

05-1000
Locally Assessed Property Tax
Signed 04/19/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 05-1000
)	Parcel No. #####
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, 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 pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on April 3, 2006. Petitioner is appealing the assessed value as established for the subject property by Salt Lake County Board of Equalization. The subject property is parcel no. ##### and is located at ADDRESS 1, CITY, Utah. The lien date at issue in this matter is January 1, 2004. The Salt Lake County Board of Equalization had originally set the

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value of the subject property, as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization sustained the value.

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

The subject property consists of 1.06 acres of land improved with a brick, rambler style residence. The residence was 30 years old and in good condition. It has a total of 2,386 square feet above grade and 2,308 square feet in the basement. The basement is partially finished with 1,731 finished square feet. In addition to an attached three-car garage there is also a detached three-car garage and a tennis court.

Petitioner requests that the fair market value of the property as set by Respondent for property tax purposes be reduced to \$\$\$\$\$. This was based on three sales that were submitted by Petitioner. Petitioner provided the Multiple Listing Services Full Report on the three sales and looked at the price per square foot.

The three properties submitted by Petitioner were a brick rambler style residence on 1-acre lot located ADDRESS 2. This residence had sold for \$\$\$\$\$. It had larger above grade square feet but a smaller basement. It had only a two-car garage. There was also a barn. A second comparable offered was a .77-acre lot with a contemporary concrete, glass and stucco exterior residence. It was located at ADDRESS 3 and had sold for \$\$\$\$\$. This residence was on a smaller lot and was obviously a different style from the subject. There was more above grade square foot as this residence had a second story and no basement. The third comparable offered was located at ADDRESS 4. This had sold for \$\$\$\$\$ and consisted of a 1.24-acre lot with a contemporary style residence constructed of – cedar, redwood and stone. Again this is a different style residence and has higher maintenance requirements than the subject residence. The residence was much larger than the subject residence.

Petitioner also argued that the land for the subject property was overvalued and presented a stipulation on a vacant parcel that adjoined the subject as well as a photograph of a neighboring house. He argued many of the homes along the street leading up to the subject property were of less quality on smaller lots and not well maintained. For this reason he argued that the location did not have the prestige of STREET 1, STREET 2 or STREET 3. In the settlement for the property adjacent to the subject, the amount settled on had been \$\$\$\$\$. However, the Commission notes from the plat map provided that the adjoining parcel may have significantly less usable space as part of it is taken up in the roadway that is used to access the subject and two other adjacent parcels. In fact the road splits the vacant parcel in two sections. So even if it was a buildable lot it would be a less desirable lot than the subject property.

Respondent submitted an appraisal prepared by RESPONDENT REPRESENTATIVE who is a state certified appraiser. It was RESPONDENT REPRESENTATIVE'S conclusion that the subject property was overvalued, but not to the extent argued by Petitioner. The appraisal conclusion was that the value for the lien date at issue was \$\$\$\$\$. In the appraisal RESPONDENT REPRESENTATIVE considered three comparables. One of which, located at ADDRESS 2, was the same comparable provided by Petitioner that had sold for \$\$\$\$\$. It was RESPONDENT REPRESENTATIVE'S conclusion after making appraisal adjustments for differences that this indicated a value for the subject of \$\$\$\$\$. RESPONDENT REPRESENTATIVE felt that this comparable was the most similar. However, the Commission would note that the other two comparables in RESPONDENT REPRESENTATIVE'S appraisal were brick ramblers like the subject and far more similar in style than Petitioner's other two comparables. The contemporary style residences, especially the wood and stone residence offered by Petitioner, have a different appeal.

Petitioner argued that some of RESPONDENT REPRESENTATIVE'S adjustments were erroneous. However, RESPONDENT REPRESENTATIVE is an appraiser and his appraisal was the only appraisal submitted in this matter. The Commission would tend to agree with Petitioner that finished basement area would not contribute the same value as finished above grade square feet. However, there is no evidence that would support a better adjustment and certainly the change would not reduce the value anywhere near the range requested by Petitioner.

The subject neighborhood and specifically the street on which the subject property is located may be in a transition phase, and certainly there might be some negative impact if one had to drive past much smaller residences with maintenance and condition issues. There are some larger lots at the end of the lane with larger residences like the subject. However,

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no comparable's sales were presented from the same street as the subject so there is no evidence supporting an adjustment for the effect this may have on 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 is ordered to adjust the value accordingly.

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.

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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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