

11-3391
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED
TAX YEAR: 2011
DATE SIGNED: 8-24-2012
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: M. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 11-3391</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2011</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, By Telephone

For Respondent: RESPONDENT, Certified Residential Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner (“Property Owner”) brings this appeal from the decision of the Salt Lake County Board of Equalization pursuant to Utah Code §59-2-1006. This matter was argued in an Initial Hearing on June 18, 2012, in accordance with Utah Code §59-1-502.5. The Salt Lake County Assessor’s Office valued the subject property at \$\$\$\$\$ as of the January 1, 2011 lien date. The County Board of Equalization (“the County”) reduced the value to \$\$\$\$\$. At the hearing the Property Owner asks that the value be lowered to \$\$\$\$\$. The County asks that the Commission sustain its value.

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 provided 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(12).)

(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. . . . (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. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

DISCUSSION

The subject property is located at SUBJECT ADDRESS in CITY-1, Utah. It is ##### acres of land improved with a single level duplex. The duplex has ##### total square feet which is all on the main floor level. Each side of the duplex has two-bedrooms and one full bathroom.

The Property Owner asked for a reduction to \$\$\$\$\$, which was the purchasing price for the property on December 28, 2010. He provided a copy of his closing statement to support the purchase price. It was his position that if you pay a certain amount negotiated between a willing buyer and willing seller it is considered fair market value. He acknowledged that it had been a foreclosure sale, but stated that he did not know the seller. He states that he had purchased the property for investment reasons.

The Property Owner stated it was in rough condition at the time he purchased the property. Before he could lease it out, he stated that he spent one month of time and a significant amount of money to fix up the duplex. He indicated that it had some plumbing leaks and water damage which he repaired. The entire inside was painted and he replaced the carpet and flooring in one of the units. He also had to replace some of the faucet sets.

It was the County's position that one sale was insufficient to establish a market and that foreclosures tend to sell below market. The County provided the Multiple Listing Report for the subject, which indicated that it had been listed for sale September 23, 2010, for \$\$\$\$\$ and had sold December 28, 2010 for the \$\$\$\$\$. The County also provided the MLS for a number of other

duplex properties and he argued that they supported that the Property Owner had purchased for below market. The County did not provide an appraisal, or make appraisal adjustments to the comparables. The County's comparables included a side by side duplex with only 1,248 total square feet, which had sold for \$\$\$\$\$ in September 2010. This was located at ADDRESS-1 in CITY-2. Another property had sold for \$\$\$\$\$ at ADDRESS-2, also in September 2010. This was a side-by-side duplex with 1,598 total square feet. The MLS reported that this was "well maintained" and had a "2 year old roof." A third duplex had sold for \$\$\$\$\$ in November 2010. This was an up-and-down duplex located at ADDRESS-3 which had 1,700 total square feet. This also indicated that there had been significant remodeling. A fourth comparable consisted of a 1,800 square foot side-by-side duplex property at ADDRESS-4 that sold for \$\$\$\$\$ in October 2010. The MLS on this one indicated extensive remodeling and move-in condition. Three additional properties, according to the MLS all having been extensively remodeled, had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. It was the County's contention that these comparables indicated that the subject had sold for below market and supported the County's value.

In seeking a value other than that established by the County Board of Equalization, a party has the burden of proof to demonstrate not only an error in the valuation set by the County, but also provide an evidentiary basis to support a new value. Property tax is based on the fair market value of the property as of January 1 of the tax year at issue under Utah Code §59-2-103. Utah Code §59-2-102 defines "fair market value" as the amount for which property would exchange hands between a willing buyer and seller. In this case the Property Owner argues that what he paid for the property just days prior to the lien date at issue is the fair market value. Additionally, the subject property needed repairs before it could be leased out. The Property Owner's purchase price of \$\$\$\$\$ is within 5% of the County Board's value at \$\$\$\$\$. The County argues that foreclosures generally sell for less and the subject had sold for less than unadjusted comparables. However, the plumbing problem and condition of the subject property at the time of sale may also have contributed to the lower price negotiated between the Property Owner and the seller. Damage to the property and the condition on the lien date are factors that should be considered in market value. Without appraisal adjustments to the County's comparables for condition and other factors, the County has not countered the Property Owner's evidence of market value, which was the purchase price. The value should be lowered to \$\$\$\$\$.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property was \$\$\$\$\$, as of the January 1, 2011 lien date. The Salt Lake County Auditor is hereby ordered to 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