

05-0886  
Locally Assessed Property Tax  
Signed 11/21/2005

BEFORE THE UTAH STATE TAX COMMISSION

---

|                       |   |              |                               |
|-----------------------|---|--------------|-------------------------------|
| PETITIONER,           | ) |              |                               |
|                       | ) | <b>ORDER</b> |                               |
| Petitioners,          | ) |              |                               |
|                       | ) | Appeal No.   | 05-0886                       |
| 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.           | ) |              |                               |

---

**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

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 16, 2005.

At issue is the fair market value of the subject property as of January 1, 2004. The subject property is comprised of a single-family residence and 2.14 acres located at ADDRESS in Salt Lake County, Utah. The home is a 37-year old structure with approximately 2,900 square feet on the main floor. The home also has a partial basement, and the grounds include a pool and outbuildings to accommodate horses. Both parties agree that, due to the market in the area in which the property is located, the existing structures would more than likely be torn down and replaced with a new home were the property to be sold. For the 2004 tax year, the subject property was assessed at \$\$\$\$\$, a value that the County Board of Equalization (“County BOE”) sustained.

The Petitioner proffers as evidence an appraisal of the property that was prepared by APPRAISER on August 27, 2004. APPRAISER estimated the value of the property to be \$\$\$\$\$. To determine his estimate of value, APPRAISER compares the subject to several other homes of similar size, age, and location. He does not, however, address the demand to purchase older homes in the subject’s neighborhood and tear them down. Nor does APPRAISER provide any comparables of land sales with which to determine the value of the subject property as though vacant. It is apparent from the information provided by the County and both parties’ statements that APPRAISER may have been unaware of the value of land in the subject’s neighborhood or of the demand for land on which an older structure could be removed. Regardless, APPRAISER’S appraisal does not provide a convincing estimate of the subject property’s “fair market value” for property tax purposes.

The County proffers an appraisal prepared by RESPONDENT REPRESENTATIVE in which he estimated the value of the subject property to be \$\$\$\$\$ as of the lien date, January 1, 2004. Because this value is lower than that sustained by the County BOE, RESPONDENT REPRESENTATIVE recommends that the Commission lower the subject's fair market value to \$\$\$\$\$. In his appraisal, RESPONDENT REPRESENTATIVE adjusts three comparable land sales to the subject. All of the comparables are within two miles of the subject. RESPONDENT REPRESENTATIVE states that the location of the subject places its desirability in between that of comparables #1 and #2. Furthermore, he states that the STREET comparable, comparable #3, is in a more desirable area than the subject and the other two comparables and that a downward "location" adjustment might have been appropriate to account for its superiority. It is obvious that the STREET property, though of similar size to the other two comparables, sold for considerably more than they did. Accordingly, if the subject property is more similar to comparables #1 and #2, it would appear that RESPONDENT REPRESENTATIVE should have included a location adjustment for the STREET property. Comparables #1 and #2, when adjusted, show values of \$\$\$\$\$ and \$\$\$\$\$ for the subject property. As RESPONDENT REPRESENTATIVE stated that the subject property's desirability would be in between these properties, it would be reasonable to estimate the subject's value in between the adjusted values of these two properties. The value exactly in between these two adjusted values is \$\$\$\$\$, which based on the evidence and testimony provided at the Initial Hearing, appears to be a reasonable estimate of the subject's fair market value.

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. 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).

4. Utah Code Ann. §59-2-103(1) provides that “[a]ll tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value . . .” “Fair market value” is defined in Utah Code Ann. §59-2-102(12) to mean “the amount at which property would exchange 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

Appeal No. 05-0886

relevant facts.”

DISCUSSION

The subject property would most likely sell for its land, with its current structures removed for construction of a new home. Based on the evidence and testimony proffered at the Initial hearing, the Commission finds the fair market value of the subject property to be \$\$\$\$ as of the lien date.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property, Parcel No. #####, should be reduced from \$\$\$\$\$, as sustained by the County BOE, to \$\$\$\$\$ for the 2004 property tax year. 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 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.

Appeal No. 05-0886

---

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

*KRC/05-0886.int*