



July 11, 2023

The Salt Lake County Council
2001 South State, N2200
Salt Lake City, Utah 84190-1010

Attn: Aimee Winder Newton, Chair

RE: Request by Scenic Development Group, LLC to grant a rollback tax error correction and refund overpaid taxes for the 2022 tax years on parcel 33-22-151-002-0000 (Recommend deny)

Council Members:

The Property Tax Committee, at a meeting on June 15, 2023, considered the request on the above-mentioned parcel. The Committee recommends the request be denied.

The subject property is vacant industrial land that has been in greenbelt status for some time. At various times the property has been removed from greenbelt, and part of the land has been reinstated to greenbelt status due to successful appeals before the Board of Equalization. The property contains 16.53 acres of land of which 6.53 acres was in greenbelt until July 21, 2022. On December 23, 2021, Shirley Butterfield LTD sold the property to Scenic which in turn sold the property Bear River on the same date. These conveyances were recorded by Warranty Deed on December 27, 2021. However, Scenic claims that the County failed to remove the greenbelt status when it should have. It notes that the sale of the property should have terminated the greenbelt status and that it could only have been reinstated upon application by Bear River. Bear River never submitted a greenbelt application. Consequently, the County valued the property as agricultural land rather than vacant industrial land for 2022. A greenbelt rollback tax was assessed to Bear River on July 22, 2022. The rollback notice included a rollback tax for 2022. The entire rollback tax was paid for the benefit of Bear River on November 4, 2022, by Scenic Development or its principals.


Utah Code §59-2-1321 provides for a refund of taxes paid related to an illegal and erroneous assessment. The Utah Supreme Court has made clear that requests under 1321 are only to be granted under extreme and exceptional circumstances because allowing a broad remedy after the appeal time has passed would work hardships on taxing entities where budgets have been predicated on the un-appealed assessment values and the tax revenue has already been expended for public purposes. A taxpayer may only obtain relief under 1321 when they can point to an error that is "readily apparent from country records". The error must be such that the taxpayer need only notify the county to look at its own records to identify it.

In this matter, Scenic paid a rollback tax for a tax year in which it did not own the property. However, Scenic was never billed a tax. Bear River was billed the rollback tax. The rollback tax was the amount of tax that would have been levied had the property not been assessed as greenbelt property. The amount of the rollback tax was the amount that would have been billed if the property had been assessed as vacant industrial land. Thus, the resulting

tax to Bear River is the same as if the greenbelt status had been properly and timely removed. While Scenic paid the 2022 tax on behalf of Bear River, this was a decision made by Scenic, not the County. The amount of the tax was proper. Scenic argues that the proper party did not pay the tax. However, this ignores Utah law that requires the tax to be tied to the property, not the property owner. Any obligation Scenic had to pay the tax was contractual, and not mandated by Utah law. For purposes of section 1321, the proper tax was assessed and billed. Contractual obligations regarding the allocation of the taxes between a seller and buyer cannot be the County's concern.

The County did not immediately remove the greenbelt status from the property upon sale. However, the amount of the tax was proper, and it was ultimately billed to the proper party. It is not clear and readily apparent from the county record that the property identified has been illegally and erroneously assessed an incorrect tax for 2022. For the reasons discussed, the Property Tax Committee recommends the request be denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Neff", with a stylized, cursive script.

Brad Neff, Chair
Property Tax Committee

cc Scenic Development Group
14572 S. 790 W.
Bluffdale, UT 84065

cc Treasurer's Office