

12-2720
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED
TAX YEAR: 2012
DATE SIGNED: 7-5-2013
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN, R. PERO

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, vs. BOARD OF EQUALIZATION OF RURAL COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 12-2720 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2012 Judge: Johnson
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Presiding:

R. Bruce Johnson, Commission Chair
Michael J. Cragun, Commissioner

Appearances:

For Petitioner: TAXPAYER
For Respondent: RESPONDENT-1, 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 April 30, 2013 in accordance with Utah Code Ann. §59-1-502.5. The RURAL COUNTY Assessor’s Office valued the subject property at \$\$\$\$ as of the January 1, 2012 lien date. The Board of Equalization affirmed that value. The County is asking the Commission to sustain the Board of Equalization. The Taxpayer is requesting the value of the subject property be reduced to something in the range of \$\$\$\$ to \$\$\$\$.

The subject property is a home of approximately ##### square feet built on a ##### acre lot in a master-planned community. The community boasts a number of amenities, including a

golf course. The subject property is about 215 feet away from the golf course and has an unobstructed golf course view.

The Taxpayer was under contract to purchase another home in the CITY area when the subject came up on the “hot sheet.” He fell in love with the home, was able to get out of his other commitment, and purchased the subject in December, 2010, for \$\$\$\$\$. The property was listed for \$\$\$\$\$, but the Taxpayer got into a “bidding war.” His offer was accepted about 6 days after the property was listed.

The County presented an appraisal that concludes a value of \$\$\$\$\$, although the County does not request an increase. The appraisal is based primarily on four comparable sales, all occurring in the last half of 2011, ranging in price from \$\$\$\$\$ to \$\$\$\$\$, and adjusting to \$\$\$\$\$ to \$\$\$\$\$. The properties were 0.18 miles, 0.45 miles, 0.81 miles and 0.92 miles away from the subject. The primary adjustments were a negative adjustment for a swimming pool on two of the comparables of \$\$\$\$\$ and a positive adjustment of \$\$\$\$\$ for all of the properties to reflect the subject’s golf course view.

The Taxpayer provided 12 comparable sales from 2011 (disregarding one short sale.) Their sales prices range from \$\$\$\$\$ to \$\$\$\$\$. All of them are smaller than the subject, but they are also geographically closer to the subject than the County’s comparables. Those sales that are closest in size to the subject sold for \$\$\$\$\$ (1,593 sq. ft.), \$\$\$\$\$ (1,565 sq. ft.), \$\$\$\$\$ (1,574 sq. ft.), and \$\$\$\$\$ (1,579 sq. ft.). These four comparables are also generally closer in size to the subject than are the County’s comparables. None of the Taxpayer’s comparables have swimming pools and none of them are on the golf course.

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.

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

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 County 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.

In evaluating the various comparable sales presented by both parties, it appears that the Taxpayer’s comparables are generally closer in location to the subject. Because none of them have swimming pools, no adjustments are necessary for that feature. Of the Taxpayer’s comparables, the four that are closest in size to the subject would support a value of no more than \$\$\$\$\$. (We find the County’s adjustment of \$\$\$\$\$/ sq. ft. to be reasonable.) Applying an adjustment of \$\$\$\$\$ to reflect the golf course view, the value of the subject would be \$\$\$\$\$.

We note that this value is also corroborated by the Taxpayer's actual purchase price a year before the lien date. Because of the short marketing time, and because the Taxpayer's seller purchased the property and "flipped" it one week later, the County argues that Taxpayer's purchase was not an arm's length sale. We find otherwise. The Taxpayer's recitation of the events surrounding his purchase convince us that the sale was an arm's length sale and, given the relative proximity to the lien date, should be considered. Although there may have been some appreciation in the intervening year, we have no basis in the record to make an adjustment.

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property was \$\$\$\$ as of the January 1, 2012 lien date. The RURAL 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 _____, 2013.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner