

05-0158
Locally Assessed Property Tax
Signed 05/16/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 05-0158
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	
SALT LAKE COUNTY,)	Tax Year: 2004
UTAH,)	
)	Judge: Phan
Respondent.)	

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:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1
 PETITIONER REPRESENTATIVE 2, Certified Appraiser
For Respondent: RESPONDENT REPRESENTATIVE, Certified Appraiser, Salt
 Lake 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 April 20, 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).)

(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 1, Utah. The Salt Lake County Board of Equalization had originally set the value of the subject property, as of the lien date at \$\$\$\$\$ and the County Board of Equalization sustained the value.

The subject property is a .15-acre lot improved with a side-by-side, Tudor style, duplex. The duplex is 70 years old and in fair condition. It was built of average quality of construction. The building has 1,568 square feet above grade with approximately 300 square feet of basement finish. Each unit has one bathroom and two bedrooms. The second bedroom is in the basement. Although the County records indicate the subject has a full basement, Petitioner's representative indicates the property has only a partial basement.

On the Appeal form, Petitioner requested that the value be reduced to \$\$\$\$\$. However, at the hearing Petitioner submitted an appraisal that indicated the value for the subject property was \$\$\$\$\$. Petitioner also argued that he had filed the appeal because of a \$\$\$\$\$ increase in value from the prior year and that the Tax Notice had indicated the average value in the neighborhood of the subject was \$\$\$\$\$.

The appraisal submitted by Petitioner had been prepared by PETITIONER REPRESENTATIVE 2, certified Appraiser. PETITIONER REPRESENTATIVE 2 was also present at the hearing to explain his appraisal value. It was PETITIONER REPRESENTATIVE 2's opinion that the best approach for valuing the subject property was the comparable sales approach. He listed three comparable sales of side-by-side duplexes within five blocks of the subject property. They had sold for \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. The property that sold for \$\$\$\$\$ was located at ADDRESS 2. This property had a small addition prior to the sale and PETITIONER REPRESENTATIVE 2 considered it to be in better condition than the subject property. He indicates that he discovered the county information concerning this comparable as far as size was in error as it was inconsistent with the listing information. After finding the

inconsistency he had personally measured the ADDRESS 2 comparable from the exterior and looked in windows to determine basement finish. It was his position that this comparable had 2495 square feet of gross living area, with 1375 above grade and 1125 finished square feet in the basement. Comparing this to the subject property, the ADDRESS 2 comparable had a larger gross building area at 2,495 square feet compared to the 1,897 square feet of the subject. However, the ADDRESS 2 comparable had less above grade square feet at 1375, compared to the 1,568 square feet above grade of the subject. It was PETITIONER REPRESENTATIVE 2's position that whether the finished square feet was above or below grade did not make a value difference in this type of rental property and there was not a place to separate above from below grade finished space on the appraisal form. The indicated value for the subject property resulting from the ADDRESS 2 sale was \$\$\$\$\$.

PETITIONER REPRESENTATIVE 2's other comparables were in poor condition at the time of the sale. His comparable at ADDRESS 3 was similar as far as gross building area and number of bedrooms and bathrooms per unit. The third comparable on ADDRESS 4 had only one bedroom per unit. His conclusion from the sales was that the value for the subject property as of the lien date was \$\$\$\$\$.

Respondent's appraisal in this matter had been prepared by RESPONDENT REPRESENTATIVE, Certified Appraiser. RESPONDENT REPRESENTATIVE considered four comparables in her appraisal. Her comparables had sold for \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. The two middle properties, the ones that sold for \$\$\$\$\$ and \$\$\$\$\$ are of a different age and style from the subject property and not as comparable. Also, the photograph appears to conflict with RESPONDENT REPRESENTATIVE'S testimony concerning the number of units of the third comparable. The property that sold for \$\$\$\$\$ was the same ADDRESS 2 property that had been used by PETITIONER REPRESENTATIVE 2 in his appraisal. However,

RESPONDENT REPRESENTATIVE had an incorrect number for the size and basement finish for this property and as well as the size of the basement for the subject. The property that sold for \$\$\$\$\$ was located at ADDRESS 5. It was similar as far as age, although it was more of the craftsman style duplex with a large covered front porch for each unit. This ADDRESS 5 property had a significantly larger gross building area with more bedrooms per unit than the subject property. One of the units had three bedrooms while the other had four. The ADDRESS 5 property was also in better condition than the subject property. It was RESPONDENT REPRESENTATIVE'S conclusion from these comparables that the value for the subject property was \$\$\$\$\$.

Upon review of the appraisals submitted, the comparables relied on by RESPONDENT REPRESENTATIVE were less comparable to the subject. The property on ADDRESS 5 was superior and above the range of any of the other comparables. Two other comparables were of a different age and style. Her fourth comparable, at ADDRESS 2 was a good comparable for the subject, but she had made adjustments based on incorrect size and basement finish information. In her appraisal she had considered this property to be smaller than the subject. She had not measured this comparable and was relying on county records as to the size. Her indicated value from this property was \$\$\$\$\$. PETITIONER REPRESENTATIVE 2's appraisal indicated that this comparable was, in fact, larger than the subject property as far as finished area and his indicated value was \$\$\$\$\$. Most of the difference between the two appraisals concerning the ADDRESS 2 comparable comes from the size. As PETITIONER REPRESENTATIVE 2 was the only appraiser to measure the comparable and the Commission has concerns with the other comparables in RESPONDENT REPRESENTATIVE'S appraisal, the Commission finds the weight of the evidence supports PETITIONER REPRESENTATIVE 2's value of \$\$\$\$\$.

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.

Jane Phan
Administrative Law Judge

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

Appeal No. 05-0158

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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