

03-0789
Locally Assessed Property
Signed 03/08/2004

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND FINAL DECISION
)	
Petitioner,)	Appeal No. 03-0789
)	
v.)	Parcel No. #####
)	
BOARD OF EQUALIZATION OF)	Tax Type: Property Tax/Locally Assessed
SALT LAKE COUNTY,)	
STATE OF UTAH,)	Tax Year: 2002
)	
Respondent.)	Judge: Chapman

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County
Assessor's Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on December 10, 2003. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The Petitioner is appealing the fair market value of the subject property for property tax purposes. The subject property is a single-family residence located at ADDRESS, CITY, Utah. The subject property consists of a single-story home with a 2-car garage. Built in 1981, the home sits on a 1.06-acre lot.

2. The tax year in question is 2002 with a January 1, 2002 lien date.

3. For the 2002 tax year, the County Assessor assessed the subject property at \$\$\$\$\$, which was lowered to \$\$\$\$\$ by the County Board of Equalization. RESPONDENT REPRESENTATIVE, an appraiser in the Salt Lake County Assessor's office, has prepared an appraisal of the property (Exhibit R-1) for the Respondent, in which she estimates the value of the subject to be \$\$\$\$\$ as of the lien date.

4. The Petitioner has also presented as evidence an appraisal (Exhibit P-1) that was prepared by APPRAISER, in which he estimates the value of the subject property to be \$\$\$\$\$ as of October 13, 2003. APPRAISER has also prepared a letter (Exhibit P-2) in which he offers certain comments and conclusions concerning the appraisal prepared by RESPONDENT REPRESENTATIVE.

5. The Respondent's appraisal shows the subject property to have 4,119 square feet of living area on the main floor, while the Petitioner's appraisal shows the area to be 3,813 square feet. It was determined at the hearing that the Petitioner's appraiser used square footages determined by measurements taken on the inside of the structure, while the Respondent's measurements were taken on the outside of the structure. The Commission is more convinced that the Respondent's measurements, taken on the outside of the structure, more accurately reflect its size, including interior and exterior walls. It was also determined at the hearing that the county had mistakenly labeled 140 square feet of the garage area as living space. Accordingly, we subtract 140 square feet from the 4,119 square feet originally determined by the county to arrive at a 3,979 square

Appeal No. 03-0789

foot living area for the subject property. As APPRAISER adjusted his comparables by \$\$\$\$ per square foot, we adjust his appraisal upward \$\$\$\$ to account for the subject's additional square footage (166 square feet multiplied by \$\$\$\$). Accordingly, if APPRAISER'S \$\$\$\$ estimate of value for the subject property is adjusted for the extra square footage, his adjusted estimate of value would be \$\$\$\$.

6. RESPONDENT REPRESENTATIVE stated that her estimate of value for the subject property needed to be reduced approximately \$\$\$\$ to account for the 140 square feet that the county mistakenly labeled as living area. She also stated that her estimate of value should be reduced another \$\$\$\$ because she had mistakenly included a central vacuum system as a feature of the subject property. Deducting \$\$\$\$ from her original estimate of value of \$\$\$\$ would result in an adjusted estimate of value of \$\$\$\$.

7. The subject property is located on STREET and includes a wall to separate it from the noise and traffic of this busy street. Although there is a gate to the property, the Respondent stated that it did not work and that, for this reason, she did not place any value on this feature. Both parties stated that the location of the property on the busy street, however, negatively impacted its value, and both appraisers have made adjustments to account for this factor in their respective appraisals. The Respondent states that, when adjusting the subject to the comparable sales in her appraisal, she gave the subject a 10% negative adjustment because of its location. However, in her appraisal, there is no adjustment for this factor on her comparable #1. She confirmed at the hearing that this comparable's lot is superior to the subject's because the comparable is not affected by the high level of noise and traffic that the subject is. However, she stated that because the subject's lot

and this comparable's lot are the exact same size, the county's adjustments for differences in noise and traffic are not quantified as an adjustment to value. The reason why there is no adjustment is because any traffic and noise adjustment is reflected in a revised land guide value. Even though the land guide was adjusted by 10%, there would be no difference in value if the lots are the same size because multiplying an adjusted land guide value by a zero acreage difference results in an adjusted value of zero.

8. The Petitioner's appraiser also objected to the adjustments in condition that RESPONDENT REPRESENTATIVE made to several of the comparables in her appraisal, in particular comparables #2 and #3. The Petitioner states that the subject property is 20 years old and has had very few updates other than the installation of granite counter tops. APPRAISER expresses first-hand knowledge of RESPONDENT REPRESENTATIVE'S comparable #2 and #3. He states that comparable #2 is a much newer and better quality home than the subject. In addition, he states that comparable #3 was extensively remodeled prior to its sale and that a \$\$\$\$ adjustment made by RESPONDENT REPRESENTATIVE for age and condition does not adequately account for its superiority in comparison to the subject. For these reasons, he believes that RESPONDENT REPRESENTATIVE'S adjusted estimates of value for the subject property are too high.

9. RESPONDENT REPRESENTATIVE admitted at the hearing that she did not have personal knowledge of the comparables used in her appraisal or of their conditions. She stated that the assessor's office had a crew whose job was to gather such information and that she based her appraisal on their gathered information. For example, on her comparable #3, she stated that this crew remarked that the home was remodeled, but that they did not note the extent of the remodeling.

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 provide by law. Utah Code Ann. §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. §59-2-1006(1).

CONCLUSIONS OF LAW

Both parties have submitted appraisals in which the value of the subject property is

Appeal No. 03-0789

estimated. The Respondent's appraiser estimated the value of the subject property as of October 13, 2003, to be \$\$\$\$\$. As explained earlier, the Commission finds that the square footage of the subject's living area, as determined by the Petitioner's appraiser using inside measurements, needs to be increased by 166 square feet. Doing so would result in an additional \$\$\$\$\$ of value for the subject property. Accordingly, we find that the adjusted estimate of value for the subject, based on the Petitioner's appraisal, would be \$\$\$\$\$. Although the Petitioner's appraisal had an effective date nearly two years after the lien date, we do not find that any time adjustment is necessary to reflect a value as of the lien date. The appraisers for both parties used sales that occurred nearly two years before or after the effective dates of their respective appraisals, and neither appraiser made any time adjustment for these sales. Without evidence that time adjustments are necessary for a two-year period of time, we find that the Petitioner's appraisal does not need a time adjustment to reflect value as of the lien date, even though it was prepared with an effective date nearly two years later.

Based on the Respondent's testimony, the adjusted estimate of value for the subject property, as determined in RESPONDENT REPRESENTATIVE'S appraisal, would be \$\$\$\$\$. The difference between the adjusted estimates of value from the two appraisals submitted by the parties is over \$\$\$\$\$. From the testimony given about the comparables used and the appraisers' personal knowledge of the comparables' conditions and the extent to which they were remodeled, the Commission is more convinced that the Petitioner's appraiser had better knowledge of these factors and that his appraisal better incorporated adjustments based on condition and extent of remodeling.

In addition, the Commission is concerned that the Respondent's comparable #1 would need to be adjusted because of its superior location (i.e., it does not have the heavy noise and traffic

Appeal No. 03-0789

influences that the subject has) and, yet, there is no adjustment because the lots are the same size. For these reasons, the Commission is more convinced, based on the evidence and testimony presented, that the Petitioner's appraisal, adjusted for the additional square footage, is the best evidence of value for the subject property as of the lien date. Accordingly, the Commission finds that the fair market value of the subject property as of January 1, 2002, is \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2002, is \$\$\$\$\$. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order.

DATED this _____ day of _____, 2004.

Kerry R. Chapman
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION:

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2004.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Appeal No. 03-0789

Palmer DePaulis
Commissioner

Marc B. Johnson
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. §63-46b-13. 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 Ann. §§59-1-601 and 63-46b-13 et. seq.

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