

05-1594  
Locally Assessed Property  
Signed 09/21/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	05-1594
	)	Parcel No.	#####
v.	)		
	)	Tax Type:	Property Tax/Locally Assessed
	)		
BOARD OF EQUALIZATION OF	)		
BOX ELDER COUNTY,	)	Tax Year:	2005
STATE OF UTAH,	)		
	)	Judge:	Jensen
Respondent.	)		

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**Presiding:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER  
For Respondent: RESPONDENT REPRESENTATIVE 1, Box Elder County  
Clerk/Auditor  
RESPONDENT REPRESENTATIVE 2, Appraiser for Box Elder  
County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Box Elder County Board of Equalization. This matter was initially set for mediation on April 3, 2006. The parties determined at the mediation that they would be better served by submitting the matter to the Tax Commission for a ruling and requested that the mediation be converted to an Initial Hearing. The Judge agreed to hold the Initial Hearing and on that basis, the parties argued the matter as an Initial Hearing on April 3, 2006.

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).)

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, 2005. The subject property is parcel no. #####, located at ADDRESS, CITY, Utah. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The County Board of Equalization made no change to the value for tax purposes. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property consists of 1.5 acres of land in an area used mostly for agriculture. Although the property has a few outbuildings, neither of the parties added value to the bare ground prices for improvements. The parties agreed that the property has issues with slope that would require contouring work to allow for full use of the property for residential sites. Additionally, while the value of agricultural land in the area is driven at least in part by development potential, the subject property is not subdivided and the respondent has no plans to develop the property. Accordingly, the county valued the property as agricultural land that is typical for this area. The Petitioner agreed with agricultural land as the current highest and best use of the property, but disputes the value of the subject property as agricultural land.

Petitioner has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. In this matter Petitioner argued that for the 2004 tax year, the county valued the property at \$\$\$\$\$ and thus should not raise it to \$\$\$\$\$ for the 2005 tax year. The Petitioner also gave an explanation of some of the topographical issues with the property and why the topographical issues would either add additional cost to future development or allow fewer lots than flat ground. The petitioner did not provide any evidence regarding the sale of comparable properties nor did he discuss the expected price if he were to have sold his property as of January 1, 2005.

The Respondent relied mainly on the statutory presumption of correctness that applies to the valuation as determined by the county Board of Equalization. However, the Respondent also discussed recent sales of comparable properties. The Respondent pointed out that several recent sales were for amounts in excess of the \$\$\$\$\$ per acre value set for the subject property. This was true for even large parcels, which would normally be expected to have a lower value per acre when compared to a smaller parcel such as the subject property. As for the increase in valuation from 2004 to 2005, the Respondent's representatives explained that the

substantial increase was a result of two factors. First, property in the CITY area had experienced a significant increase in the years immediately before 2005. Second, the Respondent's representatives indicated that the 2004 valuation and several valuations before it were lower than the actual value of the property. Although the county attempts to assess properties at their current value every year, the Respondent's representatives indicated that this is not always possible.

Weighing the arguments and facts as presented, there is no sufficient evidence to overcome the legal presumption of correctness applicable to the value determined by the Board of Equalization. It is not a sufficient basis to provide evidence of an increase in valuation from one year to another.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2005 is \$\$\$\$\$. It is so ordered.

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.

\_\_\_\_\_  
Clinton Jensen  
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

D'Arcy Dixon  
Commissioner

Marc B. Johnson  
Commissioner

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