

THE BOARD OF EQUALIZATION OF UTAH COUNTY, UTAH
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
Tuesday, June 30, 2015 at 1:00 P.M.

PRESENT: COMMISSIONER LARRY A. ELLERTSON, CHAIR
COMMISSIONER WILLIAM C. LEE, VICE-CHAIR
COMMISSIONER GREG GRAVES

ALSO PRESENT:

Cort Griffin, Attorney's Office	Diane Garcia, Assessor's Office
Dianne Orcutt, Attorney's Office	James Young, homeowner
Burt Harvey, Clerk/Auditor's Office	Dan Cary, Representative for Scott McLachlan
Keven Ewell, Assessor's Office	Chere Young
Mardene Barker, Assessor's Office	Clarissa Reeve, Assessor's Office

Commissioner Ellertson welcomed all who were present and the meeting began at 1:05 P.M.

1. APPROVE MINUTES OF THE BOARD OF EQUALIZATION MEETING HELD ON MAY 26, 2015.

Commissioner Ellertson requested the section where "I" is found to be corrected to show who said the statement.

Commissioner Graves made the motion to approve the minutes of May 26, 2015 with corrections. Commissioner Lee seconded the motion and carried with the following vote:

Aye:	Commissioner Ellertson
	Commissioner Lee
	Commissioner Graves
Nay:	none

2. APPROVE OR DENY INITIAL EXEMPTION APPLICATION FOR RURAL HOUSING DEVELOPMENT CORPORATION, SERIAL NO. 08:159:0005 AS SPECIFIED IN BINDER. (Accepted on 5/26/15 needs to be corrected to approve).

Burt Harvey explained the initial application was accepted last month and the approval was left off the agenda. So, this item is to approve or deny it. Last month, they were approved by a split vote of 2-1. A discussion between Commissioner Ellertson and Lee then occurred on the differences in opinion on vacant land and if it would be eligible for exemption. Commissioner Lee asked if this land was raw ground or a vacant lot. Burt answered it is a vacant lot. Clarissa Reeve answered it is raw ground. Commissioner Ellertson asked her to define raw ground. She answered it is undeveloped. Commissioner Ellertson said he understood Rural Housing was in the process of getting it approved. Commissioner Graves said it was with the City of Payson to be approved. Burt said, when Commissioner Lee asked how long this lot will remain vacant, it depends on how many people they have that are eligible to be approved and they can get through the process. Burt said it is possible this lot could come up again for exemption. He gave the parcel in Santaquin as an example. Commissioner Lee stated for the record and described how he reads the state statute: "We are not following in compliance with what the state statute intended the tax exempt status to be." Commissioner Ellertson countered saying: "I am sure it is the intention. It is what the words say." Commissioner Lee added: "I think that is the intent. It defines non-profit organizations and a building permit starts that process." Commissioner Ellertson replied: "My argument would be in this case, their stock and trade begins before the building permit. They are almost through with it at the point the building permit gets issued. Their process is getting it entitled and getting it to that point. So for that reason, I read it a little differently. You are entitled to that."

Commissioner Graves made the motion to approve the exemption stated in Item No. 2. Commissioner Ellertson temporarily suspended the Robert's Rules of Order due to no second. He seconded the motion and carried with the following vote:

Aye:	Commissioner Ellertson
	Commissioner Graves
Nay:	Commissioner Lee

Commissioner Lee commented he would like the Commission to ask the State Tax Commission for an administrative clarification on exemptions of vacant land. Commissioner Ellertson said he would seek that clarification.

3. APPROVE OR DENY INITIAL APPLICATION FOR EXEMPTION FROM PERSONAL PROPERTY TAX FOR THANKSGIVING POINT INSTITUTE, INC., PERSONAL PROPERTY ACCOUNT NO. 90645.

UTAH COUNTY BOARD OF EQUALIZATION

MINUTES – June 30, 2015

Page 2

Burt said No. 3 was an initial application on a personal property account which was filed timely. They have to apply by March 1st every year or within 30 days after they acquire the property or create a personal property account. That is what Thanksgiving Point is doing. They recently separated this portion of their personal property away from their larger business. They are essentially separating the Museum of Natural Curiosity into its own personal property account. They are doing this so they can get it exempted because it operates as a non-profit element of the Thanksgiving Point Institute. Commissioner Graves asked how they can qualify as a non-profit when they charge everyone a \$20 entrance fee. He continued saying with him being new, that's what he is trying to understand. He explained why he would like to speak to someone from Thanksgiving Point. He said he would like to continue this item for one month. Commissioner Ellertson explained non-profits do generate revenue. There is a deference in generating revenue and what they use it for. In the case of a non-profit such as this, they put it back into the business to further their mission. Commissioner Graves said he wanted to know more on how it breaks out so he could understand it better.

Commissioner Graves made the motion to continue Item No. 3 for one month. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves**
Nay: None

4. APPROVE OR DENY INITIAL EXEMPTION APPLICATION FOR CHALLENGER SCHOOL, PERSONAL PROPERTY ACCOUNT NO. 76475.

Commissioner Graves made the motion to approve the exemption for Challenger School in Item No. 4. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves**
Nay: None

5. APPROVE OR DENY NEW APPLICATION FOR PRIVILEGE TAX EXEMPTION FOR GENE LEE, SERIAL NO. 21:032:6427, HANGER #16-4. (Late application accepted on 5/26/15, continued for approval).

Burt explained Item Nos. 5 & 6 are for airport hangers that applied for the privilege tax exemption. The owners are both saying these use them for personal use only and not for profit. The application does require certain information. Mr. Lee did not submit some of the required information which was the tax forms. So, we could not see if he was taking the lease payment of the hanger as a business expense. We continued one month in order to give him more time, but we haven't received any further information from him. Keven said we received a partial tax return from Clay Liston with most of the information redacted. Schedule E was not included. Commissioner Graves commented if they redacted it, they intentionally did so. Keven said he knew Peter had been in contact with them, but did not know more than that. He continued saying he didn't know if the agenda item was continued for one month, it would do any good but we could do that. Commissioner Graves said he knew Peter had spoken to Gene Lee. He added he did not have a problem with continuing Item No. 6 for one month. Commissioner Ellertson described all of the letters that were sent to each individual.

Commissioner Graves made the motion to deny Item No. 5 which is the abatement on Serial No. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves**
Nay: None

6. APPROVE OR DENY NEW APPLICATION FOR PRIVILEGE TAX EXEMPTION FOR CLAY M LISTON, SERIAL NO. 21:032:6402, HANGER #22-2. (Late application accepted on 5/26/15, continued for approval).

Commissioner Lee made the motion to continue Item No. 6 on the agenda for one month. Commissioner Graves seconded the motion and carried with the following vote:

Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves
Nay: None

7. APPROVE OR DENY APPLICATION FOR UTAH COUNTY RESIDENTIAL PROPERTY EXEMPTION FOR CHYLEEN C NIELSEN, SERIAL NO. 41:323:0004 FOR THE YEAR 2015.

Jim Steven stated the tenant is the owner's daughter. She submitted a driver's license and voter registration which was updated at the end of 2014. They submitted a lease agreement dated June 1, 2015. Her driver's license was effective October, 2013 with that address.

Commissioner Graves made the motion to approve the application as stated in Item No. 7. Commissioner Lee seconded the motion and carried with the following vote:

Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves
Nay: None

8. HEAR LATE APPEAL ON FACTUAL ERROR ONLY OF 2014 PROPERTY VALUATION, THIS MATTER WAS REMANDED TO UTAH COUNTY BOARD OF EQUALIZATION BY THE STATE TAX COMMISSION FOR DUANE M HERRING, SERIAL NO. 23:036:0061, APPEAL NO. 14-2343.

Todd Smith said it was remanded to the County on a factual basis. He said he re-measured the property which was a motel that was divided into 10 studio apartments in Springville. The total square footage of improvements is almost the same as previously assessed. There is 1169 square feet that is used as storage which we had as living space before. That is the factual basis we are talking about. He assigned a minimal value for the storage areas. He said he called a part of them enclosed porches. That is how he arrived at the value of \$291,500. This amount has been stipulated. These are basically studios. Two of the units that have separate bedrooms. The rest of the units are studios. Two of these actually share one bathroom. You have to go out into a lobby areas to use the bathroom. They are all heated and cooled by one unit. It is based on the original basis for valuation. They agreed to the stipulation.

Commissioner Lee made the motion to set the value at \$291,500 for Serial No. 23:036:0061. Commissioner Graves seconded the motion and carried with the following vote:

Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves
Nay: None

9. ACCEPT OR DENY LATE FILED APPLICATION FOR REVIEW BY BOARD OF EQUALIZATION OF FARMLAND ASSESSMENT ACT STATUS FOR LEHI MINK FARM LLC, SCOTT C MCLACHLAN, SERIAL NO. 58:036:0075.

10. ACCEPT OR DENY LATE FILED APPLICATIONS FOR REVIEW BY BOARD OF EQUALIZATION OF FARMLAND ASSESSMENT ACT STATUS FOR SCOTT C MCLACHLAN, SERIAL NOS. 61:134:0003 & 61:134:0005.

Dan Cary stated he represented Scott McLachlan. Commissioner Ellertson explained the primary issue is that the information was received late. Diane Garcia stated May 1st is the state mandated deadline to apply. Commissioner Graves asked if the application had been turned in on April 30th, would it have qualified. Diane answered that there is a question on one because it is less than 5 acres. She clarified she doesn't look at that until it first meets the deadline requirements. Dan Cary explained it was late because he was in a bad car accident, broke his neck and was laid up for 6 months. Dianne Orcutt explained the Commission didn't have the jurisdiction on this. He will have to appeal to the State Tax Commission. She continued saying these items can't be heard until it goes to state and is remanded back to us. Both items have to be denied due to lack of jurisdiction.

Commissioner Graves made the motion to deny Items Nos. 9 & 10 due to lack of jurisdiction. Commissioner Lee seconded the motion and carried with the following vote:

Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves
Nay: None

UTAH COUNTY BOARD OF EQUALIZATION

MINUTES –June 30, 2015

Page 4

11. APPROVE OR DENY APPLICATION FOR REVIEW BY BOARD OF EQUALIZATION OF FARMLAND ASSESSMENT ACT STATUS FOR JIM & CHERE YOUNG, SERIAL NO. 49:711:0005, GB ACCT. NO. 362-2015.

Diane Garcia explained this is a rollback that was appealed timely. It was rolled back due to lack of agricultural production. Jim Young explained he bought the property and then built a house. The property has an orchard of 114 peach trees. He explained they have fenced the pasture, but it won't support lambs. So, this year we have killed everything that is on it. We are bringing in top soil, have put in irrigation, and have to plant the pasture in order to support animals. He described how Mr. Jeppsen would bring his sheep down and graze them on the three lots that didn't have a lot of trees on them. He would come down 4 or 5 times a year and bring down between 200 and 400 sheep. He would keep them on the property for a couple of days and move them to another lot. He said we bought the property in 2012 and can show use all the way through 2013 from 2011, but not during 2014 and 2015. We have talked to Utah State about what we need to do to the pasture so it will support the animals. We are trying to do what they said.

Commissioner Lee asked about the agreement with Mr. Jeppsen. He asked what the agreement was because he heard there was some controversy on it. Jim said he got the agreement from Jared Dehart who had been the developer of the property. The agreement Jared had was for 2010-2011 and 2011-2012. He said we asked them to bring the sheep and they brought their sheep down all the way through 2013. But the agreement was only through 2012. So we asked them to write a new agreement. They never sent it in. So, Jared Dehart said to change the date because they were doing the same thing. They were still grazing their sheep on the property. I talked to Mr. Jeppsen 3 or 4 times. He said he would get back to me but never did. Commissioner Lee said it concerned him that it was copied and pasted on the application. He asked Jim if it was correct. Jim answered: "That is correct." Jim said Mr. Jeppsen has not gotten back to him. We asked him to write the letter for 2013. He didn't explain it, but apparently there was some kind of issue. He said he would get it (the letter) worked out. That has been his response but he hasn't done anything. Jim continued stating the sheepherder kept bringing the sheep down. We would let them graze on the three lots on the south end (lots 4, 5 and 6) because it had some grass. They would bring the sheep down and we would put out troughs of water for them. They did that all the way through 2013. Jim said in 2014, the sheepherder wanted to bring the sheep down, but we had started putting our fence up and said no. We knew it would be difficult for him to navigate around our fence.

Commissioner Lee mentioned he thought we should put this agenda item off for one month to work through the application process. Diane explained it was a rollback for 2015. Commissioner Ellertson said it sounded like there was grazing on it through 2013. Diane stated the letter from Jeff Jeppesen says he has not had sheep on there since May, 2012. Jim countered he had pictures of the sheep on the property. Diane continued quoting the letter from Jeff Jeppesen saying if there is any document that has his signature on it and is dated other than the original lease agreement, it is a false document. He said he didn't sign it or authorize it. She continued saying she has to go by what the owner of the livestock said.

Commissioner Graves asked Diane if they could be eligible by having a year of the land being fallow while they were building their home. He also asked with what they are doing, would they qualify for this. Diane said it depended on the end result, but it seemed like they want to do their own thing. She continued saying when they applied for their original application in 2012, she told them it previously qualified when it was all one parcel based on this lease. Going forward they would have to meet the requirements and not Jared Dehart, the previous developer. Going forward, she continued, they would have to meet the requirements for 2 years and reapply. Diane explained years ago the property qualified due to the orchard. The three parcels on this end have a little bit of trees in the very front. Some of those trees were torn out when they started building their home. There are other lots in this subdivision that are an orchard and not just the front part. So, with these three lots (one being the one you heard last month and denied – the Tyler Loveridge one) they do not have enough trees. The parcel next to theirs is also in rollback. The owners told her (Diane) they knew there had not been sheep on there in several years. They aren't appealing the rollback because they said they don't qualify. Commissioner Ellertson asked Diane if she is saying the years they don't qualify are 2013 and 2014. She answered correct based on the letter. She said the five years included in the rollback are 2010-2014. The rollback was done May 11, 2015.

UTAH COUNTY BOARD OF EQUALIZATION

MINUTES –June 30, 2015

Page 5

Commissioner Graves asked Diane even though we know they had sheep for three of those years, they would potentially have to pay it. Diane answered yes, that is how the rollback works. They have to have shown production. To have a year off, it would have had to have been a part of their agricultural practice. For example, you are doing weed control, spray and then can't grow anything for a year. Again when asked about 2013 by Commissioner Ellertson, Diane reiterated the statement by Jeff Jeppesen saying he didn't authorize his sheep being there. Commissioner Ellertson asked what about if the sheep were there without his authorization. Diane said all she knows is he is saying they are his sheep and did not authorize them to be there. He did not have an agreement and did not tell his shepherd to graze his sheep there.

Commissioner Graves asked if she had talked to Mr. Jeppesen. She answered she had talked to him on 4 or 5 different occasions. At Commissioner Ellertson's urging to tell his point of view, Jim said Mr. Jeppesen did have his sheep there in 2013. He said the shepherd brought the sheep down several times from the spring through November or December. He explained they thought we were doing what the Farmland Assessment Act said. It doesn't talk about the ownership of sheep, just that they have to be there. Jim said we knew that the sheep would graze on stuff that cows won't graze on. He described how diligently they have worked on improving the property by putting up 2000 feet of fence. They said they spent \$16,000 on fencing. Diane said the receipts on the fencing shows the fencing was purchased after the rollback. Jim countered saying they bought the posts, and had to drill over 600 posts before they bought the fencing. He explained the process of replanting the pasture and said they will have animals on the property. Commissioner Lee asked what kind of agreement he have with the owner of the sheep. Jim answered he didn't have one. He said the agreement was with Jared Dehart through 2012. The shepherd brought the sheep down through 2013. Commissioner Lee commented how important it was to have an agreement. Diane said the application says you have to have an agreement with the leasee.

Commissioner Graves asked Diane if they took Mr. Young at his word that were sheep on the property in 2013 and based on the law you read that says consecutive years, is it right that by the end of 2015 he has to be in compliance. Diane says the statute says it has to be actively devote to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed. Commissioner Graves asked Diane again if that would be the end of this year if they stipulated there were sheep were on there in 2013. Discussion continued about the lease that was copied and pasted by the owners in April, 2013. Chere explained they didn't understand they had to have an affidavit with the owner, they thought they only had to talk to the shepherd. She continued stating when they prepared their documents, she contacted Jeff Jeppesen and asked him if it was okay to use his signature. He answered absolutely not. So, she said she took the letter to Diane and explained he wouldn't allow his signature on the letter and she was just providing the documents Diane requested. She added her husband was out of work for 8 months. Jim said he was still contacting Mr. Jeppesen last week who told him due to some kind of discrepancy with people who didn't want sheep on their land, he wouldn't give them a letter. Commissioner Graves asked if they had date stamped pictures showing the sheep were on the property. Diane stated the pictures didn't have a date stamp on them. Commissioner Lee said the big question is whether the sheep were on there or not. He asked if the shepherd would answer that question. Commissioner Lee asked why Mr. Jeppesen wouldn't say the sheep where there. Jim answered that he wouldn't say that because he didn't give permission for the shepherd to bring them down in the first place. He explained they have pictures on their phone of the sheep being on the property throughout the year in 2013. Chere then found the pictures on her phone. She showed them to the Commissioners. Commissioner Graves said the details of the picture showed they were there on 11/11/2013. Diane explained the letter said Mr. Jeppesen did not give permission, the owners of the property approached the shepherd to graze the sheep on their property. Commissioner Graves stated the owners proved their story to him that there were sheep on there and proved that letter invalid. He continued saying he didn't need a picture of the sheep to prove each time they were on the property. Diane said Jeff Jeppesen said on the phone with her that when the fencing was torn down, the landowners approached the shepherd and asked him to bring the sheep down without his permission. In the process, the sheep got into someone else's orchard. The sheriff was called. Mr. Jeppesen got written up for not controlling his sheep and the shepherd. Because the shepherd's appeared on the police report, he was deported back to Peru. So, Mr. Jeppesen is upset because he lost his best shepherd. Diane

continued saying in order for someone from Homeland Security to approve someone to be here on a work record, they cannot have a police record. Because his name showed up on a police record, he was deported and cannot come back to this country. He lost his job.

Commissioner Lee said he didn't think they had enough information. He continued saying he would like to talk to Mr. Jeppesen, too. Commissioner Ellertson said he wanted to clarify there were sheep there for some amount of time in 2013. He said if we go by the AUM's, it probably meets the requirements. 2014 he didn't have sheep on it, neither 2015. It is Mr. Young's hope in 2016 to have livestock on there to meet Farmland Assessment rules. Commissioner Ellertson continued saying that would mean they would be off 2 years. You have to have production for two years to meet production. Jim said if he had to, he could bring horses and cows and put them on now. Commissioner Ellertson suggested he do that. Jim agreed he could bring in hay to do that now.

Commissioner Lee said he didn't have enough understanding to make a decision now and would like more information. Discussion followed on what needed to be done to the land in the next month to have enough AUMs to qualify. Commissioner Graves said he would like to see Mr. Young attempt to do what he is trying to do. Commissioner Ellertson said he wanted to make sure that we understand what that means. If he can get production this year going forward, what does that mean? He asked what have we the ability to do. With everything that has happened to this point, what are we expecting? Commissioner Ellertson continued saying what I think we have to show is you had production in 2013. In 2014 you did not. And in 2015 you did. In order to get the approval for that, and the rollback doesn't affect, he said he thought that all has to be done in a manner which recognizes the 2013 year as having production. He continued saying 2014 does not. Diane explained they allow one year of no production, but there are requirements as to what qualifies that one year. We are saying, it has to meet those requirements. Commissioner Lee suggested if he was going to purchase some animals, he should have a purchase document or if they will be used animals from someone else, he needed to have a document showing he had permission to have them on his property.

Commissioner Graves made the motion to continue item No. 11 for one month. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves**
Nay: None

Commissioner Lee made the motion to adjourn. Commissioner Graves seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves**
Nay: None

There being no further business, the meeting adjourned at 2:15 P.M. The minutes of the June 30, 2015 Board of Equalization Meeting were approved as transcribed on July 28, 2015.

UTAH COUNTY BOARD OF EQUALIZATION
MINUTES –June 30, 2015
Page 7

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor

Copies available upon request or online at:
www.utahcountyonline.org, or www.utah.gov/pmn
Recorded by Vicky Westergard, Tax Administration Clerk