

05-0285
Locally Assessed Property Tax
Signed 12/13/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	ORDER FROM INITIAL HEARING
)	
Petitioner,)	Appeal No. 05-0285
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	
SALT LAKE COUNTY, UTAH,)	Tax Year: 2004
)	
Respondent.)	Judge: Rees
)	

Presiding:

Irene Rees, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE, Attorney, and PETITIONER, Property Owner

For Respondent: RESPONDENT REPRESENTATIVE 1, Appeals Manager, and RESPONDENT REPRESENTATIVE 2, Appraiser, Assessor's Office

STATEMENT OF THE CASE

The subject property is a single family residence located at ADDRESS 1 in CITY. The 896 sq. ft. home, built in the 1920's, sits on 1.13 acres of land. The home has an unfinished basement that is subject to occasional water infiltration due to the proximity of the nearby Surplus Canal.

The Assessor valued this property at \$\$\$\$\$. That value was affirmed by the Board of Equalization. Petitioner brought an appeal of that decision to the Tax Commission, requesting that the Commission set a value not greater than \$\$\$\$\$. At the hearing, the Respondent sought an increase in the value to \$\$\$\$\$.

APPLICABLE LAW

With regard to an appeal of the assessed value, Petitioner has the burden to establish that the market value of the subject property is other than that as determined by Respondent. Utah Admin. R. R861-1A-7(G). 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 did not offer an appraisal on the property. Instead he offered three theories to support his request for adjustment. First, Petitioner relies on a stipulated agreement that he entered with the County for the 2001 tax year. That agreement fixed the value of the property for that year at 2001 at \$\$\$\$ Petitioner claims that nothing has changed to warrant an increase in the value of his home.

Respondent rejects the agreement, stating it is not relevant evidence on the 2004 value. We agree with Respondent. In approving the agreement between the parties concerning the 2001 assessment, the Commission presumed that the parties negotiated that agreement in good faith, and that each entered into the agreement from a position that best protected their own interests. There was no hearing on the merits and the Commission made no independent determination whether the agreement accurately reflected the property's fair market value in 2001. Moreover, market conditions change from year to year, even if the subject property does not. Utah law requires the Assessor to set a value for each property each year using appraisal techniques that are reasonably calibrated to account for market fluctuations from year to year. The 2001 stipulated value carries no weight in our decision concerning the 2004 year.

Second, Petitioner claims that the County ignored most sales in the neighborhood that, had they been considered, would have shown that the value of this property has not increased over the past several years. To support this argument, Petitioner accessed information from the Wasatch Front Multiple Listing Service concerning all MLS sales in the ##### zip code. The reports indicate quarterly market fluctuations from 2002 through the third quarter of 2005. The report also recaps the percentage of change on an annual basis. For instance, the report indicates that the average price of homes in zip code ##### remained fairly flat from 2002 through 2004. Petitioner's evidence also included a report indicating all sales listings in the ##### zip code by price range. The report indicates that although there were listings in higher price ranges, most of the sales were for prices under \$\$\$\$.

This evidence gives a general snap shot of the market activity for homes in a large area of the west side of CITY and Salt Lake County. However, the report is apparently derived from all MLS sales, including distressed sales, such as foreclosures, that may have been under-market sales. Under-market

sales would drag the average price downward. The report also includes neighborhoods that may be less desirable than Petitioner's immediate neighborhood or that may experience different market trends. This information does little to help pinpoint the market value of the subject property, which is the task before us here.

Third, Petitioner offered unadjusted sales of properties that are located on the west side of CITY within a reasonable distance of the subject property. This evidence tends to show that homes selling for prices at or above \$\$\$\$ are much larger than the subject property. Respondent points out that the lot sites of all of these properties are significantly smaller than Petitioner's 1.13 acre of land.

These comparable sales are not directly comparable to the subject property without adjustment for size of the home, size of the lot, and other features. These listings identify only the most general of features, making a careful comparison impossible, but it may be useful to work through some examples using rough adjustments to illustrate this concept. For purposes of illustration, the sales of two cottage bungalow properties at (1) ADDRESS 2; and (2) ADDRESS 3 are used as examples. The listings state total square footage of each home. Because these homes likely have basements that may be roughly the same size as the main floor, the above ground living space is considered 50% of the total living space in the following examples. The adjustment for above grade living space is calculated at \$\$\$\$/sq. ft. and the below grade adjustment is calculated at \$\$\$\$/sq. ft. The land adjustment is calculated at \$\$\$\$/acre. (These adjustments approximate the adjustments made by the County's appraiser in his appraisal report.)

#1	ADDRESS 2	
	Above grade adjustment:	1032 - 896 = - 136 sq. ft. * \$\$\$\$ = - \$\$\$\$
	Below grade adjustment:	1032 - 0 = - 1032 sq. ft. * \$\$\$\$ = - \$\$\$\$
	Land adjustment:	1.13 ac. - .15 ac. = .98 ac. * \$\$\$\$ = + \$\$\$\$
	Adjusted sales price:	\$\$\$\$ - \$\$\$\$ - \$\$\$\$ + \$\$\$\$ = \$\$\$\$

#2	ADDRESS 3	
	Above grade adjustment:	990 - 896 = - 94 sq. ft. * \$\$\$\$ = - \$\$\$\$
	Below grade adjustment:	990 - 0 = -990 sq. ft. * \$\$\$\$ = - \$\$\$\$
	Land adjustment:	1.13 ac. - .18 ac. = .95 ac. * \$\$\$\$ = + \$\$\$\$
	Adjusted sales price:	\$\$\$\$ - \$\$\$\$ - \$\$\$\$ + \$\$\$\$ = \$\$\$\$

These examples demonstrate that Petitioner's home may actually sell for more than the larger homes in the area due to the size of the lot. As explained above, these examples are for illustrative purposes only and we do not rely on these calculations in this decision.

The Respondent's appraisal report was developed on the comparisons of three sales in the area of the subject property. The sales, which all took place within months of the 2004 lien date of January 1, 2004, establish an unadjusted range of sales for cottage bungalow homes in the area between \$\$\$\$\$ to \$\$\$\$\$ and an adjusted price range of \$\$\$\$\$ to \$\$\$\$\$. Although the \$\$\$\$\$/sq. ft. above grade adjustment seems conservative compared to the typical adjustments we see in County appraisal reports, Petitioner did not challenge the adjustments. However, a higher adjustment of, say, \$\$\$\$\$/sq. ft. would not have significantly changed the adjusted values. Had the appraiser used \$\$\$\$\$/sq. ft., the adjusted values would be: (1) \$\$\$\$\$; (2) \$\$\$\$\$; and (3) \$\$\$\$\$.

Another important feature of the appraisal is the conservative land adjustment, which works in Petitioner's favor. The appraiser treated Petitioner's acreage as if it constituted a single building lot even though the acreage lends itself to subdivision. In fact, a large lot east of the subject on STREET was subdivided and developed into a six home cul-de-sac. The appraiser, then, could have designated a much higher land value adjustment to account for Petitioner's excess acreage - that acreage over and above the typical lot size in the area that could be used for new development, but he did not.

Additionally, the County's appraiser submitted land sales that tend to show that the \$\$\$\$\$/acre adjustment is very conservative. In particular, there were two land sales on STREET near the subject property. One is a .43 acre flag lot, meaning that it has access to the lot from the street, but no frontage on the street. That lot sold in 1999 for \$\$\$\$\$ (\$\$\$\$\$/acre). The other STREET property, a .61 acre lot, sold in 1996 for \$\$\$\$\$ (\$\$\$\$\$/acre). These two sales are quite old, but the more recent sales comparables indicate that some acreage in that area has sold in recent years for prices exceeding \$\$\$\$\$/acre. These land sales are not directly comparable to the subject without adjustment for demolition costs, development costs, legal costs, and whatever adjustment may be indicated for the portion of the subject property that suffers from water table issues. Nevertheless, the County's \$\$\$\$\$/acre adjustment is well supported by the sales evidence.

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After considering all of the evidence offered by the parties, we find the County's appraisal report to be the best evidence of value. The appraisal report purports to support the initial value of \$\$\$\$.

However, at the hearing, the Respondent relied on the appraisal to request an increase in the value to \$\$\$\$\$. The evidence supports Respondent's claim for an increase.

DECISION AND ORDER

On the evidence and testimony presented, the Commission finds the fair market value of the subject property to be \$\$\$\$\$ as of the 2004 lien date.

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.

DATED this _____ day of _____, 2005.

Irene Rees, Administrative Law Judge

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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 _____, .

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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