

11-1608
TAX TYPE: PROPERTY
TAX YEAR: 2010
DATE SIGNED: 9-4-2013
COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO
EXCUSED: D. DIXON

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 11-1608</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2010</p> <p>Judge: Jensen</p>
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This Order may contain confidential "commercial information" within the meaning of Utah Code Section 59-1-404, and is subject to disclosure restrictions as provided in that section and Utah Admin. Rule R861-1A-37. In accordance with Section 59-1-404(4)(b)(iii)(B), Utah Admin. Rule R861-1A-37(6) prohibits parties from disclosing commercial information obtained from the opposing party to nonparties outside of the hearing process. As provided by Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the 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:

Robert P. Pero, Commissioner
Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: TAXPAYER
PETITIONER REPRESENTATIVE, for the Taxpayer
Respondent: RESPONDENT REPRESENTATIVE, for the County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on May 16, 2013. On the basis of the evidence and testimony presented at the hearing, the Tax Commission makes its:

FINDINGS OF FACT

1. The above-named Petitioner (the "Taxpayer") brings this appeal from the decision of the Board of Equalization of Salt Lake County (the "County") for the lien date January 1, 2010.

2. The subject property, parcel no. #####, is 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 reduced the value to \$\$\$\$\$.

3. At the formal hearing, the Taxpayer requested that the value be reduced to \$\$\$\$\$. The County requested that the value set by the board of equalization be sustained.

4. The subject property consists of a #####-acre lot improved with two TYPE OF STYLE residences. The main residence was constructed in YEAR with average quality of construction. It has ##### square feet above grade and a basement of ##### square feet of which ##### square feet are finished. There is also a detached two-car garage. The County considered the main residence to be in average condition; the Taxpayer considered the residence to be in poor condition. The second residence on the subject property has ##### feet above grade. The parties did not provide further data regarding the second residence.

5. The lot is (X) in shape, which limits the development potential for the property. One corner of the #####-acre lot is covered by street and is thus not usable land. Because the lot is on a corner of two streets, it has good visibility. However, local building authorities do not allow ingress and egress close to the intersection of the two streets. This limits access to the subject property.

6. The parties agree that the value for the subject property is in the land. The subject property is likely to be zoned commercial in the future. The value of the residential improvements is limited to interim income until a future date when the property is developed commercially. The current residential use also has a property tax advantage in that it allows for a %%% residential property tax exemption.

7. The Taxpayer provided evidence of the sales of six comparable properties. The subject property and the comparable sales are as follows:

	Address	Lot Size	Year Built	GLA	BSMT	Sales Date	Sales Price
Subject	ADDRESS	#####	YEAR	##### ¹	#####		
Comp #1	ADDRESS-1	#####	YEAR	#####	#####	DATE-1	\$\$\$\$
Comp #2	ADDRESS-2	#####	YEAR	#####	#####	DATE-2	\$\$\$\$
Comp #3	ADDRESS-3	#####	No improvements listed			DATE-3	\$\$\$\$
Comp #4	ADDRESS-4	#####	No improvements listed			DATE-4	\$\$\$\$
Comp #5	ADDRESS-5	#####	YEAR	#####	#####	DATE-5	\$\$\$\$
Comp #6	ADDRESS-6	#####	YEAR	#####	#####	DATE-6	\$\$\$\$

8. All of the Taxpayer's sales had distress conditions such as foreclosure or short sale conditions.

¹ The above-grade area, or GLA, provided is for the main residence on the subject property.

9. 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 six comparable properties. The appraiser made adjustments to the selling prices of the comparable properties to account for differences between the subject property and the comparable properties for factors such as lot size, location, and home size. These improvements included a positive \$\$\$\$\$ for the second residence on the subject property. The appraiser testified that his adjustments were supported by studies of market values including paired sales analysis. The subject property and the County’s comparables are as follows:

	Address	Lot Size	Year Built	GLA	BSMT	Sales Date	Sales Price	Adjusted Price
Subject	ADDRESS	###	1949	####	#### ²			
Comp #1	ADDRESS-1	###	1976	####	####	DATE1	\$\$\$\$	\$\$\$\$
Comp #2	ADDRESS-2	###	1966	####	####	DATE2	\$\$\$\$	\$\$\$\$
Comp #3	ADDRESS-3	###	1976	####	####	DATE3	\$\$\$\$	\$\$\$\$
Comp #4	ADDRESS-4	###	1976	####	####	DATE4	\$\$\$\$	\$\$\$\$
Comp #5	ADDRESS-5	###	1971	####	####	DATE5	\$\$\$\$	\$\$\$\$
Comp #6	ADDRESS-6	###	1977	####	####	DATE6	\$\$\$\$	\$\$\$\$

The appraiser reconciled the indicated values for the subject properties to a final indicated value of \$\$\$\$\$.

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. §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).

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

² The GLA provided for the subject property does not include the area of the second residence because the appraiser considered it as a \$20,000 adjustment to value.

error, and (2) provide the Commission with a sound evidentiary basis for changing 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*, 590 P.2d. 332 (Utah 1979).

CONCLUSIONS OF LAW

Utah Code Ann. §59-2-103 (1) provides that property should be assessed for purposes of property tax “on the basis of its fair market value.” Utah Code Ann. §59-2-102(12) defines fair market value as the price that a party would change hands between a willing buyer and a willing seller “neither being under any compulsion to buy or sell.” All of the Taxpayer’s sales had distress conditions that raise concerns of a sale that might not have a buyer free from “any compulsion to . . . sell.” The County has presented sales that more closely match the requirements of sales at market value. These sales provide ample support for the board of equalization value of \$\$\$\$\$. The Taxpayer’s evidence is less-persuasive and is insufficient to meet the burden of proof on the Taxpayer as the party requesting a change from the board of equalization value. *See Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

Clinton Jensen
Administrative Law Judge

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2010 is \$\$\$\$\$. It is so ordered.

DATED this ____ day of _____, 2013.

R. Bruce Johnson
Commission Chair

D’Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit in accordance with Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency

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action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §§59-1-601 and 63G-4-401 et. seq.