

05-0648  
Locally Assessed Property Tax  
Signed 12/05/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2,	)		
	)	<b>ORDER</b>	
Petitioners,	)		
	)	Appeal No.	05-0648
v.	)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,	)	Tax Year:	2004
STATE OF UTAH,	)		
	)	Judge:	Chapman
Respondent.	)		

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**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 notice, 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:**

Kerry R. Chapman, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE, Representative  
For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. 59-1-502.5, on November 29, 2005.

At issue is the fair market value of the subject property as of January 1, 2004. The subject property is a single-family residence located at ADDRESS in Salt Lake County, Utah. The subject property consists of a 1.02-acre lot that is crossed by a stream and, in the back, abuts STREET. Located on the property is a large home that has 15,988 square feet above grade and 5,453 square feet in the basement. A portion of

the home is an addition that remains unfinished as of the lien date. Both parties have estimated the home, in its entirety, to be 70% complete as of the lien date. The County BOE set a value of \$\$\$\$ on the property for the 2004 tax year after the County informed it that its original assessment had erroneously assessed the 1.02-acre parcel as a 0.52-acre lot.

Construction on the addition, which is almost 10,000 square feet in size (above grade), was begun in 1999 and remains unfinished. Both parties estimate the addition to be 65% complete as of the lien date, with the exterior being finished and the basement area nearly finished. The above-grade areas of the addition have yet to be insulated and to have sheetrock installed. Although the parties agree that the home's "complete" percentage is 70%, they disagree as to the completed market value of the property, which must be adjusted for the 70% complete influence to determine the market value as of the lien date.

The Petitioner believes that the County has overestimated the property's completed value, and thus its 70% complete value, for several reasons. First, the County claims that the lot itself is overvalued because 0.42 acres of the lot is unusable due to the stream and portions affected by STREET and because of other land sales that suggest a lower value. The Commission finds the Petitioner's arguments unconvincing. Testimony from the County convinces the Commission that the stream does not decrease the value, and may even increase the value, of a property such as the subject. In addition, the Petitioner's analysis of its land sales was, at best, totally without merit. The Petitioner only adjusted for "land size" and not for more relevant factors, such as location (no comparable was within 30 blocks of the subject) and features. Furthermore, use of a commercial land comparable to estimate the value of the subject was not only questionable to begin with but also negated the Petitioner's credibility because of the lack of adjustments between a residential lot and a commercial lot. Lastly, the Petitioner's own submission of a \$\$\$\$ unadjusted sale of a nearby 1.40-acre lot tends to support the County's land value, not call it into question.

Without question, the subject property is a complex property to appraise because of its size and the issues concerning the uncompleted addition and possible remodeling of the older portion. However, the Petitioner's adjusted comparables of other home sales is not convincing evidence. First, the Petitioner used one sale that was sold for the land only. Second, the Petitioner considered the subject a 0.60-acre parcel for adjustment purposes. The Petitioner has not convinced the Commission, with the testimony and evidence proffered at the Initial Hearing, that 0.42 acres of the parcel is worthless. Third, the Petitioner used a comparable that sold at a "distressed" sales price due to foreclosure, even though the property sold without distress a relatively short time before. Fourth, the Petitioner has applied the 30% adjustment due to the structure being incomplete to the entire parcel value, which includes both the structure and the land. Any such adjustment should only apply to the structure, as the land is not 30% incomplete.

The County explains that it has classified the back one-half acre of the subject property as "secondary acres" and valued it at approximately \$\$\$\$\$ for taxation purposes. The County further supports its assessed value by discussing two sales of homes in the subject's neighborhood that also sit on the stream. Neither home contains more than 5,000 square feet above grade, but sold for \$\$\$\$\$ in February 2004 and \$\$\$\$\$ in May 2004, respectively. Both of these sales suggest that not only is the current assessed value of \$\$\$\$\$ a reasonable value for the subject property as of the lien date, but that the value also might actually be higher. For these reasons and because the Petitioner's evidence is unconvincing, the Commission finds that the Petitioner has not shown that the County BOE's current value should be reduced.

APPLICABLE LAW

1. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. §59-1-210(7).
2. 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 Tax Commission. In reviewing the county board's decision, the Commission may admit additional evidence, issue orders that it considers to be just and proper, and make any correction or change in the assessment or order of the county board of equalization. Utah Code Ann. §59-2-1006(3)(c).

3. Petitioner has the burden to establish that the market value of the subject property is other than the value determined by Respondent.

4. To prevail, 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), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

#### DISCUSSION

The Petitioner is asking that the subject property's value be lowered. To succeed, the Petitioner must demonstrate that the County BOE's value contains error and provide the Commission with a sound evidentiary basis to change the value. For these reasons discussed earlier, the Petitioner has done neither. The appeal is denied.

#### DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property, as set by the County BOE for the 2004 tax year, should be sustained at \$\$\$\$\$. It is so ordered.

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

Appeal No. 05-0648

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.

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Kerry R. Chapman  
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 \_\_\_\_\_, 2005.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner

Marc B. Johnson  
Commissioner

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