



Council-Tax Administration

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

Attn: Steve DeBry, Chair

RE: Request by Boyer Vista Holdings, LC under Utah Code § 59-2-1321 to grant a refund for tax years 2016 – 2018 on parcel 27-36-104-001 (Recommend partial grant)

Council Members:

The Property Tax Committee, at a meeting on January 21, 2021 considered the above request and found that the request should be granted in part and denied in part. The request relates to whether there was an error readily apparent from the county records on how to value the subject property.

Legal Standard for 1321 Requests

When a taxpayer disagrees with the valuation of their property, Utah law provides that they may appeal the assessment to the Salt Lake County Board of Equalization and provide evidence showing that the assessment was incorrect.¹ This appeal process is the primary mechanism to address how a property has been valued.² If a taxpayer fails to appeal their valuation, there are only limited remedies to address a disagreement with an assessment.³

One of those limited remedies is Utah Code § 59-2-1321 for illegal and erroneous assessments. 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 unappealed assessment values and the tax revenue has already been expended for public purposes.⁴

For these reasons, a taxpayer may only obtain relief under 1321 when they can point to an error that is "readily apparent from county records."⁵ In other words, 1321 is limited to "blatant errors" that the County should have caught on its own, such as a double payment of taxes.⁶ The error must be such that the taxpayer need only notify the county to look at its own records to identify it.⁷ If additional information is required to show the error beyond a notification to look at the

¹ Utah Code § 59-2-1004.

² Woodbury Amsource, inc. v. Salt Lake County, 2003 UT 28, ¶ 14, 73 P.3d 362 (2003).

³ Id. at ¶ 17.

⁴ Id.

⁵ Id. at ¶ 15.

⁶ Hammons v. Weber County, 2018 UT 16, ¶ 12, 417 P.3d 624 (2018).

⁷ Id. at ¶ 13.

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county records, the request does not qualify for 1321 relief. Moreover, the error must be one that is clearly established in the law and that is free from dispute.⁸

Boyer Vista Request

The taxpayer's 1321 request in this case is regarding 13.59 acres of vacant commercial land that is part of the Vista Station rail development in Draper. Vista Station is 147.07 acre commercial, residential, and transit development. The subject parcel sits on the north end of the station. For the requested tax years 2016 through 2018, the assessor classified and valued the parcel as Secondary Acres. The taxpayer alleges that the valuation was in error and that it should be valued as open space and classified as Residual Acres. The taxpayer submitted hundreds of pages of documents, many of which were not part of the county record, to support its argument that the parcel could not be commercially developed and should be valued as open space with a classification of Residual Acres.

In reviewing the county records, the assessor had valued the parcel as open space and valued it under the premise that it could not be commercially developed. The taxpayer's submitted documents, both those that were part of the county records and those that were not, simply address whether the property was open space and could not be commercially developed, which the assessor already accepted when the property was assessed. The assessor's building card notes that the parcel would be open space.

Therefore, the only real dispute is whether the parcel should have been classified as Residual Acres rather than Secondary Acres. Both Secondary Acres and Residual Acres apply to valuing open space and both classifications assume that the property cannot be commercially developed with buildings. The assessor's office uses Residual Acres for property that cannot be developed at all (including landscaping) because of impossibilities (usually physical) such as steep mountain sides, canals, or railroad tracks. Secondary Acres is used for land that also cannot be developed with buildings, but can have some limited development such as landscaping, but would require significant costs to do so.

In reviewing the county records, a portion of the parcel has a canal running through it, which is apparent from the arial pictures that were part of the assessor's records. Because it is readily apparent from the pictures that the canal cannot be landscaped and is physically impossible to do any other limited development on, the Committee recommends that classifying the canal portion as Secondary Acres rather than Residual Acres was an error that was readily apparent from the county records. The canal portion makes up 4.85 acres of the parcel. Accordingly, the Committee recommends granting the request for the 4.85 acres that has the canal.

Regarding the non-canal portions of the parcel, there is nothing in the county records that indicates the Secondary Acres classification was an error, let alone a "blatant" error that was readily apparent from the county records. In fact, those portions of the parcel did in fact start to get developed with landscaping, which means Secondary Acre was the appropriate classification. There is certainly nothing in the county records that shows the classification was a "blatant" error.⁹

⁸ Id. at ¶ 15.

⁹ It should be noted that the taxpayer appealed the parcel's valuation for tax year 2019 and ultimately stipulated with the assessor on a lower value during an appeal to the Utah State Tax Commission after having lost at the Board of

Based on the information provided, the Committee found there was an error readily apparent on the county records for the canal portion of the property, but did not find any error readily apparent from the county records for the remaining portion of the property. Accordingly, the Committee recommends that the Claimant's request be granted as it relates to the 4.85 acres of the property with the canal, but deny the request for the remaining portion of the property.

Based on the Committee's recommendation, the revised recommended values for the requested tax years are as follows:

2016 Revised Value: \$1,339,300
2017 Revised Value: \$1,339,300
2018 Revised Value: \$1,531,170.

The Committee recommends the Council have the Treasurer recalculate the taxes based on these revised values and provide a refund to the taxpayer as applicable.

Sincerely,



Brad Neff, Chair
Property Tax Committee

cc Preston Property Tax Consultants, Inc.
Stephen Preston
Representative for Boyer Vista Holdings, LC



cc Treasurer's Office

Equalization. However, the stipulation was not based on any error in classification, but rather, the assessor determined that the parcel could also be valued as part of an economic unit with the adjacent parcels. This came down to appraiser judgment and does not reflect an error in past valuations. There is nothing in the appeal that would reflect the 2016-2018 valuation for the non-canal portions was a blatant error that was readily apparent from the county records. Accordingly, the appeal is not relevant in determining whether there was an error that meets the standard under Utah Code § 59-2-1321.