

04-0169
Locally Assessed Property
Signed 08/16/2004

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND FINAL DECISION
)	
Petitioner,)	Appeal No. 04-0169
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION)	
OF SALT LAKE COUNTY,)	Tax Year: 2003
STATE OF UTAH,)	
)	Judge: Davis
Respondent.)	

This Order may contain confidential “commercial information” within the meaning of Utah Code Sec. 59-1-404, and such information is protected from disclosure pursuant to the Protective Order included herein.

Presiding:

G. Blaine Davis, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1
 PETITIONER REPRESENTATIVE 2
For Respondent: RESPONDENT REPRESENTATIVE 3, from the Salt Lake County Assessor's
 Office
 RESPONDENT REPRESENTATIVE 4, from the Salt Lake County Assessor's
 Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on August 2, 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.

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3. The Salt Lake County Assessor initially valued the subject property at \$\$\$\$ as of the lien date in question. Upon appeal to the Salt Lake County Board of Equalization, a value of \$\$\$\$ was determined. Therefore, the value placed upon the property by Respondent is \$\$\$\$ per acre.

4. The subject property is a vacant parcel of undeveloped land of 3.43 acres of farm land. It is not on greenbelt. The property is in an irregular shape which is in a shape somewhat similar to a "U", with the ends being on the private lane which accesses the property. The portion between the two ends of the "U" on the property constitute a home and land which is owned by the same owner as is the subject property. The only access to the property is on a private paved lane which is owned by four separate owners, and is only 12 feet wide. The subject property is located at ADDRESS 1, at approximately (X) in Salt Lake County. Although the address of the property is on STREET 1, the property does not have any direct access onto STREET 1.

5. The highest and best use of the property would be to develop it as residential lots if proper access could be obtained.

6. Petitioner presented an appraisal prepared by PETITIONER REPRESENTATIVE 2, a licensed appraiser in the State of Utah. PETITIONER REPRESENTATIVE 2 based her appraisal upon three comparable sales of vacant land. Two of those comparable sales were located in CITY 1, and the third comparable sale was located at ADDRESS 2 in CITY 2.

7. Comparable sale no. 1 was in CITY 1 and was for 2.07 acres and sold for \$\$\$\$\$. After a substantial size adjustment of \$\$\$\$\$, and adjustments for view, rectangular shape, access, and curb and gutter, PETITIONER REPRESENTATIVE 2 determined comparable no. 1 would indicate a value for the subject property of \$\$\$\$\$.

8. Comparable no. 2 from Petitioner's appraisal was a sale of 4.7 acres in CITY 1 for \$\$\$\$\$. After a substantial adjustment for size of \$\$\$\$\$, and a shape and access adjustment, PETITIONER

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REPRESENTATIVE 2 estimated a value based upon comparable no. 2 of \$\$\$\$\$.

9. Comparable no. 3 was a sale of 1.71 acres for a price of \$\$\$\$\$. After a substantial location and size adjustment, PETITIONER REPRESENTATIVE 2 estimated a value, based upon comparable no. 3, of \$\$\$\$\$.

10. PETITIONER REPRESENTATIVE 2 represented that comparables no. 2 and 3 were the most similar to the subject property, and based thereon she estimated a value, as of August 29, 2003 of \$\$\$\$\$. She represented that any time adjustment would be minimal.

11. Respondent did not present an appraisal. Instead, Respondent relied upon four comparable sales which had been presented at the Board of Equalization. All of Respondent's comparable sales were located between STREET 2 and STREET 3 and between STREET 4 and STREET 5, and are therefore closer to the subject property than were the comparables used by Petitioner's appraiser. Comparable no. 1 is a 1.00 acre lot which sold for \$\$\$\$\$. Comparable no. 2 is a 1.00 acre lot which sold for \$\$\$\$\$. Comparable no. 3 is a 0.25 acre lot and sold for \$\$\$\$\$. Comparable no. 4 was a 0.55 acre lot which sold for \$\$\$\$\$.

12. Respondent did not present any proposed adjustments to the sales prices for such matters as lot size, development status, development potential, views, or other possible adjustments. Also, Respondent did not present any information regarding potential development costs which would be required to bring the subject property into the same stage of development as the comparable sales presented by Respondent.

13. Respondent did not present testimony of its estimate of value, but simply presented the comparable sales as supportive of the value determined by the Board of Equalization.

14. Both parties agreed there were no sales of comparable sized undeveloped land near to the subject property. That is the reason Petitioner's appraiser selected comparable sales which were not as close as

the comparable sales used by Respondent, whereas Respondent selected smaller developed parcels as its comparable sales.

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 matter, Petitioner has presented an appraisal from a licensed appraiser in the State of Utah. The appraisal was made based upon three comparable sales located in CITY 1 and CITY 2. Those sales were between four miles and six miles from the subject property. On the other hand, Respondent presented comparable sales which were much closer to the subject property, but they were made without adjustments and

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without evidence from a licensed appraiser regarding the value that would be indicated from those comparable sales. The comparable sales presented by Petitioner were much closer in size and they were for undeveloped properties with subdivision potential, whereas Respondent's comparables were much smaller than the subject and were in areas where the development costs had already been expended. Those comparables of Respondent also had roadways developed and constructed throughout the subdivision, whereas the only access to the subject property is a 12-foot private lane. Because of the access issue, the subject property cannot be developed unless other property owners are willing to sell sufficient land to permit the development of a subdivision roadway. Any such roadway would have to be approximately 40 feet wider than the private lane. There is no testimony of potential development costs, even if adjoining landowners are willing to make such a sale.

Based upon the testimony and evidence presented, the Commission finds that the value presented by a licensed appraiser after making the adjustments deemed appropriate by the appraiser are better evidence of value than are comparable sales of substantially smaller dissimilar properties without any testimony or evidence of the adjustment needed or the resulting values determined from those comparable sales.

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 \$\$\$\$\$. The Salt Lake County Auditor is hereby ordered to adjust its records in accordance with this decision. It is so ordered.

In addition, to the extent that this order contains confidential “commercial information” pursuant to Utah Code Sec. 59-1-404, the parties are hereby ordered to refrain from disclosing such information outside this proceeding.

DATED this _____ day of _____, 2004.

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G. Blaine Davis
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

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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