

07-0093  
Property Tax/Locally Assessed  
Signed 11/21/2007

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER 1 &amp; PETITIONER 2,  Petitioner,  v.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,  Respondent.</p>	<p><b>ORDER</b></p> <p>Appeal No. 07-0093</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2006</p> <p>Judge: Phan</p>
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**This Order may contain confidential “commercial information” within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37 the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this order, specifying the commercial information that the taxpayer wants protected.**

**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER 1

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on September 13, 2007. Petitioner is appealing the assessed value as established for the subject property by the Salt Lake County Board of Equalization. The lien date at issue is January 1, 2006.

APPLICABLE LAW

All tangible taxable property 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 provide by law. (Utah Code Ann. Sec. 59-2-103 (1).)

“Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. (Utah Code Ann. 59-2-102(12).)

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board. . . . (4) In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. *Nelson V. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

DISCUSSION

The subject property is parcel no. ##### and is located at ADDRESS 1, CITY, Utah. The County Assessor’s Office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization sustained the value.

The subject property consists of .88 acres of land improved with a rambler style residence. The residence is 58 years old. Respondent considers the residence to be constructed of average grade and in average condition. The residence is of a brick and wood construction. There are 2,648 above grade square feet and a basement of 1,315 square feet, which is finished. There is also an attached two-car garage. The residence is not connected to the public sewer and is currently on a septic system. The public sewer is available at the street in front of the residence, but the current septic hookups are in the back, so it would be an expense on the part of the property owner to hook up to the sewer. Additionally the subject has hot water heating with no duct work that would accommodate forced air heat or central air conditioning. The only cooling is with an evaporative cooler. Another problem reported by Petitioner with the residence is a very small main bathroom. The room measures 8 foot by 5.6 foot. On one side of the room is the tub and toilet and on the other a double vanity. Petitioner states there are only fifteen inches between the two to walk through. He indicated that the original portion of the residence had been designed as a much smaller rambler. There had been later additions including a master bedroom suite with its own bathroom.

The subject property is located adjacent to HIGHWAY. A sound wall is directly between the lot and the freeway, but there is a break in the sound wall to the south on STREET. Petitioner states that when the wind blows from the south there is significant freeway noise. The lot itself is irregular in shape and parts are very steep. It is located on an otherwise quiet, narrow, tree lined street .

At the hearing Petitioner requested that the assessed value for tax year 2006 be lowered to \$\$\$\$\$ based on three comparables, the problems he indicated with the property and errors in the County's appraisal. Petitioner had submitted three comparables, which had sold for prices from \$\$\$\$\$ to \$\$\$\$\$. These were all smaller, both in lot size and size of residence. However, the one property that sold for \$\$\$\$\$, on ADDRESS 2, was a relevant comparable. It

was a .62 acre lot, in a good area east of the interstate that did support some reduction in value for the subject.

Respondent submitted an appraisal that indicated the value for the subject was \$\$\$\$\$, which was higher than the value set by the County Board of Equalization. The appraisal had been prepared by RESPONDENT REPRESENTATIVE, Licensed Appraiser. He had considered six comparables. All were located nearer to the subject property than the comparables submitted by Petitioner. Three had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. From the photographs these three comparables appeared similar in style to the subject, although they had smaller lots. After making appraisal adjustments, RESPONDENT REPRESENTATIVE'S indicated values for the subject from these three comparables ranged from \$\$\$\$\$ to \$\$\$\$\$. In making the adjustments, RESPONDENT REPRESENTATIVE did consider the HIGHWAY location in the lot size adjustment and adjusted for size of residence and other factors. However, he did not adjust for the lack of public sewer or duct work in the residence. Nor did he adjust for the evaporative cooler. Additionally there was no adjustment for the main bathroom that was unusually small, at least in relation to the size of the residence.

The other three comparables in RESPONDENT REPRESENTATIVE'S appraisal had sale prices ranging from \$\$\$\$\$ to \$\$\$\$\$. Two of these properties were in substantially better condition due to remodeling and updating. The third was an older, two-story residence that made it hard to compare to the subject. RESPONDENT REPRESENTATIVE'S indicated value for the subject from these three comparables ranged from \$\$\$\$\$ to \$\$\$\$\$. RESPONDENT REPRESENTATIVE adjusted for lot size, HIGHWAY location, size of residence and differences in condition, but again did not adjust for lack of sewer, heating and cooling situation or issue with the small bathroom.

Upon review of the information presented the Commission finds that Petitioner's comparables were insufficient to indicate a value as low as Petitioner requested in this matter due

to distance, lot size and residence size. However, when considering RESPONDENT REPRESENTATIVE'S appraisal the subject does appear more similar with the first group of three comparables that had sold in the \$\$\$\$\$ to \$\$\$\$\$ range with an indicated value for the subject from \$\$\$\$\$ to \$\$\$\$\$. For this reason the Commission would not raise the value to that indicated as the appraisal conclusion.

Additionally the Commission does consider Petitioner's point that in a house of the size of the subject's, the buyer would be looking for central air-conditioning, public sewer and a more typical bathroom. Buyers would also generally not prefer a location adjacent to the interstate and although some adjustment was made for this in the appraisal, it does compound the problems present in this property. Based on this the Commission concludes that the better value for this property is the \$\$\$\$\$ indicated from the lowest end of the range in RESPONDENT REPRESENTATIVE'S appraisal.

#### DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006, is \$\$\$\$\$. The County Auditor is hereby ordered to adjust its records in accordance with this decision.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed 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

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

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Jane Phan  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The agency has reviewed this case and the undersigned concur in this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner