

11-3002
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED
TAX YEAR: 2011
DATE SIGNED: 9-13-2012
COMMISSIONERS: B. JOHNSON, M. JOHNSON, M. CRAGUN
EXCUSED: D. DIXON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, vs. BOARD OF EQUALIZATION OF RURAL COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 11-3002 Parcel No. 1-#####, 2-#####, 3-##### Tax Type: Property Tax/Locally Assessed Tax Year: 2011 Judge: Cragun
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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 regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. Pursuant to Utah Admin. Rule R861-1A-37(7), 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:

Marc Johnson, Commissioner
Michael Cragun, Commissioner

Appearances:

For Petitioner: TAXPAYER, Property Owner (by telephone)
REPRESENTATIVE FOR TAXPAYER, Property Owner's Spouse
(by telephone)
For Respondent: RESPONDENT-1, RURAL COUNTY Assessor
RESPONDENT-2, Deputy County Assessor
RESPONDENT-3, Deputy County Assessor

STATEMENT OF THE CASE

Petitioner (“Taxpayer”) brings this appeal from the decision of the RURAL COUNTY Board of Equalization (“the County”). This matter was argued in an Initial Hearing on June 21, 2012, in accordance with Utah Code Ann. §59-1-502.5. The RURAL COUNTY Assessor’s Office values for the subject properties as of the January 1, 2011 lien date, the values set by the Board of Equalization (BOE), the Taxpayer’s requested values and the County’s requested values are listed in the following table.

Parcel	Assessor’s Value	BOE Value	Taxpayer’s Request	County’s Request
1-#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
2-#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
3-#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

In addition, the Taxpayer requests that the Tax Commission grant the Primary Residential Exemption for parcel 2-#####. The County agrees that parcel 2-##### qualified for the Primary Residential Exemption in 2011.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible taxable property located within the state 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 provided by law.
- (2) Subject to Subsections (3) and (4), beginning on January 1, 1995, the fair market value of residential property located within the state shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2.
- (3) No more than one acre of land per residential unit may qualify for the residential exemption.
- (4) (a) Except as provided in Subsection (4)(b)(ii), beginning on January 1, 2005, the residential exemption in Subsection (2) is limited to one primary residence per household.
 (b) An owner of multiple residential properties located within the state is allowed a residential exemption under Subsection (2) for:
 - (i) subject to Subsection (4)(a), the primary residence of the owner; and
 - (ii) each residential property that is the primary residence of a tenant.

Further guidance is provided under §59-2-103.1(2)(a), which states in relevant part:

The county assessor shall annually update property values of property as provided in Section 59-2-301 based on a systematic review of current market data.

For property tax purposes, “fair market value” is defined in Utah Code Ann. §59-2-102(12), as follows:

“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. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part below:

- (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.

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 must: 1) demonstrate that the value established by the County contains 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. The Commission relies in part on *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm’n*, 590 P.2d 332, 335 (Utah 1979); *Beaver County v. Utah State Tax Comm’n*, 916 P.2d 344 (Utah 1996) and *Utah Railway Co. v. Utah State Tax Comm’n*, 5 P.3d 652 (Utah 2000).

DISCUSSION

The subject properties are located in CITY, Utah. Two parcels include residential improvements. The third provides access to the others. Collectively they operate as the BUSINESS.

The Taxpayer argues that the Board of Equalization erred in adopting for the 2011 tax year the values ordered by the Tax Commission in an appeal for the 2010 tax year. Instead, the Taxpayer proposes a reduction of the 2010 values ordered by the Tax Commission by amounts equal to the percentage change between the Assessor’s original valuations for 2010 and 2011. These reduction percentages are summarized here:

Parcel	2010 Assessment	2011 Assessment	% Change
1-#####	\$\$\$\$\$	\$\$\$\$\$	% % % % %
2-#####	\$\$\$\$\$	\$\$\$\$\$	% % % % %
3-#####	\$\$\$\$\$	\$\$\$\$\$	% % % % %
Total	\$\$\$\$\$	\$\$\$\$\$	% % % % %

The County explained that CITY last statutorily required five-year reappraisal occurred in 2008. Since then the County has applied marked based factors each year to the prior year’s assessment when setting the value for taxation. Further, the County argued that the Tax Commission ordered the values for the 2010 tax year based upon the sales prices of the subject properties rather than a factoring of the prior year’s assessments. Therefore, further reduction is unwarranted.

In seeking a value other than that established by the Board of Equalization, a party has the burden of proof to demonstrate not only an error in the valuation set by the Board of Equalization, but also to provide an evidentiary basis to support a new value. Property tax is based on the market value of the property as of January 1 of the tax year at issue under Utah Code Ann. §59-2-103. Utah Code Ann. §59-2-102 defines “market value” as the amount for which property would exchange hands between a willing buyer and seller.

The Tax Commission’s ordered value for the 2010 tax year was functionally equivalent to an appraisal specifically for the subject properties. As such, the valuation and assessment are distinct from other properties in CITY. The County implemented a factor to recognize an overall change in market values relating to assessments made based on its mass appraisal system. Any of these properties could have been appealed if a taxpayer had felt that the resulting assessment were incorrect. There is nothing in law, specifically §59-2-103.1(2)(a), that requires an assessor to apply a factor to all properties in a market area, without consideration of the basis of the underlying assessment.¹ Presumably, if appeals or other issues yielded adjustments to other properties in CITY, the assessor would have excluded them as well, or applied a different factor. In summary, although the Taxpayer’s original 2010 assessment employed the same methodology as the rest of CITY, the Commission’s 2010 decision and order did not. Accordingly we find that the Taxpayer’s proposed reduction methodology does not demonstrate error in the value set by the Board of Equalization, nor it been shown to provide an adequate evidentiary basis support a new value. Therefore, the Tax Commission should sustain the Board of Equalization.

¹ We distinguish factoring initiated by the County from “corrective action” (including factoring orders) issued by the Tax Commission under §59-2-103.1(4).

DECISION AND ORDER

Based on the foregoing, the Commission sustains the values set by the Board of Equalization for the subject properties as of the January 1, 2011 lien date. The Commission further approves the parties' stipulation that parcel 2-##### qualified for the Primary Residential Exemption in 2011. The RURAL COUNTY Auditor shall adjust its records accordingly. It is so ordered.

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 _____, 2012.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner