

05-1593
Locally Assessed Property
Signed 09/18/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,	)	ORDER	
)		
Petitioners,	)	Appeal No.	05-1593
	)	Parcel No.	#####-1, #####-2, #####-3
v.	)		(See attached)
	)	Tax Type:	Property Tax/Locally
	)		Assessed
BOARD OF EQUALIZATION)		
OF CARBON COUNTY,	)	Tax Year:	2005
STATE OF UTAH,)		
	)	Judge:	M. Johnson
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:

Commissioner Marc B. Johnson

Appearances:

For Petitioner: PETITIONER 1
 PETITIONER 2

For Respondent: RESPONDENT REPRESENTATIVE, Carbon County Assessor

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 June 1, 2006.

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).

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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, any party seeking an adjustment must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for adjusting 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).

ANALYSIS AND DISCUSSION

Petitioners appealed the assessments on three properties that they own. Petitioners stated for the record that they felt they had been treated unfairly in the appeal process. Each property is discussed separately as follows:

Parcel #####-1

The subject property is a single-family residence located at ADDRESS 1, CITY, Utah. The home, which sits on .23 acres, has 1041 sq. ft. above grade living space and an unfinished basement of the same size. The home has a detached one-car garage.

The Assessor initially valued this property at \$\$\$\$ as of January 1, 2005. Petitioners appealed the assessment to the County Board of Equalization (Board), and the Board reduced the

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assessed value slightly to \$\$\$\$\$. Petitioners appealed the Board's decision to the Tax Commission.

At the hearing, the County Assessor presented an appraisal report on this property. The appraiser used six comparable sales located within a half mile of the subject property. The actual sales prices of the comparables range from \$\$\$\$\$ to \$\$\$\$\$.

Each of the County's comparables is approximately the same size and age as the subject. However, the appraiser considered all of the comparables to be superior to the subject in condition, warranting adjustments in the range of \$\$\$\$\$ to \$\$\$\$\$. After all adjustments for size, condition and other features were taken into account, the adjusted sales prices range from \$\$\$\$\$ to \$\$\$\$\$. Based on the adjusted comparables, the appraiser estimated the value of the subject property to be \$\$\$\$\$ as of May 19, 2006 (the date of the appraisal). The Assessor did not ask for an adjustment from the value set by the Board.

Petitioners offered evidence of three sales in the form of MLS sheets. The MLS sheets give very general information, so it is difficult to directly compare these properties to the subject or to estimate adjustments to sales price. More importantly, two of the properties, ADDRESS 2 and ADDRESS 3, were vacant when sold and the MLS sheets suggest that the conditions may have justified discounted sales prices. Without knowing more about these sales, we cannot rely on them as strong evidence of the market value of the subject property.

Petitioners' third comparable, located at ADDRESS 4, is a rental property that sold for \$\$\$\$\$. This property is located some distance from the subject property, but it appears to be a reasonable, unadjusted comparable sale. Nevertheless, the weight of the evidence indicates that the likely market range for the subject property is \$\$\$\$\$ to \$\$\$\$\$, substantiating the Board of Equalization's value of \$\$\$\$\$. Although Petitioners argued that the Assessor's comparable sales

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were in a superior location, there was no substantive evidence to support this assertion.

Furthermore, the Assessor made significant adjustments to account for differences between the subject property and the comparable sales. Therefore, the Commission affirms the Board's decision.

Parcel #####-2

The subject is a single-family residence located at ADDRESS 5, CITY, Utah. This home, which sits on .23 acres of land, is a one bedroom, one bathroom residence with a garage. Overall, the home has 684 sq. ft. above ground living area and an unfinished basement. The Assessor initially valued this property at \$\$\$\$\$. Petitioners appealed the assessment to the County Board of Equalization, which reduced the assessed value to \$\$\$\$\$.

At the hearing, the County Assessor offered an appraisal report on this property, relying on six comparable sales located within a half mile of the subject property. The actual sales prices of the comparables range from \$\$\$\$\$ to \$\$\$\$\$. Some of the comparables are substantially larger than the subject, and the appraiser considered all of them to be superior in condition. After all adjustments for size, finish, condition and other features were taken into account, the appraisal report establishes a range of adjusted sales prices from \$\$\$\$\$ to \$\$\$\$\$. Based on the adjusted comparables presented, the appraiser estimated the value of the subject to be \$\$\$\$\$. The Assessor did not seek an adjustment from the value set by the Board.

Petitioners offered evidence of three sales in the form of MLS sheets. These properties are more similar in size to the subject than the comparables used in the County's appraisal, but these properties are more distant from the subject and the sales prices are unadjusted. The MLS sheets on two of the properties, ADDRESS 2 and ADDRESS 3, indicate that the properties were vacant at the time that the properties sold notations on the MLS sheets suggest that conditions may have

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justified discounted sales prices. Without knowing more about these two sales, we cannot rely on them as strong evidence of the market value of the subject property.

Petitioners' third comparable, located at ADDRESS 4, is a rental property that sold for \$\$\$\$\$. This property is located some distance from the subject property, but it appears to be a reasonable, unadjusted comparable sale. Nevertheless, weight of the evidence indicates that the likely market range for the subject property is \$\$\$\$\$ to \$\$\$\$\$, substantiating the Board of Equalization's value of \$\$\$\$\$. Again Petitioner argued that the Assessor's comparable sales were in a superior location, there was no substantive evidence to support this assertion. Furthermore, the Assessor made significant adjustments to account for differences between the subject property and the comparable sales. Therefore, the Commission affirms the Board's decision.

Parcel #####-3

The subject property is unimproved residential property located in CITY, Utah. This parcel is an unbuildable lot without access. The Assessor initially valued the property at \$\$\$\$\$. On appeal, the property was reclassified as non-buildable backage and the County Board of Equalization reduced the assessed valued to \$\$\$\$\$.

Petitioners requested an adjustment to \$\$\$\$\$, but they provided no evidence to support that value. The Assessor did not present market evidence to support the Board's value, testified that the value set by the Board is in line with the County's land valuation guide. Petitioners acknowledged that the value differences were not significant, but wished to follow through on the appeal since they felt they had been unfairly treated by the Board.

Having no evidence upon which to base and adjustment, we find that the Board adequately addressed the Petitioners' concerns about this property be correcting the classification

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and valuing the property in line with the County's land guidelines. The Board's decision is affirmed.

DECISION AND ORDER

The Petitioners challenged the assessments on three properties and persuaded the Board to order reductions in case. Petitioners pursued their appeal to the Tax Commission in part because they felt that the County was not dealing fairly with them. In the hearing before the Commission, the County offered evidence to overcome the Petitioners' claims for reduction and to support the values set by the Board. The Commission affirms the County Board of Equalization decisions pertaining to these properties.

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 _____, 2006.

Marc B. Johnson
Commissioner

BY ORDER OF THE UTAH STATE TAX COMMISSION.

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The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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ATTACHMENT

Parcels under appeal:

#####-1

#####-2

#####-3