

03-1604  
Locally Assessed Property  
Signed 06/07/2004

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW, AND FINAL DECISION</b>
	)	
Petitioner,	)	Appeal No.    03-1604
	)	Parcel No.    #####
v.	)	
	)	Tax Type:    Property Tax/Locally Assessed
BOARD OF EQUALIZATION	)	
OF WASATCH COUNTY,	)	Tax Year:    2003
STATE OF UTAH,	)	
	)	Judge:    Davis
Respondent.	)	

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**Presiding:**

G. Blaine Davis, Administrative Law Judge

**Appearances:**

For Petitioner:    PETITIONER  
For Respondent:    RESPONDENT REPRESENTATIVE 1, Wasatch County Assessor  
                    RESPONDENT REPRESENTATIVE 2, Deputy, Wasatch County Assessor  
                    RESPONDENT REPRESENTATIVE 3, Wasatch County Clerk/Auditor

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 30, 2004. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The tax in question is property tax.
2. The year in question is 2003, with a lien date of January 1, 2003.
3. The subject property is a cabin and lot located in the SUBDIVISION in Wasatch County.

The land is approximately one acre, and the cabin is approximately 760 square feet. The cabin was constructed in 1974 and is in average condition.

4. The issue in this proceeding is the fair market value of the subject property as of January 1, 2003.

5. The Wasatch County Assessor initially valued the subject property at \$\$\$\$ as of the lien date in question. Upon appeal to the Wasatch County Board of Equalization, a value of \$\$\$\$ was determined.

6. Several years ago it was determined that numerous lots in the SUBDIVISION were in a potential slide area, i.e., in times of heavy snow or rain, a portion of the earth may slide downhill. Therefore, such lots may not be suitable for construction of cabins or other buildings.

7. After it was determined that the slide area was a potential danger, the County Commission had a study performed of the entire SUBDIVISION area. That study determined that there were numerous areas that were of concern for future construction. Accordingly, the Board of Equalization reduced the fair market value for taxation purposes of numerous lots by various percentages, depending on whether they had no danger to sliding, or did have a danger to sliding. In the slide area, the Board of Equalization reduced the value of the lots by 50% if there was not a building on the property, and they reduced the property value by 30% - 70% of the 1998 values if there were improvements on the lot. There was a lesser adjustment for properties which were in a buffer zone. The property of Petitioner is in the "red zone" and does have a scarp which goes through his property.

8. After the study was completed, the lots were left at a lower value for several years, but for 2003, the county adopted a new ordinance and then all of the lots were placed at their fair market value. An inspection was made of the subject property, and because no slide was evident on the property, it was raised back to its fair market value without any discount for the property being in a slide area.

9. Petitioner did not present any evidence of the fair market value of the subject property,

either by way of an appraisal for the property, or by way of comparable sales. Instead, Petitioner requested that his property be returned to a value of approximately \$\$\$\$\$. For 2002, the value on the subject property was \$\$\$\$\$.

10. Respondent submitted an appraisal prepared by RESPONDENT REPRESENTATIVE 2, an appraiser in the Wasatch County Assessor's Office. RESPONDENT REPRESENTATIVE 2 used five comparable sales in the SUBDIVISION area. Those properties sold for \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. After the adjustments made by RESPONDENT REPRESENTATIVE 2, he testified the indicated value for the subject property, based upon those three comparable sales, was \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. Therefore, his determination of the fair market value of the subject property was \$\$\$\$\$, just slightly more than the value determined by the Board of Equalization. RESPONDENT REPRESENTATIVE 2 indicated that his determined value was supportive of the value determined by the Board of Equalization, and he did not request that the value be raised to the value which he determined.

11. The subject property does contain a scarp which goes through that property, but the lots of comparable sales no. 1 and 3 from the appraisal of Respondent also contain a scarp.

#### APPLICABLE LAW

1. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. §59-1-210(7).

2. 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 Tax Commission. In reviewing the county board's decision, the Commission may admit additional evidence, issue orders that it considers to be just and proper, and make any correction or change in the assessment or order of the county board of equalization. Utah Code Ann. §59-2-1006(3)(c).

3. Petitioner has the burden to establish that the market value of the subject property is other than the value determined by Respondent.

4. To prevail, 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), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

DISCUSSION

In this proceeding, Petitioner has the burden of proof to establish the fair market value of the subject property. Although Petitioner has realistic concerns regarding whether a portion of his property may slide, he did not present persuasive evidence that the fair market value is less than the value determined by the Board of Equalization, nor did he present persuasive evidence that the value of this property was only \$\$\$\$\$. Accordingly, Petitioner has failed to sustain his burden of proof.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2003, is \$\$\$\$\$. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
G. Blaine Davis  
Administrative Law Judge

Appeal No. 03-1604

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

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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