

09-0032
LOCALLY ASSESSED PROPERTY
04-09-2009

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF SUMMIT COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 09-0032 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2008 Judge: Chapman
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Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, Property Owner

For Respondent: RESONDENT REP, Appraiser, Summit 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 April 6, 2009.

At issue is the fair market value of the subject property as of the January 1, 2008 lien date. The subject property is a condominium in the CONDOMINIUM complex that is located near (X) in Summit County, Utah. The Summit County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject property was originally assessed. The property owner asks the Commission to reduce the subject's value to a value somewhere in the range of \$\$\$\$\$ to \$\$\$\$\$. The County asks the Commission to sustain the \$\$\$\$ value established by the County BOE.

APPLICABLE LAW

Tax Commission Appeals. UCA §59-2-1006 provides that a person may appeal a decision of a county board of equalization to the Tax Commission, pertinent parts as follows:

- (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. . . .
- (2) The auditor shall:
 - (a) file one notice with the commission;
 - (b) certify and transmit to the commission:
 - (i) the minutes of the proceedings of the county board of equalization for the matter appealed;
 - (ii) all documentary evidence received in that proceeding; and
 - (iii) a transcript of any testimony taken at that proceeding that was preserved; and
 - (c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of the board of equalization as required by Section 59-2-1102.
- (3) In reviewing the county board's decision, the Commission may:
 - (a) admit additional evidence;
 - (b) issue orders that it considers to be just and proper; and
 - (c) make any correction or change in the assessment or order of the county board of equalization.
- (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.

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Burden of Proof. 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 is a three-story condominium that contains 2,179 square feet of living space. As of the January 1, 2008 lien date, the subject was approximately two years old. The property owner uses the subject property as a vacation home for his family.

Property Owner's Information. The property owner proffers that prices have plummeted in the subject complex over the last 1½ years. As a result, he believes that the subject property would not sell for a price above the \$\$\$\$\$ to \$\$\$\$\$ range and asks the Commission to reduce the current value to a value in this range.

As evidence, the property owner submitted four comparables sales of similarly-sized condominiums in the complex. The four sales occurred between April 2008 and October 2008 and sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. All of the comparables were sales of new, unfurnished condominiums in the subject complex. Based on these sales, the property owner contends that the subject's current value of \$\$\$\$\$ is too high.

County's Information. The County proffers that it has ten sales in 2007 of units in the subject complex that are identical or close in size (within 40 square feet) to the subject property. The ten comparables sold in 2007 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The County also proffers that most of the higher-priced sales occurred near the end of 2007; that is, close to the lien date of January 1, 2008. Two of the ten comparables were identical in size to the subject and sold for prices of \$\$\$\$\$ (in July 2007) and \$\$\$\$\$ (in November 2007), respectively.

Analysis. It is apparent that values in the subject complex have decreased since 2007. The County admits as much, proffering that it will likely reduce the subject's assessed value for the 2009 tax year to value below \$\$\$\$\$. At issue for the Commission, however, is the value of the subject property as of January

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1, 2008. Given the decreasing market, the Commission is not convinced that the comparable sales submitted by the property owner are reflective of the subject's value as of the lien date, given that all of these sales occurred at least four months after the lien date. The County proffered evidence of sales prior to the lien date that would support the \$\$\$\$ assessed value, including one at \$\$\$\$ approximately one month prior to the lien date. Given the available information, the Commission finds that the property owner has not shown that the \$\$\$\$ value established by the County does not reflect the subject's value as of January 1, 2008. Accordingly, the Commission denies the property owner's appeal and sustains the current value of \$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Commission sustains the \$\$\$\$ value established by the County BOE for the 2008 tax year. 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 taxpayer'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 _____, 2009.

Kerry R. Chapman
Administrative Law Judge

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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 _____, 2009.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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