Annette Singleton

From: Curtis Cox <i_3xc@yahoo.com>
Sent: Tuesday, October 13, 2020 9:23 PM
To: Annette Singleton
Cc: dmaysulli48@yahoo.com; dmaysulli48@yahoo.com
Subject: Property Tax Assessment Appeal--Parcel No. FT-2118-1

Dear Council:

At the outset I'd like to thank you for your time and consideration of this matter. I understand this is a lengthy email, but there are a lot of factors to consider. I know the County has a lot of important business, and in the big picture this may not seem like a major issue, but I can assure you this is a very important matter for my mother.

I am writing to you today on behalf of my mother, Dorothy Sullivan. She is the record owner of property in Francis. Her parcel is legally described as FT-2118-1, and her physical address is 1261 Gines Lane. My mother is nearly 72 years old and a widow. She was born in Francis and has lived in Francis for nearly her entire life. Since about 1979, my mom has owned, and lived continuously at, the parcel described above, albeit not always in the same home as described in more detail below.

In 1984, my mom built a home on her lot and moved out of a single-wide trailer located on the same land. With the exception of about six months or so from 1990-1991 when she was deployed in support of Operation Desert Storm, she has never spent more than a few weeks at a time away from her home. She lived in and owned her original house until 2014, when it caught fire and burned. It was a total loss. A new house was built for her and finished in 2015. The new house was built at the same location as the original house, used the same foundation and utility connections as the original house, had the same address as the original house, and, like the original house, was owned and occupied by my mom. The only differences between the new house and the house that burned was the new house was nicer and had a garage.

Up until and including the 2015 tax year, my mom's property was assessed as a primary residence. Unbeknownst to my mom, however, her Primary Residential Tax Exemption was revoked in 2015, and my mom's property was assessed at a non-primary residence from 2016-2020. In 2020, my mom first became aware of the issue and contacted the Assessor's office, who quickly reinstated the exemption, but only for the 2020 tax year.

It is obvious to me the Assessor's office made a mistake and erroneously assessed my mom's property as a non-primary residence for five tax years. The result of this is an almost doubling of the property taxes owed. I have attempted unsuccessfully, however, to get the Assessor's office to acknowledge its mistake. Accordingly, and as set forth below, I am appealing to the County Council for a determination that the Assessor erroneously assessed the property and for a deduction of the erroneously assessed taxes from my mom's account pursuant to Utah State Code Section 59-2-1321.

Summit County Code sets forth the procedure for a homeowner to obtain a Primary Residential Tax Exemption. Code Section 1-12B-1 requires an owner to submit an application no later than May 1st of a given tax year, on a form approved by the county, to claim the exemption. The application shall, at a minimum, set forth nine elements, including, but not limited to, "the basis of the applicant's knowledge of the use of the property" and "evidence of the domicile of the inhabitants of the property." Id. Any application not submitted by May 1st shall be denied for that tax year, subject to an appeal to the Board of Equalization. While the County Assessor has the authority to check the veracity of the information included on the application, he/she is not vested with the power to make the determination to grant the exemption or not. That power rests with the Board of Equalization or its designated hearing officer. See Summit County Code Section 1-12-1(F).

A new application for the Residential Tax Exemption is necessary only when "ownership or the status of residency changes." Summit County Code Section 1-12B-1(C).

If the County Assessor determines "sufficient evidence exists that the property no longer qualifies for the primary residential property tax exemption, he/she shall forward such evidence to the Summit County board of equalization." Summit County Code Section 1-12B-5(A). The Board of Equalization must then, before April 1st of the given tax year, notice and hold a hearing wherein it shall "consider the possible revocation of their primary residential property tax exemption(s)." Summit County Code Section 1-12B-5(B). Only upon a finding of a "preponderance of the evidence that the property no longer qualifies for the primary residential property tax exemption" shall the Board of Equalization revoke the exemption. Id.

Notably, any property "listed as of September 22, 1997, by the county assessor as having a primary residential property tax exemption shall not be required to file an application to continue its status. However, should ownership or the property inhabitant's status change, the property shall no longer be considered exempt and an application under the provisions of this article shall apply." Summit County Code Section 1-12B-3.

In revoking, then reinstating, my mom's Primary Resident Property Tax Exemption unilaterally, the Assessor has run afoul of the law, policy, deadlines, and notice and hearing requirements set forth in the County Code by which she is bound.

The Assessor has referred to my mom's new house as a "new build" and a "new property." This is not correct. As I mentioned above, my mom's house burned down in 2014. That house was built in approximately 1984 and, therefore, was grandfathered in as a primary residence pursuant to Summit County Code Section 1-12B-3. When my mom built a new house after hers burned, she did not transfer ownership or her residency status. Yes, she lived elsewhere while her house was built, but that was by necessity. Nowhere in the County Code does it list a house burning down as a reason to revoke the exemption. Further, nowhere in the County Code does it list the rebuilding of a home as a reason to revoke a two-decades-old tax exemption.

In an attempt to support her office's change of my mom's assessment status, the Assessor made reference to the fact my mom did not submit a new application for the exemption when her house was rebuilt in 2015. The Assessor, however, failed to recognize that the Summit County Code only requires a new application when there has been a change in ownership or residency status. As there was never a change that necessitated a new primary residence application as required by Summit County Code Section 1-12B-1(C), there was not a need for my mom to file a new application.

If the Assessor noticed my mom rebuilt her home and legitimately questioned the propriety of the exemption applying to that property, she was vested, by County Code, with the authority to investigate and determine whether sufficient evidence existed to submit for revocation to the Board of Equalization my mom's exemption. A simple records check with her colleagues at the County, and a simply knock at the door of the rebuilt home, would have revealed that no sufficient evidence--and in fact, no evidence, period--existed to question the continued assessment of my mom's property as a primary residence.

The Assessor did not take the simply steps she is required to take, however. Rather, she unilaterally and without notice revoked my mom's Primary Residential Tax Exemption and increased my mom's property taxes by 45%. At no time did my mom receive the required notice from the Board of Equalization that her exemption status was in jeopardy. At no time did the Board request evidence from my mom challenging the Assessor's findings. At no time did the Board inform my mom of the action taken and the resulting consequences and remedies.

While I do not believe the Board of Equalization held the proper meeting to revoke my mom's exemption, and no evidence has been produced to prove the contrary, in the event such a meeting was held no evidence could possibly have been presented sufficient for the Board to find by a preponderance that my mom's property no longer qualified for the exemption. This is because such evidence did not and does not exist. If such a meeting was held, the Board would

have heard that my mom's house burned down and was rebuilt. That is all. It would not have heard that there was a change in ownership, because there was not. It would not have heard that my mom's occupancy status had changed, because it had not. It would not have heard of the Assessor's efforts to discover why a revocation was appropriate, because no such efforts were undertaken. In short, it would not have heard what it legally needed to hear to revoke the exemption.

Perhaps the fact most salient in exposing the Assessor's mistake is her office's actions when the erroneous assessment was brought to its attention. For five years my mom assumed the higher taxes assessed to her were the result of the increased taxable value of her rebuilt home. Not until August 2020 did she discover the Assessor had labeled her home a non-primary residence. My mom called the Assessor's Office in August 2020 and reported the error, and the office immediately changed the assessed status of my mom's property back to a primary residence and reinstated the exemption. This was done without the application called for in Summit County Code Section 1-12B-1(A), after the firm date for such application set forth in Summit County Code 1-12B-1(B), and absent the involvement of the Board or Equalization or designated hearing officer required by Summit County Code Section 1-12B-1(F). In other words, the Assessor's Office worked quickly to address its mistake outside the requirements set forth in the County Code. If, in fact, the Assessor's assessment of my mom's property was not a mistake, as alleged by the Assessor in an email to me, why change the Assessment immediately and without an application? Why not require my mom to wait until next May to submit the required application and go through the required procedure? Why not put the burden of proof on my mom to prove the property qualified for the exemption as required by Summit County Code Section 1-12B-1(E)? If my mom's assessment was erroneous for the tax year 2020, as the Assessor's Office implicitly acknowledged when in reinstated the exemption, it was also wrong for the tax years 2016-2019.

Fortunately, or unfortunately, my mom has not paid her property taxes in full. She has an outstanding balance of $11,903.79 as of today, October 13, 2020. This figure is broken down as follows:
-2016 property taxes of $2,319.06, assessed as a non-primary residence. A proper assessment would yield taxes of $1,275.48.
-2017 property taxes of $2,504.44. It should be $1,377.44.
-2018 property taxes of $2,650.22. It should be $1,457.62.
-2019 property taxes of $2,904.74. It should be $1,597.60.
-2020 taxes of $,1714.03. This is the proper amount as it took into account the proper assessment.

My mom should have been assessed $7,422.17 for the tax years 2016-2020; she was assessed $12,092.49. The difference in property taxes assessed versus property taxes actually owed is $4,670.46. Of the $7,422.17 actually due, my mom paid $2,000 in 2018, with $1,830.45 going to taxes and rest towards interest and fees. Therefore, it is my estimation my mom owes $5,591.72 in taxes, plus re-calculated interest and fees. As mentioned above, Utah State Code Section 59-2-1321 permits the Council to "order the county treasurer to allow the taxes on that part of the property erroneously or illegally assessed to be deducted before payment of taxes. for the improperly assessed amounts to be deducted before any payment is made." Accordingly, we request such a deduction be made and the proper amount calculated consistent with policy and law.

I would like to close by stating the result my mom and I are seeking is not earth shattering. It does not offend. It is not outside the bounds of sensibility. We are not asking for an unreasonable or unlawful reduction in my mom's property taxes. We are not asking for the Assessor to be punished for her mistake. We are not asking for special treatment. Rather, we are simply asking for the right thing to be done; for her property to be assessed as it should have been and for her taxes to reflect that assessment. My mom is happy to pay the taxes rightfully due, but she is not in a position to pay taxes assessed as if she was a wealthy second homeowner.

Again, I know this is a long email, and I appreciate your time. I look forward to answering any questions you might have.