

04-1509
Locally Assessed Property Tax
Signed 08/30/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 04-1509
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	
KANE COUNTY,)	Tax Year: 2004
UTAH,)	
)	Judge: DePaulis
Respondent.)	

Presiding:

Palmer DePaulis, Commissioner
Marc Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE 1, Deputy Assessor, Kane
County
RESPONDENT REPRESENTATIVE 2, Appraiser, Kane 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 June 29, 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).)

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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).

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. ##### comprising 10 acres, located at ADDRESS in Kane County. 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 sustained the value. On the Appeal form, Petitioner requested that the value be reduced to \$\$\$\$\$. At the hearing Petitioner described the only improvement on the property as a Tuff Shed that was purchased for \$\$\$\$\$ in 1996 and has a current value of \$\$\$\$\$. Petitioner notes that the shed is not a residence and it is only used for storage. It does not have any utility connections. Petitioner notes that the value of the improvements last year was \$\$\$\$\$ and that it has increased over 225%.

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Respondent explained that the value of the land and improvements was listed for \$\$\$\$\$. The respondent also noted that the Petitioner's 2004 tax notice listed both the value of the land and the improvements **together** rather than separately as the county had done in the prior year. This change in reporting apparently caused confusion for the Petitioner. Once the respondent explained that the improvements alone had not increased from \$\$\$\$\$ to \$\$\$\$\$ the Petitioner agreed that there was no need to continue with the appeal.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2004 is \$\$\$\$\$. The County Auditor is ordered to adjust its records in accordance with this decision.

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.

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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

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