

05-0297
Locally Assessed Property Tax
Signed 01/04/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 05-0297
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally
)	Assessed
BOARD OF EQUALIZATION OF)	
DAVIS COUNTY,)	Tax Year: 2004
STATE OF UTAH,)	
)	Judge: Davis/Jensen
Respondent.)	

Presiding:

G. Blaine Davis, Administrative Law Judge

Decision and Order:

Clinton D. Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
 PETITIONER REPRESENTATIVE

For Respondent: RESPONDENT REPRESENTATIVE 1, Davis County Assessor
 RESPONDENT REPRESENTATIVE 2, Appraiser Supervisor,
 Davis County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Davis County Board of Equalization. This matter was argued before Administrative Law Judge G. Blaine Davis in an Initial Hearing on June 20, 2005. Following the June 20 hearing but before the issuance of an order in this matter, Judge Davis retired. Accordingly, the Tax Commission makes this order on the basis of the parties' written submissions together with Judge Davis' notes from the June 20 hearing.

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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. Petitioner raises two issues on this appeal: 1) the fair market value of the subject property as of January 1, 2004; and 2) whether the subject property's 2004 assessed value requires equalization to other properties. The subject property is parcel no. #####, located at ADDRESS, CITY, Utah. The Davis County Assessor had originally set the value of the subject property, as of the lien date, at \$\$\$\$\$. The Davis County Board of Equalization reduced that value to \$\$\$\$\$ following a Board of Equalization hearing on January 12, 2005. Petitioner requests that the value be further reduced to \$\$\$\$\$. Respondent requested that the value remain as set by the County Board of Equalization.

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. § 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).)

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 Ann. § 59-2-1006(1).)

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

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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).

With regard to equalization issues, Utah Code Ann. § 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

The subject property consists of a lot of approximately one acre improved with a rambler style residence. The residence was 50 years old and built of average quality of construction. It has 1,493 square feet above grade and 360 basement square feet of which 100 are finished. There is also a detached two-car garage. The County considered the residence to be in average condition. The subject property has a barn measuring approximately 50 feet by 60 feet.

Petitioner has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. In this matter Petitioner provided information regarding the County's assessed value of the land portion of the value of similarly sized lots in the same neighborhood as the subject property. The Petitioner also presented information regarding the County's assessed value, including improvements, of three neighborhood properties. Although the Petitioner indicated that the homes on these three properties were newer and larger than the home on the subject property, there is no indication that Petitioner provided any evidence by documents or testimony regarding the square footage, construction dates, construction type, or similar information regarding the three properties. The Petitioner indicated that the barn on the subject property had cost approximately \$\$\$\$\$ to build, but does not indicate whether the assessed values

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for the three properties on which the Petitioner relies included outbuildings such as a barn or garage. There is no indication that the Petitioner presented any evidence of the purchase or sale of any properties in the area. The Petitioner did not present any appraisal or market analysis of the subject property.

Respondent provided an appraisal prepared by APPRAISER, an appraiser for the Davis County Assessor's office. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser considered the sales of three homes in the general area of the subject property. The comparable homes were within a two and one-half mile radius of the subject property and had sold between November 2003 and August 2004. The appraiser made necessary adjustments to the comparable homes for differences such as lot size, home square footage, basement, garage, and similar amenities. The largest adjustment was for \$\$\$\$\$ to account for the 50-foot by 60-foot barn on the subject property and absent on the three comparable properties. After making adjustments for differences between the subject property and the sales of the three comparable properties, the comparable properties had adjusted values of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The appraiser indicated that the comparable property with an adjusted value of \$\$\$\$\$ most closely approximated the value of the subject property since this comparable property was similar to the subject property in several respects, including acreage, central air, and partial fencing. The appraiser noted that the comparable property with the \$\$\$\$\$ adjusted value also had the lowest gross percentage of adjustment compared to the subject property.

Weighing the evidence before the Tax Commission, the Petitioner has not demonstrated that the County's original assessment contained error as would be required to meet the first prong of test for prevailing on a property assessment case. There appears to be no indication that the appraisal methods and results presented by the County were flawed or incorrect. The Petitioner has focused on assessed values for the lot portion of parcels in the area. The problem with this

presentation is that properties in the area of the subject property are generally sold with improvements. Although in some instances the Tax Commission will value a home separately from land, *see Schmidt v. Utah State Tax Comm'n*, 1999 UT 48, ¶ 5, 980 P.2d 690, the Petitioner in this action has given no reason why the Tax Commission should depart from the procedure of treating land and improvements together as is normally done in the area of the subject property. Because the Petitioner has not identified error in the County's assessment, there is no reason to overturn that assessment.

Although the Commission need not reach the second prong of the test for the Petitioner to prevail in this real property tax dispute, the Commission notes that general statements such as a general indication that other properties are "newer" or "larger" than the subject property lack sufficient specificity to provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. To provide an evidentiary basis for an alternative valuation, the Petitioner would need to provide something such as evidence regarding actual sales and would need to quantify differences between the subject property and sales of comparable properties.

On the issue of equalization, the Petitioner did raise the equalization issue and thus meets the first prong of the test for a successful equalization argument. To meet the second prong, the Petitioner would have to show that the county's appraised value for the subject property deviates from the assessed value of comparable properties. The Petitioner's presentation does not meet the second prong of this test. According to testimony, the assessor reappraises property and may increase land values whenever a building permit is issued. The Tax Commission does not find this to be an unreasonable basis for updating property valuations so long as it supplements a detailed review of all properties at least every five years. *See Utah Code Ann. § 59-2-303.1*. It is also not unreasonable for the county to reassess property in light of new buildings or other

improvements completed under the building permits. Given that the county's appraisal shows both the Petitioner's garage and barn, it appears that the county did reappraise the subject property to account for recently added improvements.

Petitioner has demonstrated that the land portion of the subject property has been valued at higher amount than other land where no permit has been issued. However, Petitioner has failed to demonstrate a systematic inequity for the total value of the subject in comparison with properties of similar age, construction, and other feature. As was the case with Petitioner's valuation argument, the Petitioner presentation contained mostly information on the assessed value of the land portion of applicable properties. For an area with established homes generally sold and valued with land and improvements together as a single property, the Petitioner would need to give some reason to focus on land value without improvements. The Petitioner has given limited information on the assessment of three properties with improvements, but has not demonstrated that these properties are so similar to the subject property that any difference in valuation is the result of inequitable assessment. As was the case with Petitioner's valuation argument, it is not sufficient for an equalization argument to give general information such as an indication that the other properties are "larger" or "newer" than the subject property. Without more detailed information regarding the comparable properties, the Tax Commission lacks sufficient data to find inequitable valuation.

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 Davis 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

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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.

Administrative Law Judge G. Blaine Davis retired after hearing this case. Administrative Law Judge Clinton D. Jensen has prepared this Order and Decision on the basis of the documentary evidence submitted by the parties as well as Judge Davis' notes regarding the parties' oral presentation in the Initial Hearing. If either of the parties wishes to present additional evidence other than that which was discussed in this Decision and Order, they are to do so by requesting a Formal Hearing following the procedure outlined above.

DATED this ____ day of _____, 2005.

BY ORDER OF THE UTAH STATE TAX COMMISSION.

Clinton D. Jensen
Administrative Law Judge

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

Palmer DePaulis
Commissioner
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Marc B. Johnson
Commissioner