

05-0084
Locally Assessed Property Tax
Signed 08/02/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 05-0084
)	
v.)	Parcel No. #####
)	Tax Type: Property Tax/Locally
BOARD OF EQUALIZATION)	Assessed
OF SALT LAKE COUNTY,)	
STATE OF UTAH,)	Tax Year: 2004
)	
Respondent.)	Judge: Robinson

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *pro se*

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner appealed the decision of the Salt Lake County Board of Equalization valuing the above noted parcel. The parties participated in an Initial Hearing, pursuant to the provisions of Utah Code Ann. §59-2-501.5 on April 25, 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 provided by law. (Utah Code 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 Sec. 59-2-102(12).)

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. (Utah Code Sec. 59-2-1006(1).)

Per the Utah Supreme Court, Petitioners' burden under Utah Power & Light Co. v. Utah State Tax Commission, 590 P.2d 332 (Utah 1979), is in two parts. "Where the taxpayer claims error, it has an obligation, not only to show substantial error or impropriety in the assessment but also to provide a sound evidentiary basis upon which the Commission could adopt a lower valuation." The Court reaffirmed this standard in Nelson v. Board of Equalization, 943 P.2d 1354 (Utah 1997).

DISCUSSION

The subject property is a single-family dwelling located at ADDRESS in CITY, Utah. It is a 28-year-old 3,286 square foot rambler in average condition. The upper floor consists of 1,654 square feet. The basement consists of 1,632 square feet, of which 1,300 square feet are finished. The lot is .38 acres in size. The Board of Equalization sustained a value of \$\$\$\$\$. Petitioner appeals that value, proposing a value of \$\$\$\$\$.

Both parties submitted appraisals in support of their values. Of all the comparables adjusted to the subject, Petitioner's comparable number two is closest to the subject property. It is a rambler located .04 tenths of a mile from the subject on STREET. The lot size is the same. The sale price was \$\$\$\$\$. It sold in August of 2004. The adjusted value is \$\$\$\$\$. Of the comparables in both appraisals, this one seems the best.

Petitioner's other two comparables were further from the subject. Comparable number one was .51 miles north of the subject. Comparable number three is 1.34 miles from the

subject. It is north and east of the subject. Comparable number one sold for \$\$\$\$\$. Petitioner adjusted its value to \$\$\$\$\$. Comparable number three sold for \$\$\$\$\$. Petitioner adjusted its value to \$\$\$\$\$.

Petitioner also submitted information on a property next door to the subject. Like the subject, it is a rambler located on .38 of an acre. It has a total of 3,180 square feet. It was built in 1979. It was listed on February 7, 2003. It sold for \$\$\$\$\$ on September 2, 2003. Respondent said if this was a good sale, it is a good comparable. However, Respondent did not know if it was a good sale. Petitioner did not use it in his appraisal or adjust it to the subject property, though Petitioner included the MLS information as the last page in Petitioner's appraisal.

Respondent's appraisal also contains three comparables. All are in the same area, eight to ten blocks west of the subject. Respondent's comparables one, two and three sold for \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. Their adjusted prices are \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively.

Petitioner submitted interior photographs of the subject. Respondent gave them little credibility, as RESPONDENT REPRESENTATIVE was denied access to the interior of the subject.

DECISION AND ORDER

Petitioner's appraisal places the value of the property at \$\$\$\$\$. The Respondent's appraisal places the value at \$\$\$\$\$. Both are below the Board of Equalization value of \$\$\$\$\$. Therefore, the evidence shows "a substantial error or impropriety in the assessment."

Appraisals, while prepared by qualified professionals following principles underlying the art of appraising, are subjective opinions. The difference of opinion here is not

legally significant. However, since both show the Board of Equalization value was in error, the question is, what value does the evidence support?

The Respondent's appraisal uses comparables that are close to each other and are part of the same neighborhood as the subject. One of Petitioner's comparables sold in 2005, requiring a sixteen-month adjustment. It is also the furthest from the subject. Another is across a deep gully from the subject. The Commission finds Respondent's comparables are more representative of values in the subject property's neighborhood.

The Commission is aware of several additional sales provided by the Petitioner at the time of the hearing. However, these were not provided to the Respondent prior to the hearing and have not been adjusted to the subject property. Therefore, they have not been considered in this decision.

Based on the foregoing, the Commission finds the value of the subject property is \$\$\$\$\$. The Salt Lake County Auditor is hereby ordered to adjust its value in accordance with this decision. It is so ordered.

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.

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

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner