

05-1659
Locally Assessed Property Tax
Signed 05/26/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	ORDER
)	
Petitioner,)	Appeal No. 05-1659
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/ Locally Assessed
BOARD OF EQUALIZATION OF DAVIS COUNTY, STATE OF UTAH,)	
)	Tax Year: 2005
)	
Respondent.)	Judge: Jensen

Presiding:

Clinton D. Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, by telephone
For Respondent: RESPONDENT REPRESENTATIVE 1, Appraiser
RESPONDENT REPRESENTATIVE 2, Davis County Assessor
RESPONDENT REPRESENTATIVE 3, Appraiser

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Davis County Board of Equalization. This matter was argued in an Initial Hearing on January 17, 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 approximately ADDRESS in CITY, Utah. The County Assessor's office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$.

The subject property consists of a one-acre unimproved lot in CITY, Utah. It is within the Accident Potential Zone ("APZ") for (X). The APZ encumbers the property with a prohibition against building any residence or business property likely to be inhabited. The parties agree that the highest and best use of the property is agricultural use and that maximal productivity for the property would be through construction of a barn or similar building.

In November 2005, the Davis County Board of Equalization heard an appeal for the subject property. It lowered the assessed valuation of the subject property to \$\$\$\$\$ for the 2005 tax year. At the Utah State Tax Commission hearing on January 17, 2006, the Petitioner indicated that he was not aware that the County had previously lowered the value to \$\$\$\$\$. The Petitioner agreed that he would accept the Board of Equalization value at \$\$\$\$\$

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2005 is \$\$\$\$\$. The Davis County Auditor is ordered to adjust its records in accordance with this decision.

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.

BY ORDER OF THE UTAH STATE TAX COMMISSION.

Clinton Jensen
Administrative Law Judge

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