

07-0135  
Property Tax/Locally Assessed  
Signed 10/19/2007

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2,	<b>ORDER</b>
Petitioner,	Appeal No. 07-0135
vs.	Parcel No. #####
BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,	Tax Type: Property Tax/Locally Assessed
Respondent.	Tax Year: 2006
	Judge: Jensen

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**Presiding:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER 1

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake Co.  
Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Salt Lake County Board of Equalization. This matter was argued in an Initial Hearing on August 13, 2007. Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes. The lien date at issue in this matter 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(11).)

Utah Code Ann. §59-2-1006(1) provides that “[a]ny 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 . . . .”

Any party requesting a value different from the value established by the county board of equalization has the burden to establish that the market value of the subject property is other than the value determined by the county board of equalization.

To prevail, a party requesting a value that is different from that determined by the county board of equalization must (1) demonstrate that the value established by the county board of equalization contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the county board of equalization to the amount proposed by the party. *Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

#### DISCUSSION

The subject property is parcel no. #####, located at ADDRESS in CITY, Utah. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The County Board of Equalization sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property consists of a 0.18-acre lot improved with a duplex. The duplex was 53 years old and built of average quality brick and frame of construction. It has 3206 square feet of gross building area. There is also a built in two-car garage. The County considered the duplex to be in average condition.

Petitioner has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. In this matter Petitioner provided a general discussion of some of the problems present in the subject property. These problems included an odd garage design, a shallow yard, need of a roof within three to five years, and only one bathroom per unit. Petitioner did not present evidence of comparable sales, but did rely on the county’s comparable sales. However, Petitioner requested a different methodology than that used by the county for adjusting for differences in size between the subject and the comparables. Petitioner proposed a formula that would multiply the percentage of difference in square footage for a comparable by its total selling price to adjust for size. Finally, Petitioner argued that the subject should be valued at \$\$\$\$\$ on the basis of his purchase of the subject on September 15, 2004 for \$\$\$\$\$. Petitioner

acknowledges that real property in the area has appreciated at a rate higher than that proposed in his valuation, but argued that he had paid more than the market value of the property when he purchased it in 2004 because he was under the time constraints of a 1031 exchange and did not have time to shop around as he normally would have done.

The county provided an appraisal, prepared by RESPONDENT REPRESENTATIVE. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser relied on the sales of three comparable properties with sale dates from February 2005 to October 2005. The appraiser made adjustments to compensate for differences between the subject and the comparable properties for factors such as time of sale and gross building area. For differences in gross building area, the appraiser used an adjustment of \$\$\$\$\$ per square foot. He explained that he had developed this figure from his experience and from paired sale analysis of similar properties. He indicated that he did not use the percentage adjustment proposed by Petitioner, did not know of any other appraiser using this method, and questioned the basis for using such a method.

After taking into account the adjustments to value, the county's adjusted selling prices for its comparable properties were between \$\$\$\$\$ and \$\$\$\$\$. The county's appraiser also performed an income approach and a cost approach to value, but the appraiser testified that he found the sales comparison approach best valued the subject.

The Commission reviews the evidence mindful of Petitioner's statutory burden of proof to show error in the value determined by the county board of equalization. Petitioner has not presented sales of comparable properties and has proposed a valuation methodology without providing support for its use. On the basis of the evidence presented, there has not been a sufficient showing to show error in the \$\$\$\$\$ value as determined by the board of equalization.

**DECISION AND ORDER**

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006 is \$\$\$\$\$.

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

Appeal No. 07-0135

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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Clinton Jensen  
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

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