

04-0670
Locally Assessed Property Tax
Signed 05/13/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
v.)	Appeal No. 04-0670
)	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 REPRESENTATIVE (by telephone)

For Respondent: No one appeared

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 May 4, 2005. Although notified of the date and time of the hearing, the Respondent failed to appear. When the Commission telephoned the County Assessor's Office to inquire about the Respondent's appearance, the Commission was told that the

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Respondent would not be appearing at the hearing. For these reasons, the Commission issues an Order of Default against the Respondent and, in accordance with Utah Code Ann. §63-46b-11(4)(a), has conducted the Initial Hearing without the participation of the Respondent and without consideration of any evidence that the Respondent might have proffered at the hearing.

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. For the 2003 tax year, the subject property was assessed at \$\$\$\$\$, but the County BOE reduced the value to \$\$\$\$\$. The Petitioner is asking the Commission to further reduce the value to \$\$\$\$\$, based on adjustments made to four comparable sales.

The subject property is a side-by-side brick duplex with a main floor that is 1,945 square feet and a basement that is 2,022 square feet in size. The basement in only one of the units is finished, so that the total finished basement area is 911 square feet in size. The subject property was built in 1951.

The Petitioner presented a grid sheet with four comparable sales and adjustments for the differences between the comparables and the subject. Three of the comparables were built within 10 years of the date that the subject was built and sold for prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. The Petitioner's fourth comparable sale sold for \$\$\$\$\$, but the comparable is much older and smaller than the subject and the other comparables and does not appear comparable to them. For these reasons, the Commission places little, if any, weight upon comparable #4 and the Petitioner's adjustments to it.

The Petitioner explained how adjustments were made to the comparables on the grid sheet. Concerning comparable #1, the Petitioner explained that its two kitchens had new linoleum floors and one of its kitchen had a new glasstop stove while the subject property's two kitchens had neither of these improvements. The Petitioner's adjustment of \$\$\$\$\$ for the two linoleum floors and one glasstop stove appears too high, however. If a \$\$\$\$\$ adjustment were allowed instead, the Petitioner's adjusted value for comparable #1 would be \$\$\$\$\$ instead of \$\$\$\$\$. In addition, the Petitioner's explanation concerning the difference in "Condition" between the two properties was not convincing. If this adjustment were also disallowed, the adjusted value for the subject property would be \$\$\$\$\$.

On comparable #2, the Petitioner's explanation for a \$\$\$\$\$ adjustment for the "Quality of Construction" on comparable #2 does not appear completely convincing. If only half of this adjustment were allowed, the adjusted value for the subject would be \$\$\$\$\$.

On comparable #3, like the first comparable, the \$\$\$\$\$ adjustment concerning the difference in "Condition" was not adequately explained. Disallowing this adjustment would result in an adjusted value of \$\$\$\$\$.

After disallowing these inadequately explained adjustments, the information provided at the Initial Hearing shows a value for the subject property that ranges from \$\$\$\$\$ to \$\$\$\$\$. All of these values are below the County's BOE value of \$\$\$\$\$. For these reasons, the Commission finds that \$\$\$\$\$ appears to be a reasonable value for the subject property, based on the evidence and testimony proffered at the Initial Hearing.

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

Based on the Petitioner's evidence and testimony only, it appears that the subject property's current value of \$\$\$\$\$ may be incorrect. The Petitioner's information shows that \$\$\$\$\$

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is in the range of values that appear reasonable for the property. For these reasons, the Commission finds that the Petitioner has called into question the County's value and has sufficiently demonstrated a reasonable alternative value.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission issues an Order of Default against the Respondent. Furthermore, based on the evidence and testimony proffered by the Petitioner at the Initial Hearing, the Commission grants the Petitioner's appeal and finds that the fair market value of the subject property should be reduced from \$\$\$\$\$ to \$\$\$\$\$ for the 2003 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. 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 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.

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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

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