

04-1502  
Locally Assessed Property Tax  
Signed 09/13/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>Initial Hearing Decision and Order</b>	
	)		
Petitioner,	)	Appeal No.	04-1502
	)		
v.	)	Parcel No.	#####
	)		
Board of Equalization of Kane	)	Tax Type	Property Tax
County, Utah,	)		
	)	Tax Year	2004
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. 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:**

Marc B. Johnson, Commissioner  
Palmer DePaulis, Commissioner

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE 1  
                          PETITIONER REPRESENTATIVE 2  
For Respondent:   RESPONDENT REPRESENTATIVE 1, Deputy Assessor  
                          RESPONDENT REPRESENTATIVE 2, Appraiser

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 June 28, 2005. The issue in this proceeding is the fair market value of the subject property as of January 1, 2004. The property is located in on ( X ), ( X ) of Kanab, Utah. The property is a 55.65-acre tract of vacant recreational land. The Kane County Assessor had originally assessed the land at \$\$\$\$\$. The Board of Equalization (BOE) sustained that value. Petitioner is requesting a valuation of \$\$\$\$\$.

### 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, 2004 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.)

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 argued that the land should be reduced because the terrain consisted largely of washes and gullies. Although the appeal form stated there was an appraisal done by Kane County for property in the same vicinity that the county had rescinded as a gift from Petitioner, the appraisal was not submitted.

The Respondent presented several sales in the same area. The sales ranged in size from 10 to 40 acres and in value from \$\$\$\$\$ to roughly \$\$\$\$\$ per acre. The unit value of the subject property is \$\$\$\$\$ per acre. The largest of the comparable sales was 40 acres in size and sold for \$\$\$\$\$ or \$\$\$\$\$ per acre. It is on the other side of ( X ), appearing to be in a less developed area.

The Commission finds that the Taxpayer has not provided a reasonable estimate of the fair market value of subject property. In contrast, the value used by the Assessor is lower than the values of comparable sales in the same area.

DECISION AND ORDER

The Commission finds that the Petitioner has not shown compelling errors in the Respondent's appraisal and has not established a better value for the property. On the evidence and testimony presented, the Commission finds the fair market value of the subject property to be \$\$\$\$ per parcel as of January 1, 2004. The decision of the Kane County Board of Equalization is sustained.

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.

BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
Marc B. Johnson  
Commissioner

The undersigned Commissioners have reviewed this matter and concur in this decision.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner