

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.

...

- (4) In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

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 presumption of correctness for the original valuation does not arise unless and until available evidence supporting the original property valuation is submitted to the Commission. *Utah Railway Company, v. Utah State Tax Commission*, P.3d 652 (Utah 2000).

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, 2004.

The subject property is parcel no. #####, located at ADDRESS, Kane County, Utah. It is a 91.62 tract of undeveloped land, consisting of mostly wooded, hilly terrain. The Kane County Assessor had originally set the value of the subject property, as of the lien date at \$\$\$\$\$ and the County Board of Equalization reduced the value to \$\$\$\$\$. On the appeal form, Petitioner requested that the value be further reduced to \$\$\$\$\$ or \$\$\$\$\$ an acre. At the hearing the Petitioner argued that the property values had significantly increased from the prior tax year and that the increase was beyond a reasonable amount. Petitioner presented information on a 40-acre parcel that is a few miles south of the subject. It was assessed for about \$\$\$\$\$ an acre. She asserted that this parcel is a better reflection of farmland property for this area.

Respondent explained that the county had not reappraised properties in this area in the last five years. The large increase in value was due to the county's reappraisal program that requires properties to be brought up to market value within a five year cycle. Respondent also argued that the value should be raised back to the original assessment of \$\$\$\$\$ or \$\$\$\$\$ an acre. Respondent presented a list of sales in the (X) area. The only sale of comparable size was an 80-acre sale for \$\$\$\$\$ an acre. There were other sales of smaller parcels for a range of \$\$\$\$\$ to \$\$\$\$\$ an acre. The 80acre parcel was much further along in development and had power and utilities.

The Commission finds that neither Petitioner nor Respondent provided persuasive arguments based on their respective comparable assessments or sales. Petitioner's graze land parcel is a more isolated parcel and does not represent farmland property adjacent to prime recreational property that has already started to be developed. Respondent's comparables are recreational properties that have utilities, water development and roads in an area that has already begun developing as a recreational community. While those sales provide some support for the assessor's original assessment, they do not show that the original assessment is more accurate than the value set by the BOE. Since no adjustments were made, the Commission is

unable to determine whether the BOE adjusted value or the original assessment was more accurate. In the absence of either party finding a better value, the Commission finds that the appropriate representation of market value for the property is the value set by the Board of Equalization.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the decision of the BOE and finds the value of the subject property as of January 1, 2004 is \$\$\$\$\$.

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.

Palmer DePaulis
Commissioner

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

Marc B. Johnson
Commissioner