

05-0637
Locally Assessed Property Tax
Signed 03/07/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 05-0637
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION)	
OF SALT LAKE COUNTY,)	Tax Year: 2004
STATE OF UTAH,)	
)	Judge: Jensen
Respondent.)	

Presiding:

Clinton D. Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, Salt Lake County Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Salt Lake County Board of Equalization. This matter was argued in an Initial Hearing on December 12, 2005. 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 Salt Lake County Board of Equalization reduced that value to \$\$\$\$\$ following a Board of Equalization hearing on March 3, 2005. Petitioner requests that the value be further reduced to \$\$\$\$\$. Respondent indicated that the value of the subject property was, if anything, higher than the \$\$\$\$\$ value set by the 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 provided 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 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

The subject property consists of a lot of .30 of an acre improved with a ranch or rambler style residence. The residence was constructed in 2003 with average quality of construction. It has 1,482 square feet above grade and 1,482 basement square feet of which none are finished. There is also an attached three-car garage with 880 square feet. The County considered the residence to be in very good condition. The subject property has a fireplace and a fenced yard.

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 a Property Profile listing details regarding the subject property together with more general information regarding the neighborhood of the subject property. The Property Profile provides comparable sales in the area of the subject property but does not indicate the source of the sales information except to indicate that the information was “compiled from various sources.” Petitioner testified and provided written notes indicating that the Property Profile may have inaccurate or misleading information. For example, the Petitioner noted that the Property Profile incorrectly lists 1482 square feet of finished basement for the subject property.

The Petitioner’s Property Profile document lists sales information for five comparable properties. The Property Profile does not list whether the comparable properties have attributes such as garage, finished basement, or additional bathrooms and does not list adjustments or otherwise attempt to quantify any differences in value that would be associated with differences in the homes on the comparable properties. The comparables have varying lot sizes but do not have adjustments to value on the basis of lot size. One comparable property is a building lot only. Another comparable property has a home constructed in 1992 but does not indicate whether the selling price of the 1992 home should be adjusted given the 2003 construction date of the subject property.

In addition to the Property Profile, the Petitioner also provided documentation in support of his recent purchase of the subject property. However the deed the petitioner submitted was a Trust Deed from the Petitioner to a title company. The other document was a U.S. Department of Housing and Urban Development Settlement Statement indicating “REFINANCE” in the line for seller and further showing a loan with the bulk of the proceeds being provided to a financial institution.

Respondent provided an appraisal prepared by RESPONDENT REPRESENTATIVE, an appraiser for the Salt Lake 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 eight blocks of the subject property and had sold between September 2004 and April 2005. The appraiser made necessary adjustments to the comparable homes for differences such as lot size, home square footage, basement, garage, and similar amenities. The dates of the sales of the county's comparable sales are considerably after the January 1, 2004 lien date. One sale was September 9, 2004, over nine months after the lien date. Another was on March 4, 2005, which is a year and three months after the lien date. The third sale was on April 30, 2005, approximately one year and five months after the lien date. Even so, the county appraiser made no adjustments for time of sale. 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 lot size and main floor area.

The Petitioner argued that the county appraisal had included several flaws. First, the Petitioner indicated that the county appraisal included improvements that were not part of the subject property as of the January 1, 2004 lien date. The Petitioner provided testimony that he added landscaping, a back deck, a covered patio, and a recreational vehicle pad in the summer of 2004, which would be after the lien date. The Petitioner was also critical of the county's comparable sales. To support this, the petitioner provided testimony that there is a ravine a few blocks south of the subject property. The area south of the ravine is called (X) and commands

higher property values. The area north of the ravine is known as (X), has lower values, and is more likely to have homes for first and second time buyers. The subject property is in the area the Petitioner identified with lower property values while the county's appraisal has comparable sales all from the higher-valued (X) area.

The Petitioner raised two additional concerns that are not directly critical of the county's assessment. First, the Petitioner indicated that his home was the smallest house on STREET. Further, the Petitioner was concerned that the value of his home not be distorted by a home across the street that had approximately 4,000 square feet and a value in excess of \$\$\$\$\$.

Upon review of the evidence submitted by the parties, the Tax Commission finds that neither party has provided reason to overturn the decision and valuation of the Salt Lake County Board of Equalization ("BOE"). The Petitioner provided information that was to indicate a recent purchase of the subject property that but that actually evidences a refinance rather than a sale. The Petitioner's comparable sales are a start toward showing a lower value, but the Petitioner would need to show additional detail regarding the proposed comparable sales. This information need not be prepared by an appraiser, but would need to include the kinds of features that would cause appraisers to make adjustments to comparable sales. Examples of adjustments include time of sale, lot size, home square footage, garage size, financing concessions, finished basement, and fencing. Copies of the full MLS sheet for the proposed comparable sales should provide this information and would be preferable to a summary. Without information on features that would generally provide the basis for adjustments to value, the Tax Commission has no way to determine the impact the comparable sales would have on expected value of the subject property.

The county's appraisal is sufficient to support the BOE valuation but is insufficient to support a value higher than that determined by the BOE. The Tax Commission finds credible the Petitioner's statements that the county's appraisal included property improvements that were not

part of the subject property as of January 1, 2004. Removing items from the subject property would lower the estimate of value of the property from the figure in the county's appraisal, but not enough to be less than the BOE value of \$\$\$\$\$. More important, accepting comparable sales up to one year and five months after the lien date with no time adjustments would require the Tax Commission to find that real property in the area of the subject property had no appreciation in value from January 1, 2004 to April 30, 2005.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2004 is \$\$\$\$\$. It is so ordered.

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 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 _____, 2006.

Clinton D. Jensen
Administrative Law Judge

Appeal No 05-0637

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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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