

05-1201
Locally Assessed Property Tax
Signed 11/22/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	05-1201
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)		
SALT LAKE COUNTY, UTAH,	)	Tax Year:	2004
)		
Respondent.	)	Judge:	Rees

Presiding:

Irene Rees, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, Property Owner
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing on November 3, 2005 on Petitioner's appeal from the County Board of Equalization decision affirming the assessed value of Petitioner's home.

Petitioner's home, which is the subject property in this appeal, is a single family residence located at ADDRESS 1 in Salt Lake County. The subject is a large, 27-year old custom home on .22 acre of land. Although the neighborhood is an older community, it is a prestigious location adjacent to the (X). The subject property has had no major remodeling or upgrades.

The County initially assessed the subject property at \$\$\$\$\$. The Board of Equalization affirmed the assessment. On appeal to the Tax Commission, Petitioner stated a value of \$\$\$\$\$ for this property. The County Assessor's Office submitted an appraisal with an indicated value of \$\$\$\$\$.

Petitioner presented evidence in the hearing to illustrate the selling prices of homes in her area. She also presented evidence of the assessments of other homes in her area to show that other like

properties were valued and taxed less than her property. In other words, Petitioner offered two approaches to this appeal: (1) she questioned the assessed value of the property, and (2) she raised an equalization argument, claiming that the Assessor has singled her property out for disparate tax treatment.

APPLICABLE LAW

With regard to an appeal of the assessed value, Petitioner has the burden to establish that the market value of the subject property is other than that as determined by Respondent. Utah Admin. R. R861-1A-7(G). 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).

With regard to the equalization or equity issue, the Commission may order an adjustment if it determines that the subject property deviates by at least 5% from the assessed values of comparable properties. Utah Code §59-2-1006 (4). However, the Commission will resolve an equalization issue in favor of the property owner only upon a showing of widespread and systematic differences in assessed values among similar properties.

DISCUSSION

In the Initial Hearing, the Petitioner primarily focused on an equalization argument. That is, she argued that the Assessor placed a higher market value on her home than on other homes in the area that are equal to or better than her home. This issue is separate from the issue of market value. Therefore, we address each separately.

Market Value

Property tax assessments are based on the property's market value – what a willing buyer would pay for the house as of the lien date (in this case, January 1, 2004). Generally, a good estimate of a property's value can be gleaned from sales of comparable properties. The comparison process is, of course, fairly easy if the property under appeal (the “subject property”) is a home in a homogenous neighborhood of closely similar homes. The process is more complex where the subject property is a unique custom home. In that case, one must look for the sales of homes that most closely resemble the subject property in age, size, location, quality, utility and so forth. An appraiser can make adjustments to

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the comparable's sale price to account for differences in square footage, site size, and other features of the property.

In spite of the unique design of this subject property, both parties found sales of custom homes in the area for comparison. The Petitioner's comparables are summarized as follows:

#1 ADDRESS 2, approximately 4900 sq. ft. above grade on a .5 acre lot that abuts on the (X). The home was built in 1962 and sold in May of 2004 for \$\$\$\$\$. The MLS listing indicates it was vacant, held by the bank and had "potential," due to the more expensive homes in the area. The Petitioner indicated that this property was in terrible condition before the sale, and that it was actually condemned by the Board of Health. Petitioner suggests that there may have been some update and clean up to get the property ready to sell, but the MLS listing does not indicate major remodeling prior to its sale for \$\$\$\$\$. Presumably, the location of property adjacent to the golf course and its .5 acre size factored importantly into the purchase price. Because it was a bank sale, we cannot say whether its sale price represented its actual market value. Therefore, we disregard this comparable.

#2 ADDRESS 3, approximately 3180 sq. ft. custom home on a .28 acre site, built in 1974. This property, which sold in March of 2005 for \$\$\$\$\$, is next door to the subject property. Although there is no direct evidence of the condition of the house at the time of the sale, the MLS listing indicates that the kitchen had been updated at some point. This is a good comparable, but requires adjustment. For instance, this property is 839 sq. ft. smaller above grade than the subject. Using \$\$\$\$\$/sq. ft. for the above grade adjustment¹, the sales price would adjust to approximately \$\$\$\$\$ on square footage alone. This comparable does not support the Petitioner's argument that her property should be valued at \$\$\$\$\$, but suggests that the County's initial assessment of the subject property may be too high.

#3 ADDRESS 4, approximately 2539 sq. ft. rambler on a .25 acre site. The home was built in 1973 and there is no indication that the property had be upgraded prior to its sale in May 2005 for \$\$\$\$\$. This home is across the street from the subject. It is 1,480 sq. ft. smaller than the subject. Using

¹ It appears that the County is using \$\$\$\$\$/sq. ft. for above grade adjustment and \$\$\$\$\$/sq. ft for below grade assessment.

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\$\$\$\$\$/sq. ft. to estimate an above grade adjustment, this property's sale price would adjust to \$\$\$\$\$. We also note that the MLS listing and the Petitioner's own testimony indicate the property was reduced \$\$\$\$\$ to sell because the family had moved out of state, so there may have been some distress that acted to reduce the selling price. In any event, this sale does not support the Petitioner's contention that her property should be valued at \$\$\$\$\$. However, even if one assumes that the actual market value was \$\$\$\$\$ higher than the sales price, the sales price would adjust to \$\$\$\$\$, which is considerably less than the County's initial assessment.

#4 ADDRESS 5, a 4,304 sq. ft. home (1512 sq. ft. unfinished below grade) on a .32 acre site. This home was built in 1974, but the MLS listing indicates that it was advertised for sale in 2005 at "beautifully remodeled" and "virtually all new." The listing also indicates the home has "gorgeous hardwood floors," granite counters and travertine tile. This home sold in June 2005 (1.5 years after the lien date) for \$\$\$\$\$. This overall larger home (including above and below ground living area) on a larger site does not support the Petitioner's contention that her home is worth only \$\$\$\$\$, but it does suggest that the County's initial assessment of her property is too high.

The County Assessor's representative submitted an appraisal report on the subject property based on three comparable sales in the area. The comparables are as follows:

#1 ADDRESS 6, a 4,233 sq. ft. home (1275 sq. ft. of it unfinished below grade) on a .23 acre site. This home, which was built in 1978, sold in July of 2005 (1.5 years after the lien date) for \$\$\$\$\$. Petitioner stated that this home has been remodeled, but there was no evidence of the condition of the home at the time of sale. Respondent's appraiser did not inspect the inside of the home, and he did not adjust the effective age to reflect upgrades or improvements. The county's own records indicate an effective age of 1990 on this home, compared to 1987 for the subject, but that information is not helpful to determining the condition of the home at the time of sale. The appraiser adjusted this property to \$\$\$\$\$.

#2 ADDRESS 5. This is the same comparable as Petitioner's comparable #4. Respondent's appraiser made no adjustment to account for the extensive remodel work reported on the MLS listing. In fact, the County's records show an effective age of 1979 for this property with an overall condition of "average." Presumably, the MLS listing correctly indicates significant upgrades to this home prior to its

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sale in June 2005 for \$\$\$\$\$. The appraiser adjusted this sale to \$\$\$\$\$, but failed to account for the extensive remodel work, which would have greatly influenced the selling price.

#3 ADDRESS 7, a 4,019 sq. ft. home on a .52 acre site. The 35-year-old home sold in October 2002 (more than a year prior to the 2004 lien date) for \$\$\$\$\$. The appraiser, relying on County records and an outside inspection made at the time of the appraisal, considered the quality and condition of this home similar to the subject and made no adjustments to effective age. There is no evidence of the condition of this home at the time of the sale. The appraiser adjusted this sale to \$\$\$\$\$.

Overall, the County's appraiser recommends a value of \$\$\$\$\$, which is an increase over the initial assessment. The appraiser also completed a cost approach that indicates a value of \$\$\$\$\$. He gave no weight to this approach in arriving at his recommendation.

The Petitioner testified that the properties that the County used its comparables #1 and #2 have been significantly upgraded. It is not clear whether the sales price of comparable #1 represents an upgraded or remodeled home. As for comparable #2, the MLS listing indicates major upgrades prior to sale, so some sort of adjustments should be made to reflect a different effective age, grade and condition. These kinds of adjustments were not made.

Additionally, the County's appraiser did not have an opportunity to evaluate the interiors of any of his comparables, so he relied on the County's records. The 2005 County records for comparables #1 and #2 do not reflect upgrades, and there is no direct evidence that pinpoints when the upgrades occurred. We are, therefore, reluctant to presume that these comparables require no adjustment for effective age, quality or condition, especially in light of the many examples of sales in a much lower price range. There is a similar problem with the Petitioner's comparables. With the exception of her comparable #4, there is little information to guide a comparison based on effective age, grade and condition.

Petitioner's comparable #4 (which is Respondent's comparable #2) offers an example of a sale of an extensively upgraded home in this neighborhood. It sold for \$\$\$\$\$, and we consider this the upper limit for the subject property value. Petitioner's comparable #2 is also helpful in establishing a value for the subject property. The MLS listings and County records for this comparable indicates that it had not been remodeled prior to sale, so the sale of an unremodeled home is representative of the market value for

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the subject property. Adjusting this comparable for size alone, it indicates a value for the subject of about \$\$\$\$\$ (rounded). Petitioner's comparable #3 establishes a lower limit of the adjusted price range at \$\$\$\$\$, but this low price may indicate some urgency on part of the seller. For purposes of this decision, we set the value at \$\$\$\$\$.

Equalization

Section 59-2-1006 (4) of the Utah Code states that "the Commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed values of comparable properties. It is the Commission's position that an adjustment in a valuation on a theory of equalization is warranted only to correct an assessment where the evidence indicates a systematic or pervasive under-assessment of similar properties.

Regarding the equalization issue, Petitioner presented the following 2004 assessment records:

#1 The property at ADDRESS 8 was assessed at \$\$\$\$\$ for tax year 2004. Petitioner offered no information that would lead us to conclude that this property is directly comparable to the subject property without adjustment. However, the County's assessment record indicates that this is a 4,190 sq. ft. contemporary 6 bedroom, 3 and ½ bath home and it was built about the same time as the subject. We have no information on the condition of this home, but its features make it a close comparable to the subject, but the difference does not exceed 5% as required by law.

#2 The property at ADDRESS 9 was valued at \$\$\$\$\$ for tax year 2004. It sold in May 2004 for \$\$\$\$\$. This example indicates that the Assessor valued this property higher than its eventual sales price, it does not support the Petitioner's contention that her property is singled out for disparate tax treatment. Furthermore, this house is significantly smaller than the subject, with 1,875 sq. ft. less above grade living space. It has 3 bedrooms and 1 and ¾ baths, compared to 5 bedrooms and 3 and ¾ baths in the subject. The Assessor's appraiser also stated that this house is of lower quality and grade than the subject. One would expect the Assessor to value this home less than the subject property because this property is not directly comparable to the subject without significant adjustment

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#3 The property at ADDRESS 3 (next door to the subject) was valued at \$\$\$\$ for tax year 2004. This house sold for \$\$\$\$ in May of 2005 (nearly a year and a half after the 2004 lien date). Appreciation may account for some increase in the market value of this property from January 1, 2004 to May of 2005, but it is also possible that this property was somewhat undervalued by the Assessor. However, this property is not comparable to the subject property. It is significantly smaller than the subject with fewer bedrooms and baths. One would expect the value of this home to be less than the value of the subject property.

#4 The property at ADDRESS 4 (across the street from the subject) was valued at \$\$\$\$ for tax year 2004. The property eventually sold for \$\$\$\$ in August of 2005. This property may have been slightly over-assessed for tax year 2004, but that is not necessarily so. Appreciation could account for some of the difference between the 2004 assessment and the 2005 sales property.

There is another problem with relying on this sale as evidence of the home's actual market value. Petitioner's testimony and the MLS listing both indicate that the seller had moved out of state prior to the sale, so the seller may have been under pressure to sell this house at less than market value. We have no way of determining from the evidence here whether that is so. Additionally, this house is not comparable to the subject. It is a one-floor, 2,539 sq. ft. home with 3 bedrooms and 1 ¾ bath. One would expect this home to be valued less than the subject.

#5 The home at ADDRESS 5 was valued at \$\$\$\$ as of January 1, 2004. Petitioner testified that this house was in extremely bad condition and a Board of Health notice had been affixed to the front door. The owner was apparently moved to a care center and his family eventually refurbished the house and sold it in June of 2005 for \$\$. While it is true this property was valued less than Petitioner's property, her own testimony indicates this property was worth a good deal less than the subject property.

#6 The property at ADDRESS 6 was valued at \$\$\$\$ for tax year 2004. It eventually sold for \$\$\$\$ in July of 2005. This property is the property that the County appraiser used as comparable #1 in his appraisal report. As stated above, there is sufficient confusion as to whether the remodel or upgrade of this property took place before or after the sale that we cannot rely on it as a direct comparable to the subject property. Nor can we draw conclusions as the market value of the property in January of 2004.

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#7 The property at ADDRESS 2 was assessed at \$\$\$\$ for tax year 2004. This is a 4,135 sq. ft. contemporary home that is 15 years older than the subject. The County records indicate that this is a 5 bedroom, 3 and ¼ bath home, so it is similar to the subject in size and utility. However, this property sits on .5 acres of land. The sparse information available indicates that this similar home on a larger land site was valued more that 5% less than the subject in 2004, which tends to support the Petitioner's equalization claim.

A party who raises an equalization issue has the heavy burden of demonstrating that properties of about the same market value were systematically assessed at less than market value and that the subject property has been treated. The Petitioner has succeeded in demonstrating that some houses in her area sold at higher or lower prices than their 2004 assessments. Petition did not succeed in demonstrating that the Assessor singled her out for disparate treatment. In other words, Petitioner did not show that other homes of a similar value as hers were routinely assessed at \$. Therefore, we reject the equalization claim.

DECISION AND ORDER

Based on the facts presented, the Commission finds that the Petitioner met her burden to call the assessment and appraised value recommended by the County into question. Although it is difficult to pinpoint an actual market value for the subject, the facts in evidence here support a finding that the value of the subject property as of January 1, 2004 is \$. The Commission rejects Petitioner's claim for any further valuation decrease based on an equalization argument.

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.

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DATED this _____ day of _____, .

Irene Rees, 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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