

07-0248
Property Tax / Locally Assessed
Signed 10/23/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	ORDER
Petitioner,	Appeal No. 07-0248
v.	Parcel No. #####
BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,	Tax Type: Property Tax / Locally Assessed Tax Year: 2006
Respondent.	Judge: Chapman

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 regulation pursuant to 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 notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on October 15, 2007.

At issue is the fair market value of the subject property as of January 1, 2006. The subject is a cabin located at ADDRESS in Salt Lake County, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$\$ value at which the subject was assessed for the 2006 tax year. The Petitioner is

Appeal No. 07-0248

asking the Commission to reduce the subject's value to a value between \$\$\$\$ and \$\$\$\$\$, while the County asks the Commission to sustain the \$\$\$\$ value established by the County BOE.

APPLICABLE LAW

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 BOE 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.

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must (1) demonstrate that the value established by the County BOE contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the County BOE 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 consists of a 0.52-acre lot and a cabin with 234 square feet on the main floor and a loft that can accommodate two mattresses for sleeping even though the ceiling height is too low for an adult to stand up in the space. The main floor is comprised of one room. There is a deck and storage room on the back of the cabin and an outhouse some distance away from the cabin. The cabin has electricity and, to accommodate a sink, running water. The cabin, which is constructed of concrete block, appears to be well-maintained.

The cabin was built in the 1950's, prior to the County's F-COZ zoning ordinance that restricts building in the canyons if the grade of a property is too steep. Although the subject's lot, if it were unimproved, might be too steep to build on, the County proffers that its improvements are "grandfathered" so that the current structure may remain or a future structure may be built on the property.

Petitioner's Information. The Petitioner proffers several comparable sales and listings and one assessment of an adjacent property as evidence. The Petitioner specifically asked the Commission to consider a 1.50-acre vacant lot that sold in 2005 for \$\$\$\$\$ and is located approximately 150 yards from the subject. Because this lot is three times the size of the subject's lot, the Petitioner believes that this sale establishes a reasonable value for his much smaller lot and small cabin. The County proffers, however, that the purchasers of the comparable sale may have problems getting permission to build on this lot because one has to cross a creek to get to a building site and because any possible building site's proximity to the creek could prevent the owners from obtaining a permit to install a sewer system. Because this comparable sale's lot has problems that do not similarly affect the subject property, the County does not believe that its \$\$\$\$\$ selling price adequately reflects the value of the subject property or its lot.

The Petitioner also submits four other vacant land sales or listings, as follows: 1) a 3.00-acre lot listed for \$\$\$\$\$; 2) a 3.00-acre lot listed for \$\$\$\$\$; 3) a 3-acre lot listed for \$\$\$\$\$, which sold for \$\$\$\$\$; and 4) a 1.90-acre lot listed for \$\$\$\$\$. The parties proffered that the \$\$\$\$\$ comparable has slope problems and that they do not know the address of the \$\$\$\$\$ comparable to determine its proximity to the subject. The two comparables that were listed for \$\$\$\$\$ and \$\$\$\$\$, respectively, are approximately two miles further up the road from the subject, but each appear to have enough flat land to support a building lot.

The Petitioner also submits evidence to show that the 1.04-acre vacant lot adjacent to the subject property was assessed at \$\$\$\$\$ for the 2006 tax year. The Petitioner proffered, however, that when he

Appeal No. 07-0248

went to the County to inquire about this assessment, he was told that the adjacent lot was assessed at such a low value because the lot could not be built on.

Based on the vacant lot information proffered by the Petitioner, it appears that the lots that are unbuildable or have development issues sell for less than lots that can be built on. Although the subject property is smaller in size than these other lots, it would appear to have a value more similar to the buildable lots that sold for more than \$\$\$\$\$. Even if the subject's lot were only worth \$\$\$\$\$ unimproved, the Division has determined in its appraisal that the cost to improve a vacant lot is \$\$\$\$\$ and that the depreciated cost of the subject's cabin is approximately \$\$\$\$\$, which results in a total value of \$\$\$\$\$ for the subject property, a value that is very close to the current assessment of \$\$\$\$\$.

The Petitioner also submitted improved comparables with cabins, as follows: 1) a 1.90-acre lot and cabin with 600 square feet on the main floor and 500 square feet on a second floor, which sold for \$\$\$\$\$; 2) a 10.11-acre lot and cabin with 576 square feet on the main floor and 584 square feet on the second and third floors, which sold for \$\$\$\$\$; 3) a 3.00-acre lot and a 1919-built cabin with 1,000 square feet on the main floor and 240 square feet on the second floor, which was listed for sale at \$\$\$\$\$; 4) a 2.69-acre lot and cabin with 825 square feet on the main floor and 200 square feet on the second floor, which sold for \$\$\$\$\$; and 5) a 6.00-acre lot and cabin with 660 square feet on the main floor and 380 square feet on the second floor, which was listed at \$\$\$\$\$.

The County proffers that several of the cabins that sold were in very poor, or salvage, condition, while the subject is in average condition. For example, the County indicated that the cabin on the property that sold for \$\$\$\$\$ was "sliding" down the hill and was having to be "propped" up with wood supports at the time of sale. Based on these comparables, the Commission notes the least amount at which lots with cabins were selling for is \$\$\$\$\$, which is approximately 20% greater than the subject's current assessment of \$\$\$\$\$. Although the subject's lot and cabin are smaller than all the comparables, thus

Appeal No. 07-0248

suggesting that its fair market value may be less than \$\$\$\$\$, the information proffered by the Petitioner does not demonstrate that the \$\$\$\$\$ value established by the County BOE is incorrect.

County Information. The County proffers an appraisal in which it estimated the subject's value to be \$\$\$\$\$, based on an \$\$\$\$\$ value derived from a sales comparison approach and a \$\$\$\$\$ value derived from a cost approach. The County asks the Commission not to increase the subject's value, but to sustain the \$\$\$\$\$ value established by the County BOE.

In its sales comparison approach, the County compared the subject to three properties that sold for prices of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$ and adjusted to prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. From this information, the County concluded that the comparable sales approach shows a value of \$\$\$\$\$ for the subject property. The County proffered that it chose to use these higher-priced sales as comparables because their cabins were in a more similar condition to the subject than were the cabins found on the properties that sold for lesser amounts. The Commission is not convinced, however, by the County's comparable sales approach. First, the sales the County used sold for nearly two to three times the value the County derived for the subject property. The use of some lower-priced sales in the analysis would have been useful to see if adjustments to these sales produced a similar value for the subject. Second, the County has not accounted for any functional obsolescence that the subject may experience because of its unusually small size.

In its cost approach, the County determined that the subject's lot, as vacant, would have a value of \$\$\$\$\$, which when added to the improvement costs of \$\$\$\$\$ results in a total cost value of approximately \$\$\$\$\$. To support its land value, the County proffered lot sales as far back as 1998 to show that no "buildable" lot near the subject has sold for less than \$\$\$\$\$ for many years. Although the Commission finds comparable sales information more persuasive in establishing the value of a property such as the subject, the County's cost approach does not appear unreasonable. Based on the County's information, the

Appeal No. 07-0248

Commission is not convinced that the subject's value is less than the \$\$\$\$ value established by the County BOE.

Conclusion. Based on the information proffered by both parties, the Commission is not convinced that the subject's current assessment of \$\$\$\$ is incorrect. Accordingly, the Commission denies the Petitioner's appeal.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be sustained at the \$\$\$\$ value established by the County BOE. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files 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' 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.

Kerry R. Chapman
Administrative Law Judge

Appeal No. 07-0248

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission 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

KRC/07-0248.int