

05-1605
Locally Assessed Property Tax
Signed 02/28/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 05-1605
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	
UTAH COUNTY,)	Tax Year: 2005
UTAH,)	
)	Judge: Phan
Respondent.)	

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, Utah County Assessor

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 on February 7, 2006. The matter had originally been scheduled for a Hearing on Petitioner's Request to Reconvene, but upon the decision that it would be appropriate to allow the late filed appeal and the consent of the parties, the hearing was converted to the Initial Hearing.

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. . . . (4) In reviewing the county board’s decision, 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 is 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 value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

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 Utah County Board of Equalization had originally set the value of the subject property, as of the lien date at \$\$\$\$\$.

The matter originally came before the Commission upon Petitioner's Request to Reconvene the County Board of Equalization. Petitioner indicates that he never received the Valuation Notice that indicated the value and explained the time period for appealing to the County Board of Equalization. Petitioner did receive in the mail the Tax Notice, which is mailed after the County Board of Equalization has been closed. Upon review of the County record, Respondent's representative acknowledged that there had been a mailing error on the part of the County that had been corrected after the Valuation Notice had been mailed and prior to the mailing of the Tax Notice. Based on the notice error, there are grounds under Utah Admin. Rule R884-24P-66, to allow a late-filed appeal. The general procedure is that the County Board of Equalization reconvenes to consider Petitioner's appeal. However, because both parties thought the valuation would also be considered, had submitted their valuation evidence, and the matter could be resolved at the hearing in the most expedient manner, the Tax Commission took original jurisdiction and the hearing was converted to an Initial Hearing.

The subject property consists of a .18-acre lot improved with a rambler style residence. The residence was built in 1999. It has 1151 square feet above grade and 1151 square feet in the basement, which is 80% finished. There is an attached two-car garage.

Petitioner did not argue that the assessed value was higher than market value. He felt the market value of the property was at least the value set by the County. His contention was an equalization argument. He pointed out that the market value set by the County for his property was considerably higher than the assessed values of three comparable residences. He found three rambler homes that had sold or were listed. These comparables were several blocks from the subject property. He provided the Multiple Listing report for the comparables and a four-year tax history from the County's on line site. Although the actual sale or listing prices for the comparables were in the \$\$\$\$'s to \$\$\$\$'s, the market values indicated set by the County were in the \$\$\$\$'s to

\$\$\$\$\$'s. Based on this inequity in values, Petitioner requested that the value for the subject property be reduced to the same range.

Respondent had prepared and submitted appraisal information which supported a value of \$\$\$\$\$ for the subject property. However, he did not ask that the value be raised. As far as the equity issue, he indicated that the area had not been reappraised for several years, but that it was scheduled to come up for reappraisal for 2006 or 2007.

After considering the evidence submitted in this matter on Petitioner's equalization argument, the Commission would note that Utah Statutes and also the Utah State Constitution indicate that the property tax is to be valued on the basis of its fair market value. In this case everyone agrees that the fair market value of the subject property is at least as high as that set by the County. The statute does provide, somewhat in conflict, that the Commission may make an adjustment based on equalization. However, in order to make a successful case under equalization the Petitioner must show that there are very comparable properties surrounding the subject property, for a residential property generally properties on the same street or block that were valued by the County 5% or lower than the subject. Additionally, Petitioner would have to show, not just one property that meets this criteria, but several properties. Petitioner has not shown this and there is no evidence regarding the values for properties on his street and immediate surrounding neighborhood.

DECISION AND ORDER

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

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

Appeal No. 05-1605

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

JKP/05-1605 .int.doc