

04-0233
Locally Assessed Property
Signed 01/31/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)		
	)	ORDER	
Petitioners,)		
	)	Appeal No.	04-0233
v.)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,	)	Tax Year:	2003
STATE OF UTAH,)		
	)	Judge:	Chapman
Respondent.)		

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2 (by telephone)

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

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. 59-1-502.5, on June 16, 2004.

At issue is the fair market value of the subject property as of January 1, 2003. The subject property is a duplex located at ADDRESS in CITY, Utah. The subject property has 1,352 square foot of living space on each of the main and second floors. In addition, it has 682 square feet in the basement with 0% finished, so that total square footage is 3,386 square feet. The structure was built in 1952 and has a two-car garage. When the Petitioners purchased the subject in March 2001 for \$\$\$\$\$, the home was used as a single-family residence. The Petitioners subsequently erected a wall and turned the home into a duplex.

The Petitioners assert that prices of homes in the area of the subject have decreased since they purchased it and that they have had to reduce their rents from \$\$\$\$\$ per month to \$\$\$\$\$ per month. As evidence of the subject's fair market value, the Petitioners submit comparable sales of single-family residences that have sold within several blocks of the subject's location. The three comparables submitted sold within six months of the lien date, as follows: 1) sold for \$\$\$\$\$ (built 1921, 4,164 total square feet); 2) sold for \$\$\$\$\$ (built 1904, 3,554 square feet); and 3) sold for \$\$\$\$\$ (built 1909, 3,564 square feet). From this information, the Petitioners estimate the subject to have a value of \$\$\$\$\$ as of the lien date.

Approximately 80% of the subject's square footage is above ground, and the home was built in 1952. All of the Petitioners' comparables are significantly older than the subject and no information was provided so that the Commission could consider their conditions in relationship to that of the subject. In addition, there is very little information provided about the comparable sales and the Commission cannot determine what percentage of each comparable sale's square footage is

above ground and what percentage is below ground. Without such information, the Commission cannot determine where in the range of sales provided (i.e., between \$\$\$\$\$ to \$\$\$\$\$) the subject's value lies. As the subject is assessed at \$\$\$\$\$, which is in the range of values provided by the Petitioners, and the information does not show this value to be incorrect, the Petitioner's appeal is denied.

In addition, the County has provided five comparable sales of duplexes that range in price from \$\$\$\$\$ to \$\$\$\$\$. These duplex properties are also older than the subject and located further away from the subject than the Petitioners' single-family residence comparable sales. All of the duplexes smaller in size than the subject sold for a price lower than the subject's assessed value while the one larger duplex sold for a higher price. This information does not suggest that the assessed value is incorrect.

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

Neither party provided sufficient evidence to show that the subject property has a fair market value that is different from its assessed value. Without such information and because both parties provide a range a values for comparable properties in which the assessed value lies, the Commission sustains the value determined by the County BOE.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the Petitioners' appeal and sustains the market value of \$\$\$\$\$ as established by the County BOE for 2003. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a

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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 _____, 2005.

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 _____, 2005.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner