

05-0447
Locally Assessed Property Tax
Signed 09/28/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	05-0447
	)	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 1, property owner
For Respondent: RESPONDENT REPRESENTATIVE 1, Appraiser, and RESPONDENT REPRESENTATIVE 2, Manager, Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing on September 19, 2005 on Petitioner's appeal from the County Board of Equalization decision.

The subject property is a single family residence located at ADDRESS 1 in CITY. The subject is one of three homes built approximately seven years ago in this area of older, established residences. For the 2004 lien date, the County initially valued this property at \$\$\$\$\$. The Board of Equalization reduced the valuation at \$\$\$\$\$. In preparation for the Initial Hearing, the Assessor's Office prepared an appraisal report that supported a further adjustment to \$\$\$\$\$.

At hearing, Petitioner raised two issues. First, Petitioner objected to the value set by the Board of Equalization. At hearing, Respondent asked Petitioner if he felt the appraised value, \$\$\$\$\$, represented fair market value. Petitioner agreed that \$\$\$\$\$ probably reasonably represents the property's market value. However, Petitioner is primarily focused on his second issue, equalization. Of the three homes built at the same time as the subject property, Petitioner points out that the home situated at ADDRESS 2 was valued much lower than the subject's initial assessment; \$\$\$\$\$ compared to \$\$\$\$\$ for the subject. In fact, the valuation on the neighboring property actually decreased slightly in 2004. Petitioner acknowledged that the third home in this cluster of new homes was valued at \$\$\$\$\$ for tax year 2004 and that the owner of that home did not appeal the assessment.

In addition to a comparison between the assessments of the subject property and the property at ADDRESS 2, Petitioner presented a printout from the Assessor's web site of the 2004 assessments "adjoining properties." Petitioner noted that some values adjusted upward for the 2004 year and some adjusted downward, but argued that cumulatively there was a -0.1% overall average adjustment.

Finally, Petitioner stated that the assessment on the subject property was also appealed in 2003. At that time, the county accepted, with a large location adjustment, a comparable sale of a property located at ADDRESS 3, which sold in 2002 for \$\$\$\$\$. The valuation of that property did not jump in 2004 like the subject property, so, according to Petitioner, the subject property was unfairly singled out for this increase.

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

Appeal No. 05-0447

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 the equalization or equity issue, the Commission may order an adjustment if it determines that the subject property deviates by at least 5% from the assessed values of comparable properties. Utah Code §59-2-1006 (4). However, the Commission will resolve an equalization issue in favor of the property owner only upon a showing of widespread and systematic differences in assessed values among similar properties.

DISCUSSION

Petitioner states that a group of friends purchased land from the (X) and contracted with a builder to build three homes on the land; the subject property and the homes at ADDRESS 2 and ADDRESS 4. Although built by the same builder, each is a custom home. There are differences in the floor plans, size and materials.

Petitioner opened his presentation with a recitation of the history of tax appeals concerning this property. From a review of the facts, it appears that the County has struggled to use its mass appraisal system to value these unusual high-end custom homes in a neighborhood of older, established homes of significantly less value. When Petitioner has appealed, the County has looked outside the immediate neighborhood for comparables that support an adjustment in the Petitioner's favor. The experience with the 2004 tax appeal is no different. The Board of Equalization accepted a revised valuation offered by the Assessor, adjusting the initial assessment of \$\$\$\$\$ to \$\$\$\$\$. In preparation for this hearing, the Assessor's staff prepared an appraisal of the subject property that indicates that further adjustment to \$\$\$\$\$ is appropriate. At the hearing, Petitioner stated that \$\$\$\$\$ is probably within fair

Appeal No. 05-0447

market value range for this property, and offered no challenge to the appraisal itself. This process is understandably frustrating to the homeowner, but it appears that in preparing an individual appraisal on this property, the County Assessor has reasonably pinpointed its 2004 value. The Commission accepts the County's assertion of market value based on the appraisal and turns to Petitioner's equalization issue.

Section 59-2-1006 (4) of the Utah Code states 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 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 values of comparable properties. It is the Commission's position that an adjustment in a valuation on a theory of equalization is warranted only to correct an assessment where the evidence indicates a systematic or pervasive under assessment of similar properties.

Petitioner took two approaches to the equity issue. First, Petitioner used the Assessor's website to access assessment information on properties that the Assessor identifies as "adjoining properties." This list indicates adjustments for the assessments on these properties from the 2003 values to the 2004 values. In some cases the valuations increased and in some cases they decreased. Petitioner looked at the cumulative adjustments and found an overall average decrease in value of .1%. This approach does not prove Petitioner's assertion that the subject was singled out for discriminatory treatment. First, there is no evidence that the homes on that list have been systematically under valued. Furthermore, with the exception of the two other custom homes near the subject property, there are no comparable homes on that list. Even narrowing the comparison to the other two custom homes next to the subject, one is valued higher and one is valued lower than the subject. At best, this evidence indicates that the mass

Appeal No. 05-0447

appraisal system may miss the mark for these unusual properties without further individualized attention from the Assessor's appraisal staff. This evidence is insufficient to show that the subject property is singled out for discriminatory treatment.

As a second way to approach the equity argument, Petitioner refers to a comparable that was used by the Board of Equalization in the 2003 appeal for this property. Petitioner argues that if that property was comparable in 2003, it should still be comparable, yet the valuation for that property did not increase as much as the valuation on the subject. Petitioner admitted that the Board of Equalization used that property as the only comparable sale available at the time and made a \$\$\$\$ adjustment for location alone. This approach fails because the ADDRESS 3 property is not closely comparable to the subject and requires significant adjustments to draw any comparison.¹ Furthermore, Petitioner has not shown that the ADDRESS3 property is undervalued.

Petitioner has not presented evidence upon which to prevail on the equalization issue. However, as stated earlier, it appears that the initial assessment and the adjusted value set by the Board of Equalization did not correctly represent the market value for this property.

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.

¹ Although not discussed at the hearing, a check of the property record for ADDRESS 3 indicates that there are two parcels with one street address, so Petitioner may not be aware of the total value affixed to the home and land at that address.

Appeal No. 05-0447

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 _____, .

Irene Rees, 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 _____, .

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner