

04-0912  
Locally Assessed Property  
Signed 01/13/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>INITIAL HEARING ORDER</b>
	)	
Petitioner,	)	Appeal No.    04-0912
	)	Parcel No.    #####
v.	)	
	)	Tax Type:    Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF	)	Residential
SALT LAKE COUNTY,	)	Tax Year:    2003
UTAH,	)	
	)	Judge:       Phan
Respondent.	)	

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**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.**

**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE

For Respondent:    RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing on January 5, 2005.

APPLICABLE LAW

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 (1).)

“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. (Utah Code Ann. 59-2-102(11).)

(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).)

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).

#### DISCUSSION

Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes. The lien date at issue in this matter is January 1, 2003. The subject property is parcel no.#####, located at ADDRESS, CITY, Utah. The Salt Lake County Assessor had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. Upon appeal, the Salt Lake County Board of Equalization reduced the value to \$\$\$\$\$. At the hearing Respondent requested that the value remain as set by the County Board of Equalization. Petitioner's representative argued that the value should be reduced some below that set by the County Board, but did not state a requested value.

The subject property consists of an .18-acre lot improved with a Tudor-style residence. The residence was 76 years old and constructed of average grade. It was in average condition on the lien date. The residence has 1233 above grade square feet and 1233 square feet

in the basement. In the basement only 621 square feet are finished. The subject property is located in ( X ) area, which has historically been a desirable residential neighborhood.

Petitioner's representative did not submit an appraisal, nor did she rely on comparable sales submitted previously in the appeal process. Instead she acknowledged that the comparables used by Respondent's representative in her appraisal were good comparables. She indicated, however, that her argument was with some of the appraisal adjustments.

Respondent's representative, RESPONDENT REPRESENTATIVE, had prepared an appraisal of the property and it was her conclusion that the comparables supported the value set by the County Board of Equalization of \$\$\$\$\$. In the appraisal she considered five comparables, all within two blocks of the subject, and all very similar in style, size and age. These comparables had sold for \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. RESPONDENT REPRESENTATIVE, who is a State Licensed Appraiser, made appraisal adjustments for any differences between the subject and comparables. The indicated value range from her comparables after adjustment was \$\$\$\$\$ to \$\$\$\$\$. The appraisal value determined by Respondent was near the bottom of this indicated value range.

Petitioner's representative argued that some of the adjustments should not have been made. She indicated that all sales occurred so near the lien date that the time of sale adjustments would not be warranted and the adjustment for one comparable appeared to be inconsistent with the others. She also argued the age adjustments were not necessary as all comparables were built within a few years of the subject. In addition she questioned whether some of the comparables had been remodeled or updated, but had no information to contest Respondent's representation that there was no major updating of the comparables.

Respondent's representative acknowledged that her date of sale adjustment on her third comparable had been calculated incorrectly. Her third comparable had sold for \$\$\$\$\$

and had an adjusted value for the subject of \$\$\$\$\$. This property sold two months after the lien date and she had calculated the time adjustment as if the property has sold ten months prior to the lien date. RESPONDENT REPRESENTATIVE pointed out that even if corrected the indicated value from this comparable would still be considerably higher than her appraisal conclusion. She also stated that her age adjustments complied with USPAP guidelines.

In this matter, Respondent has presented evidence supporting the value set by the County Board of Equalization and Petitioner then clearly has the burden of proving the value was in error and supporting a lower value. Petitioner argues against some of the adjustments but offers no evidence of a lower value and even if the adjustments that she objected to were eliminated the appraisal value would still be supported by the appraisal range. Further, the Commission finds that Petitioner has not established the adjustments should be eliminated.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2003 is \$\$\$\$\$. It is so ordered.

**The Commission notes that 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 taxpayers wants protected.**

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file 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.

\_\_\_\_\_  
Jane Phan  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The agency 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