

04-0617
Locally Assessed Property Tax
Signed 03/30/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND FINAL DECISION
)	
Petitioner,)	Appeal No. 04-0617
)	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 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:

G. Blaine Davis, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE
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 Utah State Tax Commission for a Formal Hearing on March 7, 2005. 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.

Appeal No. 04-0617

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

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.

4. The subject property is a new log cabin located in the AREA 1 area at the top of CANYON in Salt Lake County. The cabin was built new in 1999 and 2000. CANYON is located ##### miles from the intersection of (X) and (X). AREA 2, from which some of the comparables were taken, is located approximately ##### miles from the intersection of (X) and (X).

5. The subject property contains approximately 1,343 square feet, and consists of two stories plus a small basement underneath a portion of the cabin. The cabin has running water, but it is necessary to use a holding tank for the toilet waste, and it does not have a septic tank. It does also have a grey water system so that persons may shower or drain the washbasin or kitchen sink in that system. The property is five miles from a paved road, and it has electricity and a wood stove.

6. Petitioner presented a list of sales of cabins in the AREA 1 area between 1993 and 2004. Those sales sold for prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The cabin which sold for \$\$\$\$\$ had collapsed and sat on one acre of land and was not a bona fide arms length sale. Petitioner was not sufficiently trained to be able to make adjustments for those sales based upon the time of the sale, the size of the property, or other factors which would require an adjustment to make the sales meaningful.

7. Petitioner also presented certain cabin listings which ranged in price from \$\$\$\$\$ to \$\$\$\$\$. Although those cabins were listed for sale, none of them sold.

8. Petitioner also presented a list of lot listings, wherein the lots listed for prices between \$\$\$\$\$ and \$\$\$\$\$. Again, those lots did not sell, and there were no adjustments made to adjust those listings to

Appeal No. 04-0617

a relevant fair market value for the subject property.

9. Petitioner also presented a list of lots for sale in the AREA 2 area and the cabins sold in the AREA 2 area. All three cabin sales were during the year 2002, and sold for \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The cabins that were listed for sale but which did not sell in AREA 2 were for prices of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. The property listed for sale for \$\$\$\$\$ was relisted from an earlier listing of \$\$\$\$\$. All parties agree that the properties in AREA 2 would sell for a higher price than the properties in AREA 1, but there is no way to adjust for those sales.

10. Respondent presented a Limited Restricted Appraisal Report prepared by RESPONDENT REPRESENTATIVE 1, a licensed appraiser in the office of the Salt Lake County Assessor. RESPONDENT REPRESENTATIVE 1 based his appraisal report upon three comparable sales. Two of those comparable sales were in the AREA 2 area, but comparable sale no. 2 was in CANYON. That selling price for that sale was \$\$\$\$\$, and after the adjustments which RESPONDENT REPRESENTATIVE 1 deemed appropriate, he determined that sale would indicate a value for the subject property of \$\$\$\$\$. RESPONDENT REPRESENTATIVE 1 considered all of his sales and determined that the fair market value of the subject property was \$\$\$\$\$. However, RESPONDENT REPRESENTATIVE 1 did not request that the fair market value of the subject property be increased to the amount determined in this appraisal. Instead, he represented that his finding would support that the value determined by the Board of Equalization was reasonable, and perhaps even conservative.

11. Petitioner did not agree with the appraisal, and argued that his property was much higher in elevation, was inaccessible for longer periods of time, and was more difficult to reach than the comparable sale. Although those representations were uncontroverted, those differences were not quantified by either party. When Petitioner was asked the value of his property, he represented that his opinion was that it's value was between \$\$\$\$\$ and \$\$\$\$\$. Petitioner did present a letter from a real estate agent indicating that if the

Appeal No. 04-0617

property were to be listed for sale, it should be listed between \$\$\$\$ and \$\$\$\$\$. That real estate agent indicated he was not interested in listing the property because of the difficulty in selling it.

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, the subject property, based upon pictures presented at the hearing, is a fairly new well constructed cabin. On the one hand, the Commission was presented with an appraisal from a licensed appraiser indicating that the value is greater than the value placed upon the property by the Board of Equalization. There is nothing in that appraisal which would indicate, on its face, that there is an error in that appraisal. On the other hand, the Commission has been presented a list of comparable sales and listings which

Appeal No. 04-0617

go over a long period of time, and on which no adjustments have been made for size, date of sale, condition of the property, or any other factors. Therefore, it is impossible for the Commission to determine a value based upon the information presented by Petitioner. Accordingly, the Commission must rely upon the burden of proof. The Petitioner has the burden of proof to establish an error in the value placed upon the property by Respondent, and also has the burden of proof to establish the correct fair market value of the subject property. However, the Commission determines that Petitioner has failed to meet each of those burdens 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 _____, 2005.

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 _____, 2005.

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

Appeal No. 04-0617

(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.

GBD/ssw/04-0617.fof