

04-1425
Locally Assessed Property Tax
Signed 05/05/2005

BEFORE THE UTAH STATE TAX COMMISSION

| | | | |
|----------------------------|---|--------------|--------------|
| PETITIONER, |) | | |
| |) | Order | |
| Petitioner, |) | | |
| |) | Appeal No. | 04-1425 |
| v. |) | | |
| |) | Parcel. No. | ##### |
| BOARD OF EQUALIZATION |) | | |
| OF SALT LAKE COUNTY, UTAH, |) | Tax Type | Property Tax |
| |) | | |
| Respondent. |) | Tax Year | 2004 |

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE

For Respondent: RESPONDENT REPRESENTATIVE, Salt Lake County
Assessor's Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5 on February 10, 2005.

The Salt Lake County Assessor's Office originally valued the subject property at \$\$\$\$\$. Upon appeal to the Salt Lake County Board of Equalization, the Board adjusted the value to \$\$\$\$\$.

The subject property is a single-family residence located on the northeast corner of ADDRESS, in CITY, Utah. Traffic at that location is heavy. The house is in average to fair condition. The upstairs bathroom needs flooring and some pieces of exterior siding are missing on the back of the house.

PETITIONER REPRESENTATIVE is a part owner of the subject property. He is also a licensed appraiser. He said because of the condition of the subject, it is like a bank-owned home. He offered an appraisal comparing the subject to three other properties.

His first comparable is located .72 miles from the subject. Photographs of the two properties show similarity in the design. Both have three bedrooms and two bathrooms. Adjusted to the subject, PETITIONER REPRESENTATIVE valued his comparable number one at \$\$\$\$\$. PETITIONER REPRESENTATIVE provided two other comparable properties within one mile of the subject. The adjusted values he assigned to them were \$\$\$\$\$ and \$\$\$\$\$. His comparables one and two were bank owned. Based on the foregoing, he estimated the market value of the subject at \$\$\$\$\$.

Respondent also provided an appraisal. RESPONDENT REPRESENTATIVE'S comparable number one is located within .75 miles of the subject. RESPONDENT REPRESENTATIVE adjusted its value to the subject at \$\$\$\$\$. He also provided two other comparables. Each is 1.75 miles from the subject, with adjusted values of \$\$\$\$\$ and \$\$\$\$\$.

Petitioner's comparable numbers one and two, and Respondent's comparable number one are closest to the subject. They appear to be better comparables than Petitioner's number three or Respondent's comparables number two and three.

APPLICABLE LAW

Article XIII, section 1 (1) of the state constitution states that:

[a]ll tangible property in the state, not exempt under the laws of the United States, or under this Constitution, shall be taxed at a uniform and equal rate in proportion to its value, to be ascertained as provided by law.

Utah Code Ann. §59-2-103 states in pertinent part:

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 provided by law.

DISCUSSION

Petitioner has the burden of proof. To prevail on the issue of valuation, 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).

PETITIONER REPRESENTATIVE acknowledged his partial ownership of the subject property. This raises a question regarding the objectivity of his appraisal. Additionally, two of his comparables were bank owned. His comparables two and three do not seem to be as much like the subject as his comparable number one. Moreover, Petitioner's proposed value of \$\$\$\$\$ is within 5% of the value sustained by the Board of Equalization. This is something on which reasonable minds could differ. Such a difference is not sufficient to sustain Petitioner's burden of establishing error.

The Commission finds, however, that it is not appropriate to raise the value on appeal to Respondent's proposed value of \$\$\$\$\$. Using what appear to be the best comparables from the two appraisals, the value of the subject would be approximately \$\$\$\$\$. This is within less than 2% of the value sustained by the Board of Equalization.

DECISION AND ORDER

On the evidence and testimony presented, the Commission finds the value to be \$\$\$\$\$. 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.

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 _____, 2005.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Appeal No. 04-1425

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

SR/04-1425.int