

04-0672
Locally Assessed Property Tax
Signed 08/15/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	FINDINGS OF FACT, CONCLUSIONS
Petitioner,)	OF LAW, AND FINAL DECISION
)	
v.)	Appeal No. 04-0672
)	
BOARD OF EQUALIZATION OF)	Parcel No. #####
SALT LAKE COUNTY,)	Tax Year: 2003
STATE OF UTAH,)	Tax Type: Property Tax/Locally Assessed
)	
Respondent.)	Judge: Chapman

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 order, 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: No one appeared
 For Respondent: RESPONDENT REPRESENTATIVE, Salt Lake County Appraiser

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on July 20, 2005. Although notified of the date and time of the hearing, the Petitioner failed to appear. When the Commission telephoned the Petitioner at both telephone numbers provided, no one was available to participate at the hearing. For these reasons, the Commission issues an Order of Default

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against the Petitioner and, in accordance with Utah Code Ann. §63-46b-11(4)(a), conducted the Formal Hearing without the participation of the Petitioner and without consideration of any evidence that the Petitioner might have submitted at the hearing.

Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the fair market value of the subject property as set by Respondent for property tax purposes.
2. The lien date at issue is January 1, 2003.
3. The subject property is parcel number ##### and is located at ADDRESS in CITY, Utah.
4. The subject property is comprised of 0.10 acres of land and a single-family residence with 1,113 square feet of living space above grade and 401 square feet in the basement, which is unfinished. The two-story split-level home was built in 1993, has a two-car garage, and has only one bath.
5. The County originally assessed the subject property at \$\$\$\$\$, which the County BOE sustained.
6. The County submitted as evidence an appraisal prepared by RESPONDENT REPRESENTATIVE, a Certified Appraiser, which was dated August 3, 2004 (Exhibit R-1). In her appraisal, RESPONDENT REPRESENTATIVE estimates that the fair market value of the subject

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property is \$\$\$\$ as of January 1, 2003, the lien date in question. RESPONDENT REPRESENTATIVE compared three comparable sales to the subject to reach her conclusion of value. Each of the three comparables sold at prices ranging between \$\$\$\$ and \$\$\$\$. All of the comparables, however, appears superior to the subject because they are larger in square footage and have either one-half or one-full additional bath. To account for these differences, RESPONDENT REPRESENTATIVE adjusted the comparables, arriving at adjusted values ranging from \$\$\$\$ to \$\$\$\$. Based on these adjusted values, RESPONDENT REPRESENTATIVE concluded that the subject would have a fair market value of \$\$\$\$.

APPLICABLE LAW

1. All tangible taxable property shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provide by law. (Utah Code Ann. Sec. 59-2-103.)

2. “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value. (Utah Code Ann. 59-2-102(12).)

3. (1) 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 commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board. . . (Utah Code Ann. Sec. 59-2-1006(1).)

CONCLUSIONS OF LAW

To prevail in a real property tax dispute, 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). The Petitioner did not participate in the hearing and has not shown that the subject's value is lower than the \$\$\$\$ value set by the County BOE.

The Commission is concerned that the County's appraisal contained no comparable sales that sold near or below the \$\$\$\$ value concluded in the appraisal it submitted. Nevertheless, the appraiser appears to have adjusted for those features that would require adjustment and there is no party present to call into question the amounts of the adjustments. For these reasons, the Commission finds that the County has not only submitted sufficient evidence to call the \$\$\$\$ County BOE value into question, but also to establish a fair market value of \$\$\$\$ for the subject property. Accordingly, the Commission finds that the fair market value of the subject property is \$\$\$\$ for the 2003 tax year.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission issues an Order of Default against the Petitioner. Furthermore, based on the evidence and testimony proffered by the County at the Formal Hearing, the Tax Commission denies the Petitioner's request to lower the fair market value of the subject property, but grants the Respondent's request to raise it. Accordingly, the Commission finds that the fair market value of Parcel No. ##### should be increased 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.

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

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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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