision to deny him a property tax abatement under Utah Code Ann. Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement (“low income abatement”). The County’s denial letter was issued on MONTH DATE, YEAR. The County denied the abatement on the basis that the Petitioner did not own the property for the year for which the relief was sought. Petitioner timely appealed that denial to the Utah State Tax Commission through his representatives and the matter proceeded to this Initial Hearing.

¹ This tax abatement is commonly referred to as indigent tax relief.

APPLICABLE LAW

Utah Code Ann. §59-2-103(2) (2024)² provides for the assessment of property, as follows:

All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

Utah Code Ann. Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement, provides for a low income abatement for indigent individuals under Utah Code Ann. §59-2-1803 as follows:

- (1) In accordance with this part, a county may remit or abate the taxes of an indigent individual:
 - (a) if the indigent individual owned the property as of January 1 of the year for which the county remits or abates the taxes; and
 - (b) in an amount not more than the lesser of:
 - (i) the amount provided as a homeowner's credit for the lowest household income bracket as described in Section 59-2-1208; or
 - (ii) 50% of the total tax levied for the indigent individual for the current year.
- (2) A county that grants an abatement to an indigent individual shall refund to the indigent individual an amount that is equal to the amount by which the indigent individual's property taxes paid exceed the indigent individual's property taxes due, if the amount is at least \$1.

Utah Code Ann. §59-2-1801 defines "indigent individual" as the following:

- (7) "Indigent individual" means a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:
 - (a) (i) is at least 65 years old; or
 - (ii) is less than 65 years old and: (A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or (B) the individual has a disability;
 - (b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in Section 59-2-1208;
 - (c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement or deferral; and
 - (d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

Applicants have the right to appeal decisions of the county regarding the low income abatement as described in Utah Code §59-2-1804(5), which states:

If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.

A party claiming an exemption has the burden of proof, and must demonstrate facts to support the

² This decision cites to, and is applying the substantive law in effect for, tax year 2024.

application of the exemption. *See Butler v. State Tax Comm'n*, 367 P.2d 852, 854 (Utah 1962). Further, in *Corporation of the Episcopal Church in Utah v. Utah State Tax Comm'n*, 919 P.2d 556 (Utah 1996), the Court stated, "[t]he burden of establishing the exemption lies with the entity claiming it, although that burden must not be permitted to frustrate the exemption's objectives."

DISCUSSION

The facts in this appeal were not in dispute and the issue before the Tax Commission is a question of the application of the law. Petitioner, who was under the age of ##### in 2024, is disabled and his only income is Social Security Disability, which had been \$\$\$\$ in benefits during YEAR. Petitioner had timely filed with the County, on MONTH DATE, 2024, the 2024 Tax Relief Application. On the application form, Petitioner had checked the box that said "I owned and occupied the residence described on MONTH DATE, 2024." Petitioner had been granted tax relief on the residence that was the subject of the application for the two years prior to tax year 2024. However, during review of the tax year 2024 application, County employees realized that Petitioner did not actually own the property subject to the application. The owner of record of the subject property was the Petitioner's mother, PERSON-1, who had been deceased since YEAR.

The representatives for Petitioner at the Initial Hearing explained that Petitioner was their father and father-in-law and PERSON-1 was the Petitioner's mother. They said the Petitioner was PERSON-1 only child and only heir. They estimated that Petitioner had moved into his mother's residence about ##### years ago, and resided there with her until she required nursing home care for the last years of her life prior to her death in YEAR. They explained that the nursing home care was funded through Medicaid, which required repayment from PERSON-1 assets. After PERSON-1 died, the Utah Office of Recovery Services put an Acknowledgement and Consensual Lien on the property subject to the application in the amount of \$\$\$\$\$, on MONTH DATE, YEAR. Based on the terms of this lien, the Office of Recovery Services agreed to "forbear its right to collect on the lien for the present time." The terms on the lien provided, "In consideration, TAXPAYER grants the State of Utah this consensual lien, which will become due and payable at such time that TAXPAYER dies, transfers title to, moves away from, or no longer makes use of said property." It also said that Petitioner, TAXPAYER, was to maintain the home in its present condition, pay all necessary taxes and keep the subject property insured.

The representatives explained that because of the terms of the lien and the very high amount of the lien, the Petitioner was not able to have the subject property transferred into his own name. So the owner of the record is still PERSON-1 after all of these years. They explained that Petitioner has continued to reside at the property all of these years, maintains the property and pays the taxes and insurance. The representatives for the Petitioner argued that the abatement should be allowed because it

had been allowed for the past ##### years. They also argued that it should be allowed because the Petitioner was the de facto property owner and had the responsibility of paying the taxes, insurance and maintaining the subject property. They argued that denying the abatement due to a legal technicality would be inequitable because Petitioner was disabled and had very limited income, so he was otherwise eligible. They also point out that the deceased owner of the subject property would have qualified for the abatement if she was still alive and the purpose of the abatement was to provide financial relief to individuals facing hardships, such as a disability.

It was the County's position that per Utah Code Subsection 59-2-1803(1)(a), the Petitioner did not qualify for the abatement because he was not the owner of the property on MONTH DATE, 2024. The County's representatives explained that the County does allow the abatement if the claimant only has a life estate in the property. They stated that there had been an error made in YEAR, and a comment had been added to the Petitioner's record that he had a life estate based on the lien document recorded on MONTH DATE, YEAR. At the Initial Hearing the County's representatives stated that this was an error on the part of the County, because the Petitioner does not have a life estate in the subject property. They stated that the County agreed that other than the statutory requirement to be the owner of the subject property, Petitioner would have qualified as he met the income, residency, disability and other requirements.

After reviewing the arguments of the parties and the applicable law, the Commission must consider and apply the statutory requirements to the facts presented at the Initial Hearing. Utah Code §59-2-1803(1) provides for an abatement for "an indigent individual. . . if the indigent individual owned the property as of January 1 of the year for which the county remits or abates the taxes." In this matter, the Petitioner was not the legal owner of record of the subject property. He had many of the ownership entitlements, for instance he had possession and use of the subject property and he was the one responsible for paying the taxes, insurance and maintenance of the subject property. However, legally he was not the owner of the subject property. In interpreting a statute, the Commission notes that the Utah Supreme Court has found that "the best evidence of the legislature's intent is the plain language of the statute itself . . ." *Larry H. Miller Theatres, Inc. v. Utah State Tax Comm'n*, 2024 UT 8, P16, 545 P.3d 266, 270, 2024 Utah LEXIS 27, *9-10. Further, as the Court has stated, "When examining the statutory language we assume the legislature used each term advisedly and in accordance with its ordinary meaning." *In the Interest of Z.C.*, 165 P.3d 1206 (Utah 2007). Therefore, if the Utah Legislature had intended the low income abatement to apply to someone who resided in the residence, or had possession of the residence as of the January 1 lien date, the Legislature could have easily stated that as the

requirement in the statute. Instead, according to the plain language of the statute, the individual must have “owned the property as of January 1.”³

Furthermore, the Tax Commission has not been given statutory discretion to waive any of the statutory requirements based on hardship in regards to the low income abatement. The Tax Commission has concluded in many decisions regarding the low income abatement or the similar homeowner’s credit or renters tax relief provisions that the Tax Commission does not have discretion to allow for the tax relief based on hardship when one of statutory requirements had not been met. For instance in *Utah State Tax Commission, Initial Hearing Order Appeal No. 19-231* (05/26/2021),⁴ the Commission concluded:

After reviewing the facts and the law in this matter, the trust . . . does not meet the requirements of Utah Code Subsection 59-2-1203(3) . . . Although [taxpayer] may now be in a situation of hardship, property tax exemptions and relief are strictly construed. For example, the Tax Commission has seen a number of appeals where the claimant was only a few dollars over the threshold income level and determined it was required to deny the appeal because the statutory provisions for this property tax relief are clear as to who will qualify and there is no statutory authority given to the Tax Commission to allow this relief where the statutory requirements have not been met.⁵

Because the Petitioner did not own the subject property on MONTH DATE, 2024, Petitioner does not qualify for the low income abatement for tax year 2024. Based on the statutory provisions of Utah Code Ann. Title 59, Chapter 2, Part 18 the Commission is required to deny the tax relief requested in this matter.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing the Tax Commission finds that Petitioner does not qualify to receive the low income abatement for tax year 2024 and denies Petitioner’s appeal. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a

³ The representatives for the Petitioner had also argued that the subject property should qualify for the abatement based on PERSON-1 ownership. However, this is also inconsistent with the statute. Utah Code Ann. §59-2-1801(7) defines "indigent individual" as, among other requirements, to be an individual who “resides for at least 10 months of the year in the residence . . .”

⁴ This and the other Tax Commission decisions cited herein are available for review in a redacted format at: <https://tax.utah.gov/commission/decision>.

⁵ See also *Utah State Tax Commission Findings of Fact, Conclusions of Law and Final Decision, Appeal No. 15-460* (5/9/2016); *Utah State Tax Commission Initial Hearing Orders Appeal No. 15-2092* (5/9/2016); *Appeal No. 16-1310* (2/21/2017); *Appeal No. 16-1565* (4/10/2017); *Appeal No. 17-2036* (8/14/2018); and *Appeal No. 23-1516* (4/16/2025).

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request shall be mailed, or emailed, to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

or emailed to:

taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this ____ day of ____, 2025.

John L. Valentine
Commission Chair

Rebecca L. Rockwell
Commissioner

Debra N. Fresques
Commissioner

John T. Deeds
Commissioner