

04-1510
Locally Assessed Property Tax
Signed 08/30/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2)	INITIAL HEARING ORDER
)	
Petitioners,)	Appeal No. 04-1510
)	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 2
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Kane County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was scheduled for 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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(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).

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, CITY, Utah. 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 maintains that the value of the property is inflated and that it is inconsistent with the value assessed on surrounding cabins. The petitioner also stated that the Assessor had incorrectly figured the square footage of the cabin and that the cabin was only 1260 square feet instead of 1600 square feet. Finally, the Petitioner presented a four-year-old appraisal of the cabin for \$\$\$\$\$. The Petitioner did not offer her own opinion of value. The Respondent stated that the CITY cabins have increased in value in the last several years and that the County does a reappraisal every five years

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and updates the values. Most of the increase is attributable to the reappraisal effort. He also presented three cabin properties in the area that were inferior to the subject but sold for more per square foot than the subject property. Respondent noted that the property has been increased in size, but acknowledged the dispute over the actual square footage of the cabin. In his hearing testimony he agreed to check the square footage to make sure that it is correct.

In a post-hearing memo dated July 20, 2005, the Deputy Assessor, (X), stated that he had inspected the Petitioner's cabin and measured the square footage. The actual square footage is 1272 square feet, which represents a reduction of 328 square feet from his original assessment. Consequently the Respondent is now asking for a value of \$\$\$\$\$.

DECISION AND ORDER

The Commission finds that the Petitioner's appraisal of the property in the year 2000 is outdated and does not offer a convincing reason to reduce the value. In fact, if the appraisal were updated to the lien year for appreciation in the market, the value would likely be very close to the figure that the Assessor has now established. The Commission therefore 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.

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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

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