

05-0446
Locally Assessed Property Tax
Signed 10/17/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 05-0446
)	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
For Respondent: RESPONDENT REPRESENTATIVE, 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 October 3, 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, CITY, Utah. The Salt Lake County Assessor had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. The County Board of Equalization reduced the value to \$\$\$\$\$. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requested that the value remain as set by the County Board of Equalization.

The subject property consists of a 1,615 square foot condominium, located on the third floor of the (X) condominium project. The project is a high-rise building that is 20 years old. The subject unit is an end unit. When Petitioner purchased the subject unit it had an excellent view of the (X). However, subsequent to the purchase, but prior to the lien date at issue, a neighboring building had been constructed blocking much of the view from Petitioner's unit. The higher units still retain the excellent view.

Petitioner acknowledges that he purchased the unit for \$\$\$\$\$, but indicates that there has been only one other unit in the project to sell for more than \$\$\$\$\$. The other sale was unit #####-1 that had sold in April 2004 for \$\$\$\$\$. Other end units that were identical as far as square feet had sold for \$\$\$\$\$ and \$\$\$\$\$. The unit that had sold for \$\$\$\$\$ was on the seventh floor with an excellent view, while the unit selling for \$\$\$\$\$ was on the second floor and the view would have been more obstructed than the subject's view. Petitioner requested that the subject be valued using an average price per square foot of the sales in the same condominium project, or the sales of the same end unit in the project.

Petitioner submitted an appraisal prepared for a refinance in June 2002. That appraiser had been inside the subject unit and had rated the condition good with an effective age of 9- years. The value indicated on the appraisal was \$\$\$\$\$. The appraiser had considered only one sale in the subject complex, unit #####-2, which had sold in April 2002 for \$\$\$\$\$. The other comparables were in different condominium projects.

Respondent submitted an appraisal in this matter that concluded that the value of the subject was \$\$\$\$\$. The appraiser for Respondent, RESPONDENT REPRESENTATIVE, considered Petitioner's original purchase and relied on three other sales in the project, all of which had been also submitted by Petitioner. The sales she relied on had been the sales of identical end units for \$\$\$\$\$ and \$\$\$\$\$. Additionally, she relied on a ninth floor sales of unit in the other corner of the building that had sold for \$\$\$\$\$. She made no view adjustment. She

considered the subject and the sale for \$\$\$\$ to be in good very good condition and of very good quality of construction, while she ranked the other two lower sales as only good and good in these categories with an effective age of 12. She considered the subject and other higher priced unit to be only 9 years effective age. She based this on information from Multiple Listing Service at the time they were offered for sale. The MLS reported remodeling and updating. She stated this is why the two units sold for so much more than the other units in the building and despite that these units are in the same high-rise building and have the same shell, she indicated the remodeling and updating could actually change the quality of construction.

The Commission would note that the sale for \$\$\$\$ had occurred nearly ten months after the lien date. RESPONDENT REPRESENTATIVE had not inspected the interior of the subject unit, because she missed an appointment that she had set with Petitioner. Petitioner countered that the unit had not been substantially updated prior to his purchase. He indicates that maybe the carpet and flooring had been redone, but the kitchen had the original appliances, cabinets and counters. He did agree that the windows had plantation shutters.

The Commission considers all of the sales in the complex, with most being below \$\$\$\$\$, and particularly notes that unit #####-3 which sold for \$\$\$\$ in April 2003, was in a superior location, with a superior view to the subject, so even with some remodeling of the subject this sale supports a lower value than determined by Respondent.

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

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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

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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