

08-0795

TAX TYPE: PROPERTY TAX - LOCALLY ASSESSED

TAX YEAR: 2007

DATE SIGNED: 6-24-2010

COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN

EXCUSED: M. JOHNSON

---

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,

Petitioner,

vs.

BOARD OF EQUALIZATION OF SALT LAKE  
COUNTY, UTAH,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND FINAL DECISION**

Appeal No. 08-0795

Parcel Nos. #####-1

#####-2

Tax Type: Property Tax/Locally Assessed

Tax Year: 2007

Judge: Phan

---

**Presiding:**

Michael J. Cragun, Commissioner

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER

For Respondent: RESPONDENT, Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing pursuant to Utah Code Secs. 59-2-1006 and 63G-4-201 et al, on March 22, 2010. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner (the "Property Owner") is appealing the assessed value of the subject properties for the lien date January 1, 2007.

2. There are two parcels of property at issue in this appeal. Parcel No. #####-1 located at ADDRESS-1, CITY-1, Utah ("Parcel #####") and Parcel No. #####-2 located at ADDRESS-2, CITY-1, Utah ("Parcel #####").

3. The County Assessor had valued each parcel at \$\$\$\$ as of the lien date January 1, 2007, and

the County Board of Equalization (the "County") reduced the value of each parcel to \$\$\$\$\$. The Property Owner requests that the value be lowered to \$\$\$\$\$ per parcel. At the hearing the County offered appraisals indicating the value for each parcel was \$\$\$\$\$. However, the representative for the County did not request that the values be raised.

4. The subject parcels are twin homes that are adjacent to each other and are nearly identical. They each have ##### square feet above grade with a ##### square foot basement and a two-car garage. The residences are of a stucco construction with brick trim. Each parcel is ##### of an acre in size.

5. The residences were not complete on the lien date. The parties were in agreement that they were approximately 65% complete as of January 1, 2007.

6. The Property Owner had purchased the land and constructed the residences himself as general contractor. His requested value of \$\$\$\$\$ per parcel was based on his land cost and his costs of construction of the residences based on what had been finished on the lien date.

7. The Property Owner stated that he had purchased the land for \$\$\$\$\$. He indicated that he then put in the water and sewer connections for both parcels, so he allowed for \$\$\$\$\$ for the land in his cost approach. He did not provide a sales contract showing when the land was purchased, but from his spreadsheet listing the costs and the dates incurred, he had paid CITY-1 for the water, flood and impact fees in March of 2005. Petitioner explained that at the time of purchasing the property it was zoned for multi-family dwellings, and he had intended to build a duplex. The City, however, required that it be done as twin homes on two separate parcels that could be sold separately. He states that there were already a number of rental properties in the area, which was a concern to the City.

8. The property owner provided his spreadsheet that listed out the costs of the various components that went into the construction of the residences and the dates. From this he concluded that as of the lien date he had spent about \$\$\$\$\$ per residence plus \$\$\$\$\$ for the land. His conclusion was about the \$\$\$\$\$ he had originally requested for these units.

9. The Property Owner did not include any builder or investor's profit in his cost approach.

10. The Property Owner stated that once completed, the residences cost him only \$\$\$\$\$ per side to construct plus the land costs. Again there was no builder or investor's profit taken into account in this value.

11. The Property Owner also provided four comparable twin-home sales to support his requested value. One comparable was located in CITY-1 at ADDRESS-3, was built in 1996 and had sold for \$\$\$\$\$ in

August 2007. A second comparable was a much older property located in CITY-2 that was similar as far size, but a lower grade and condition, as well as being significantly older. This property was at ADDRESS-4, built in 1978 and had sold for \$\$\$\$\$ in December 2006. A third comparable at ADDRESS-5, CITY-3, built in 1987, had sold for \$\$\$\$\$ in January 2006 and sold again for \$\$\$\$\$ in July 2006. The Property Owner stated that he did not take into account any adjustments for age, condition or location. He stated the immediate neighborhood of the subject had a number of rental units that would negatively impact the value of his parcels.

12. The County submitted appraisals of the two properties that had been prepared by RESPONDENT, Licensed Appraiser for Salt Lake County. It was RESPONDENT'S conclusion that had the properties been completed on the lien date, the value would have been \$\$\$\$\$. However, he determined the residences were only 65% complete, so made a \$\$\$\$\$ reduction to the building costs to determine that the value as of the lien date was \$\$\$\$\$ for each parcel.

13. In the appraisal he considered five comparable sales. However, only the first two were twin-homes. Comparable one was located at ADDRESS-6, CITY-1, and had sold for \$\$\$\$\$ in June 2006. The residence of this comparable was only two years older than the subject and the property was a good quality stucco construction like the subject. Comparable two, which was also a twin-home or row-home, was located at ADDRESS-7 and had sold for \$\$\$\$\$ in June 2006. This home was constructed in 2005. The other comparables had been single-family homes that had sold in a range from \$\$\$\$\$ to \$\$\$\$\$. He did not make an adjustment for the fact that these were single-family homes verses twin-homes. He did adjust for lot size as the single-family comparables had larger lot sizes. After making appraisal adjustments, his conclusion was a value of \$\$\$\$\$ if the property were finished.

14. The representative for the County testified that market values had increased significantly throughout 2006. He testified that in general there had been a 24% increase in values from January 1, 2006 to January 1, 2007. He also testified that lots in the area of the subject sold for \$\$\$\$\$ as of the lien date, not the \$\$\$\$\$ requested by the Property Owner. However, the County did not provide any lot sales.

15. Upon review of the evidence in this matter, the Property Owner failed to provide a sound evidentiary basis to support his lower value. His land value fails to take into account market appreciation that occurred during 2006. He had purchased the land for \$\$\$\$\$ sometime in early 2005. Secondly, he fails to account for builder's profit. When reviewing a cost indicator to determine value, this needs to be taken into consideration. Further, the County's two twin-home or row-home comparables were far more comparable to

the subject property than the comparables offered by the Property Owner and they did support a value of \$\$\$\$ per parcel once completed. This does support the position that the Property Owner's cost is below market value. The County's appraisal value was \$\$\$\$ per parcel. However, the value set by the Board of Equalization was lower than that, at \$\$\$\$ per parcel. This difference more than accounts for the negative neighborhood factors with the number of rental units already in the immediate area that the Property Owner had testified about.

APPLICABLE LAW

1. 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. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (Utah Code Ann. Sec. 59-2-103.)

2. "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. (Utah Code Ann. 59-2-102(12).)

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

4. The assessor is to determine the value of a residential property that is unfinished on the lien date by multiplying the percent that the residential project is completed by the total full cash value of the residential project expected upon completion. (Utah Admin. Rule R884-24P-20(E)(3).)

5. To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the assessment contained error, and (2) provide the Commission with a sound evidentiary upon which the Commission could adopt a lower valuation. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354

(Utah 1997). See also Utah Code Sec. 59-1-1417 which provides, “In a proceeding before the commission, the burden of proof is on the petitioner . . .”

CONCLUSIONS OF LAW

Property tax is based on the fair market value of the property as of the lien date. See Utah Code Sec. 59-2-103. Fair market value is specifically defined by statute as the amount for which the property would exchange hands between a willing buyer and seller. See Utah Code Sec. 59-2-102. A persons actual costs to construct a property may not necessarily reflect fair market value, specifically if the person is a builder and builder or investor’s profit is not taken into account. The evidence of market value based on comparable sales supports that the Property Owner’s cost value was less than market value for the lien date at issue and, in the least, supports the County’s value.

Considering the evidence and the applicable law in this matter, the value should remain as set by the County Board of Equalization.

Jane Phan  
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2007, is \$\$\$\$ for each parcel. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D’Arcy Dixon Pignanelli  
Commissioner

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

Appeal No. 08-0795

*JKP/08-0795.fof*