

04-0934,35,36 & 05-650,51,52
Locally Assessed Property Tax
Signed 06/06/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal Nos.	04-0934, 04-0935, 04-0936
	)		05-0650, 05-0651, 05-0652
v.	)	Parcel Nos.	#####-1, #####-2, #####-3
)		
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,)		
STATE OF UTAH,	)	Tax Years:	2003, 2004
)		
Respondent.	)	Judge:	Robinson

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:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE

For Respondent: RESPONDENT REPRESENTATIVE, 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 October 25, 2005. Petitioner is appealing the decision of the Board of Equalization for the 2003 and 2004 years. The Board value for the 2003 tax year was \$\$\$\$\$. The Board value for the 2004 tax year was \$\$\$\$\$. The parties agreed to have all the cases heard together.

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They further agreed that any adjustments made should be made to #####-1, which is the parcel where the house is located, and not to the other adjacent parcels, which are vacant land.

DISCUSSION

Petitioner's Representative, PETITIONER REPRESENTATIVE, is not licensed or certified to do appraisals. She stated she was not compensated in any form for the work she did. Because she is not licensed or certified to do appraisals, which includes selecting comparable properties and making adjustments to value, her evidence may not be given the same weight as that of a licensed appraiser. RESPONDENT REPRESENTATIVE, Respondent's representative, is a licensed appraiser.

PETITIONER REPRESENTATIVE argued that the subject property's overall condition was very good, not excellent, as listed in County records. She also said the overall grade was good, rather than excellent, as listed in County records. She did not offer evidence, other than her opinion, in support of her position.

PETITIONER REPRESENTATIVE submitted information on the sale of eight comparable properties. RESPONDENT REPRESENTATIVE submitted information on the sale of five comparable properties. None are from the subject's neighborhood. RESPONDENT REPRESENTATIVE added information from the MLS about two other properties in the subject's neighborhood. One is from ½ to one mile from the subject. It was listed at \$\$\$\$\$. The other is one block away. It was listed "as-is" at \$\$\$\$\$. The interior was framed, not finished. Construction was not complete.

RESPONDENT REPRESENTATIVE said Petitioner's comparable number one was priced at land value. Petitioner's comparable number two was on STREET 1, which is not a comparable area.

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Petitioner's comparable number three sold on February 22, 2005. This is a post lien date sale. Prior to the sale it was used as an (X). After the sale it became a (X). Both are commercial uses.

Petitioner's comparable number four was built in 1971 and is in an area of older homes. Petitioner's comparable number 5, built in 1978, sold "as-is" and has potential commercial use.

Petitioner's comparable number six is in (X). RESPONDENT REPRESENTATIVE said he would not use it as a comparable. It is half the size of the subject and sits on approximately 1/3 the land.

Petitioner's comparable number seven is in an area of mixed homes. Petitioner's comparable number eight is a smaller home and lot in an area different from the subject.

Petitioner's comparables had adjusted values ranging from \$\$\$\$\$ to \$\$\$\$\$.

Respondent's comparables were drawn from Salt Lake County. Though they are not in the same neighborhood as the subject, they were selected based on their overall similarity.

Respondent's comparable number one is on a smaller parcel. RESPONDENT REPRESENTATIVE did not adjust for the difference in lot size, as some of the subject is steep enough to be unusable.

Respondent's comparable number two is a post lien date sale, as is Respondent's comparable number three. Comparable number three is situated above the (X).

RESPONDENT REPRESENTATIVE said his comparable number three was most like the subject. The lots are similar in size and usability. Both are two story modern homes of excellent construction quality. The subject is two years newer. Both are in very good condition. Comparable three

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sold for \$\$\$\$ on August 12, 2005. It is smaller in size than the subject and has fewer rooms. RESPONDENT REPRESENTATIVE adjusted its value to \$\$\$\$.

Respondent's comparable number four is also a post lien date sale. It, too, is similar in several respects to the subject.

Respondent's comparable number five sold in December of 2002. The usable land area is similar to the subject. It is slightly larger than the subject.

RESPONDENT REPRESENTATIVE said one of the difficulties in comparing the subject to other homes is that they tend to have a variety of custom features that vary in cost and market appeal. This causes the adjusted range of values to be larger. Respondent's comparables range from \$\$\$\$ to \$\$\$\$. The value he derived for the subject was \$\$\$\$.

RESPONDENT REPRESENTATIVE also did a cost approach. He used Marshall and Swift as his source for cost data. Based on his calculations, the value indicated by the cost approach is \$\$\$\$.

RESPONDENT REPRESENTATIVE made time adjustments based on the percent change increase in market value statistics provided by the Salt Lake County Assessor's Office. Based on his appraisal, he recommended a value of \$\$\$\$ for 2003 and \$\$\$\$ for 2004.

The original market value of the subject was \$\$\$\$ for 2004. The Board of Equalization value was also \$\$\$\$ for 2003, the value was \$\$\$\$.

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).

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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).

DECISION AND ORDER

The Commission finds the Petitioner's evidence does not support the value sought by Petitioner, \$\$\$\$\$. Respondent's sales comparison approach and cost approach are consistent with the value set by the Board of Equalization for the 2004 tax year. The Commission sustains the value of \$\$\$\$\$ for the 2004 tax year.

RESPONDENT REPRESENTATIVE recommended a \$\$\$\$\$ reduction in value, from \$\$\$\$\$, to \$\$\$\$\$ for the 2003 tax year. Based on this, the Commission finds the value for the 2003 tax year is \$\$\$\$\$. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

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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 _____, 2006.

R. Spencer Robinson
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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

RSR/ssw/05-0652.int