

05-0233
Locally Assessed Property Tax
Signed 06/22/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
v.)	Appeal No. 05-0233
)	
)	Parcel No. #####
BOARD OF EQUALIZATION)	Tax Type: Property Tax/Locally Assessed
OF SALT LAKE COUNTY,)	Tax Year: 2004
STATE OF UTAH,)	
)	Judge: Chapman
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 notice, 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:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER and PETITIONER REPRESENTATIVE

For Respondent: No one appeared

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 20, 2005. Although notified of the date and time of the hearing, the Respondent failed to appear. Although the Commission telephoned the County Assessor's Office to inquire about the Respondent's appearance at the time of hearing, no one

appeared on the Respondent's behalf. For these reasons, the Commission issues an Order of Default against the Respondent and, in accordance with Utah Code Ann. §63-46b-11(4)(a), conducted the Initial Hearing without the participation of the Respondent and without consideration of any evidence that the Respondent might have proffered at the hearing.

At issue is the fair market value of the subject property as of January 1, 2004. The subject property is a four-plex located at ADDRESS 1. For the 2004 tax year, the subject property was assessed at \$\$\$\$\$, which the County BOE sustained. Although the Petitioner does not present evidence that shows the subject's fair market value to be lower than the \$\$\$\$\$ assessed value, he argues that the value is too high based on an equalization argument; i.e., that the subject property's assessed value is higher than that of other comparable four-plexes in the neighborhood.

APPLICABLE LAW

1. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. §59-1-210(7).

2. 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 Tax Commission. In reviewing the county board's decision, the Commission may admit additional evidence, issue orders that it considers to be just and proper, and make any correction or change in the assessment or order of the county board of equalization. Utah Code Ann. §59-2-1006(3)(c).

3. Petitioner has the burden to establish that the market value of the subject property is other than the value determined by Respondent.

4. To prevail, 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), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

5. UCA §59-2-1006(4) provides that “. . . 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.”

DISCUSSION

Section 59-2-1006(4) provides that the Commission shall equalize a property's assessed value for property tax purposes if a taxpayer meets two conditions: (1) raise the issue of equalization; and (2) show that the assessed value deviates plus or minus 5% from the assessed value of comparable properties. The Petitioner raises the issue of equalization at the Initial Hearing and meets the first condition.

To meet the second condition, the Petitioner proffers four properties that it contends are comparable to the subject property, but which were assessed significantly less in

2004 property taxes than that assessed to the subject property. Assessed at a value of \$\$\$\$ and subject to a .015150 tax rate, the primary residential subject property was assessed \$\$\$\$ (\$\$\$\$, to be exact) in property taxes. The Petitioner proffered that four different four-plexes in the subject's neighborhood that were assessed significantly less taxes than the subject for the 2004 tax year, with their respective addresses and tax assessments, as follows: 1) ADDRESS 2, assessed taxes of \$\$\$\$; 2) ADDRESS 3, assessed taxes of \$\$\$\$; 3) ADDRESS 4, assessed taxes of \$\$\$\$; and 4) ADDRESS 5, assessed taxes of \$\$\$\$.

The Petitioner also contends that each of these properties was subject to the same tax rate as the subject property, which, if true, would result in assessed values of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively, for the four comparable properties. The highest of these assessed values, the one closest to the subject's assessed value, is \$\$\$\$\$, which is more than 10% less than the \$\$\$\$ set for the subject property by the County BOE.

The Petitioner did not participate in the Initial Hearing and, accordingly, did not dispute the Petitioner's contentions concerning the tax rates associated with the comparable properties and the similarity of the comparable properties to the subject property. Nor did the County proffer any assessments to show that other comparable four-plexes were assessed within 5% of the value at which the subject was assessed. Although there is no evidence to suggest that the subject property's fair market value is less than its \$\$\$\$ assessed value, the limited evidence available at the Initial Hearing indicates that the \$\$\$\$ assessed value is not within 5% of the value at which other comparable properties are assessed. Accordingly, the Commission finds

Appeal No. 05-0233

that the subject's fair market value should be reduced to \$\$\$\$\$ for the 2004 tax year so that the subject's value is equalized with other comparable properties.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission issues an Order of Default against the Respondent. Furthermore, based on the evidence and testimony proffered by the Petitioner at the Initial Hearing, the Commission grants the Petitioner's appeal and finds that the subject's \$\$\$\$\$ assessed value requires equalization to other similar properties. For this reason, the Commission finds that the subject's \$\$\$\$\$ assessed value should be reduced to \$\$\$\$\$ for the 2004 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

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.

Appeal No. 05-0233

DATED this _____ day of _____, 2005.

Kerry R. Chapman
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

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