

05-1696  
Locally Assessed Property Tax  
Signed 07/13/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	05-1696
v.	)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF IRON COUNTY,	)	Tax Year:	2005
STATE OF UTAH,	)		
	)	Judge:	Johnson
Respondent.	)		

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**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:**

Marc B. Johnson, Commissioner

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE  
For Respondent: RESPONDENT REPRESENTATIVE 1, Iron County Assessor  
RESPONDENT REPRESENTATIVE 2, from the Iron County Assessor's Office

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 27, 2006.

At issue is the fair market value of the subject property as of January 1, 2005. The subject property is located at ADDRESS in CITY, Iron County, Utah. For the 2005 tax year, the County Assessor assessed the property at \$\$\$\$\$, which the Iron County Board of Equalization ("County BOE") sustained.

The subject property is comprised of 1.47 acres of land in the SUBDIVISION and a 5,140 square foot cabin that was built in 1999. The home has a four-car garage, three fireplaces, and many other amenities. At the County BOE, the Petitioner requested that the value be reduced to \$\$\$\$\$, based on PETITIONER REPRESENTATIVE'S estimate that the subject's land had a value of \$\$\$\$\$ and its improvements a value of \$\$\$\$\$. PETITIONER REPRESENTATIVE estimated these amounts after studying the prices at which other lots and cabins had recently sold.

In PETITIONER REPRESENTATIVE'S November 10, 2005 letter that accompanied his appeal of the County BOE's decision, he stated that he reviewed his previous estimates of value and concluded that the subject lot's value was \$\$\$\$\$ higher than his prior estimate of \$\$\$\$\$. This change would increase the land's value to \$\$\$\$\$ and the total value for the subject property to \$\$\$\$\$, which is the amount to which the Petitioner requests the Commission reduce the subject's value.

The County proffered evidence that the subject property is listed for sale at \$\$\$\$\$. The County also proffered an appraisal in which it estimated the subject's value to be \$\$\$\$\$ as of the lien date. The appraisal was prepared by RESPONDENT REPRESENTATIVE 2, who included both a cost approach and a market approach in her report. For her cost approach, RESPONDENT REPRESENTATIVE 2 estimated the subject's value at of \$\$\$\$\$ after estimating the land's value to be \$\$\$\$\$ and using cost data from a "commercial costing program used by Iron County" to estimate the improvements' value at \$\$\$\$\$. For her market approach, RESPONDENT REPRESENTATIVE 2 compared the subject to four comparables that sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. RESPONDENT REPRESENTATIVE 2 adjusted the four comparables and determined that the subject's value would range between \$\$\$\$\$ and \$\$\$\$\$. After correlating

the values shown by both approaches, RESPONDENT REPRESENTATIVE 2 estimated the subject's value to be \$\$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-1006(1) provides that “[a]ny 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 . . . .”

Any party requesting a value different from the value established by the County BOE has the burden to establish that the market value of the subject property is other than the value determined by the county board of equalization.

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must (1) demonstrate that the value established by the County BOE contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the County BOE to the amount proposed by the party. *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).

DISCUSSION

At issue is the fair market value of the subject property as of January 1, 2005. Using comparable sales, the Petitioner has estimated the subject's land value and improvements value separately for a total value of \$\$\$\$\$. The County has proffered an appraisal in which it relied primarily on the market approach to estimate the subject's total value at \$\$\$\$\$.

In the Petitioner's approach, the County did not contest PETITIONER REPRESENTATIVE'S estimate of the improvement's value. However, it did contest his estimate of the land's value, stating that it should be at least \$\$\$\$ instead of his estimate of \$\$\$\$\$. Sales of lots in the same subdivision were proffered at the Initial Hearing. If the Commission considers the first six sales in the subdivision that occurred in 2005 (i.e., those that occurred in February and March 2005), it notes that the six sales sold for an average of \$\$\$\$ per acre. If the two sales with the smallest acreage, which are near the entrance of the subdivision, are removed from consideration, the four remaining lots sold for an average of \$\$\$\$ per acre. If a range of prices per acre from \$\$\$\$ to \$\$\$\$ is applied to the subject's 1.47 acres, the resulting estimated range of values for the subject's lot is between \$\$\$\$ to \$\$\$\$\$, as of February or March. Land appreciation was estimated at the hearing to be approximately 1% a month. If the \$\$\$\$ to \$\$\$\$ range of values for the subject lot, as of February or March 2005, is reduced 2% for appreciation, the subject's land value would be estimated at between \$\$\$\$ to \$\$\$\$ as of the lien date.

Because the \$\$\$\$ to \$\$\$\$ range of values is greater than the Petitioner's estimate of \$\$\$\$ for the subject lot, the Commission would adjust the Petitioner's total estimate of value between \$\$\$\$ and \$\$\$\$\$. When added to the Petitioner's total value estimate of \$\$\$\$\$, the adjusted total estimate of the subject's value would range between \$\$\$\$ and \$\$\$\$.

The Commission agrees with the County's appraiser that the market approach is a better indicator of value than the cost approach for a property such as the subject. Of the comparable sales used by the County in its market approach, Comparable #4 appears the least similar to the subject, as it is not on a small lot in a subdivision, has access to city utilities, and sold for a value that is significantly higher than any other comparable. The comparable most like the subject appears to be Comparable #2, which is in the same subdivision and has a lot closest in size to the subject. While more comparable to the subject than Comparable

4, Comparables #1 and #3 do not appear as comparable as Comparable #2. For these reasons, the Commission finds that \$\$\$\$\$ appears to be the most reasonable estimate of value of the subject property for the 2005 tax year, based on the evidence proffered at the Initial Hearing.

The Commission also notes that this value falls within the range estimated by the Petitioner, once his land value is adjusted to the averages shown by the comparable land sales. The Petitioner also stated that the County has included the price paid for personal property in the \$\$\$\$\$ sales price used in its appraisal for Comparable #2. However, there is no evidence of the value of this personal property. Even were there such evidence so that Comparable #2's adjusted price could be adjusted downward, the Commission notes that its finding of \$\$\$\$\$ as the value for the subject property is supported not only by the Petitioner's own evidence, but also by the County's other two comparables that are most like the subject, specifically Comparables #1 and #3. Lastly, the fact that the Petitioner has listed the subject for sale at \$\$\$\$\$ does not appear to suggest that its fair market value is near this amount, as there are, as yet, no sales in the CITY area to support such a price.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject property's total value of \$\$\$\$\$, as established by the County BOE, should be reduced to \$\$\$\$\$ for the 2005 tax year. In accordance with this finding, the Commission also finds that the value of the subject's land should be reduced from \$\$\$\$\$, as established by the County BOE, to \$\$\$\$\$. Accordingly, the remaining of the total reduction should be applied to the value of the subject's improvements, which will reduce the improvements value from \$\$\$\$\$, as established by the County BOE, to \$\$\$\$\$. The Iron County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

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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.

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Marc B. Johnson  
Commissioner

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 \_\_\_\_\_, 2006.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

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