

05-0654
Locally Assessed Property Tax
Signed 10/18/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 05-0654
)	Parcel No. #####-1
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 REPRESENTATIVE

For Respondent: RESPONDENT REPRESENTATIVE 1, Appraiser, Salt Lake
County

RESPONDENT REPRESENTATIVE 2, 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. . . . (Utah Code Ann. Sec. 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

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. #####-1, located at ADDRESS 1, CITY, Utah. The Salt Lake County Board of Equalization had originally set the value of the subject property, as of the lien date at \$\$\$\$ and the County Board of Equalization sustained the value. 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 .90-acre lot improved with a contemporary style recreational residential building. It is a steel and glass construction that is 24 years old. The building is all one level suspended on posts eight feet or more above the ground. It has 946 square feet. There is road access in the summer and ski-in-ski-out access in the winter as the property is near the ski runs at CITY. The building is not typical of the other recreational cabin-style properties in the area and there are no sales of similar buildings in the area. Additionally, Petitioner indicates that to retain the structural integrity the building must be kept heated in the winter whether it is being occupied or not.

Petitioner's representative submitted comparable sales as well as an appraisal to support her requested value of \$\$\$\$\$. The appraisal had been prepared for a prior property appeal, as of January 1, 2001. The Commission generally would give an appraisal this far from the lien date little weight. However, in this case, due to the small number of sales and lack of information from the Respondent the Commission considers this appraisal along with the more recent comparables provided by Petitioner. One sale also in CANYON had sold for \$\$\$\$\$. The cabin-style residence was much larger than the subject property, had better car access, a garage and had been updated according to the Multiple Listing Service, although it was also older and there was no ski-in-ski-out access. A second comparable which had the same ski access and was located very near to the subject had sold for \$\$\$\$\$ in November 1998. However, this property had recently resold for \$\$\$\$\$ in December 2003, one month prior to the lien date at issue. This property was much larger than the subject with over 4800 square feet. It had also the possibility of nightly rentals and many amenities that the subject did not have.

Respondent had wanted to present a cost approach valuation of the steel and glass structure, but since it had not been exchanged prior to hearing the cost approach was not allowed. Respondent's representatives did explain, however, that the cost of this type of structure was considerably higher than the typical recreation cabin properties built in the area. The costs of

this type of structure were more comparable to commercial grade buildings and one would expect the structure to last longer than wood and frame cabin style properties in the area.

Respondent also relied on comparables submitted at the County Board of Equalization Hearing. One of the comparables was the same one relied on by Petitioner that had sold in 1998 and then resold for less in 2003. A second of the County's comparables was parcel #####-2, located at ADDRESS 2. This had sold for \$\$\$\$\$ in October 1999 and was one of the comparables in Petitioner's appraisal. Petitioner's appraiser had made appraisal adjustments for the difference and concluded that this comparable indicated a value of \$\$\$\$\$ for the subject.

The Commission would note that as far as Respondent's cost argument, the fact that it may have cost more to build the subject building due to the unique construction, does not mean a purchaser would pay more than for a more typical cabin-style structure. In fact, the contemporary style of the building may actually detract from the value.

Considering the comparables provided, the comparable sales are all dissimilar and appraisal adjustments are necessary to determine a value for the subject property. Also there are few sales in the near vicinity of the subject. The one property that sold in 1998 and again in 2003 sold for less the second time. Although not directly comparable in establishing value, it may indicate a soft or depreciating market. The other sales considered by Respondent also are older sales like the comparables in Petitioner's appraisal. For these reasons, despite its effective date, the best evidence of value before the Commission in this matter is the appraisal value.

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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