

05-1706  
Locally Assessed Property Tax  
Signed 06/27/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	05-1706
v.	)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF IRON COUNTY,	)	Tax Year:	2005
STATE OF UTAH,	)		
	)	Judge:	Chapman
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:**

Kerry R. Chapman, Administrative Law Judge

**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 20, 2006.

At issue is the fair market value of the subject property as of January 1, 2005. The subject property consists of a log cabin on a 40-acre lot and is located approximately six miles from CITY 1 limits in Iron County, Utah. The property is inaccessible by road during the winter months. The cabin was completed

in 2001 and consists of approximately 6,000 square feet above grade and 2,450 square feet in the basement (100% finished). The home has a two-car garage and two fireplaces.

For the 2005 tax year, the County assessed the subject property's fair market value at \$\$\$\$\$. The Iron County Board of Equalization ("County BOE") reduced the fair market value to \$\$\$\$\$. The Petitioner has appealed the latter value to the Tax Commission.

**Petitioner's Evidence and Testimony.** For the Petitioner, PETITIONER REPRESENTATIVE, who was a former appraiser in STATE, argues that the fair market value of the home for the 2005 tax year is between \$\$\$\$\$ and \$\$\$\$\$. PETITIONER REPRESENTATIVE states that the property cost approximately \$\$\$\$\$ to \$\$\$\$\$ to build, with the land being purchased in 1997 and the cabin built in 2000 and 2001. Although land and material costs and labor may have increased in the interim, PETITIONER REPRESENTATIVE believes that depreciation and functional obsolescence factors would counter any increase.

PETITIONER REPRESENTATIVE estimates that functional obsolescence would reduce any cost approach estimate of value by approximately 61%. PETITIONER REPRESENTATIVE calculated the total obsolescence percentage after concluding that fourteen separate functional obsolescence factors affect the property and estimating a percentage decrease for each. Because of the amount the Petitioner expended to build the subject and these obsolescence factors, PETITIONER REPRESENTATIVE requests that the Commission reduce the fair market value of the subject property to \$\$\$\$\$.

Both parties agree that the property is unique and difficult to appraise. However, for the Commission to lower the value, the party requesting a change in value must not only show that the County BOE value is incorrect, but must also establish a sound evidentiary basis for the reduction. Although PETITIONER REPRESENTATIVE sets forth a number of factors that he claims would reduce the property's

value due to functional obsolescence, the Commission is not convinced that most of these factors qualify as “functional obsolescence” for purposes of property appraisal. Furthermore, even should these fourteen “factors” negatively impact the property’s value when compared to a property in the CITY 1 limits, PETITIONER REPRESENTATIVE does not establish whether a decrease is appropriate when the subject is compared to properties with similar winter access that are outside of CITY 1 limits. Without some evidence to support the appropriateness of these reduction percentages and evidence of a convincing cost approach to which they could apply, the Commission does not find the Petitioner’s functional obsolescence argument and calculations convincing.

Furthermore, RESPONDENT REPRESENTATIVE 2’s, an appraiser for Iron County, states that properties in the CITY 1 area are increasing approximately 15% per year. PETITIONER REPRESENTATIVE’S arguments, however, would suggest that the subject’s fair market value, when compared to its completion costs, has remained stagnant since the land was purchased in 1997 and the cabin completed in 2001. RESPONDENT REPRESENTATIVE 2’s also testifies that that the subject’s land value alone has increased significantly since its purchase in 1997.<sup>1</sup> For these and the above reasons, the Commission finds that the Petitioner has not provided a sound evidentiary basis to show that the value is lower than \$\$\$\$\$, as established by the County BOE.

**County’s Evidence and Testimony.** For the County, RESPONDENT REPRESENTATIVE 2 prepared an appraisal in which she estimated the subject’s value using both the cost approach and the market approach. With the cost approach, RESPONDENT REPRESENTATIVE 2 estimated the property’s value at

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<sup>1</sup> The land alone has increased approximately \$\$\$\$\$ in value since its purchase in 1997, based on testimony proffered by RESPONDENT REPRESENTATIVE 2. RESPONDENT REPRESENTATIVE 2 states that land near the subject sold for approximately \$\$\$\$\$ an acre in 1997 and sold for approximately \$\$\$\$\$ per acre as of January 1, 2005. The \$\$\$\$\$ per acre increase, when applied to the 40-acre subject

\$\$\$\$\$, which, when rounded, is the value that the County BOE established for the property. With the market approach, she estimated the subject's value to range between \$\$\$\$\$ and \$\$\$\$\$. She correlated her findings from these two approaches and concluded that the property's fair market value, as of January 1, 2005, was \$\$\$\$\$. Because of her conclusion, she requested that the Commission sustain the County BOE's value of \$\$\$\$\$.

Cost Approach. In RESPONDENT REPRESENTATIVE 2's cost approach, she estimated the 40-acre site to have a value of \$\$\$\$\$, even though she states in the hearing that the property would sell for approximately \$\$\$\$\$ an acre, or \$\$\$\$\$ for the 40-acre subject site. She also stated in the appraisal that she derived her cost approach using a "commercial costing program used by Iron County." However, there is no evidence to show how this program was applied or any discussion or evidence of whether such a cost approach is applicable for a property as unique as the subject, which may be impacted both negatively and positively by factors not considered in a commercial cost program. For these reasons, the Commission is not convinced that the value established by the County's cost approach necessarily establishes the fair market value of the subject property.

**Market Approach.** In RESPONDENT REPRESENTATIVE 2's market approach, she compared the subject to three properties that sold near the lien date, January 1, 2005. The three comparables are sales of log cabins that are all smaller in size than the subject's and which sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. RESPONDENT REPRESENTATIVE 2 compared each property to the subject and made adjustments to the sales prices, from which she concluded that the subject's fair market value would range between \$\$\$\$\$ and \$\$\$\$\$. RESPONDENT REPRESENTATIVE 2 admits that no comparable is available that is identical to the subject property. However, she adds that she used three "high-mountain" log cabin

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site, equates to an increase of \$\$\$\$\$ since its purchase.

properties in her market approach to show that such properties sell for significant prices. Although RESPONDENT REPRESENTATIVE 2 states that she is unaware of any cabin that has sold for more than \$\$\$\$ outside of the CITY 1 limits, she also states that properties in the CITY 1 limits have begun to sell in excess of that amount.

RESPONDENT REPRESENTATIVE 2's Comparable #1 is a 2,700 square foot log cabin built in 1999 on a 0.83-acre lot that is approximately one mile outside of the CITY 1 limits. Like the subject property, this property is inaccessible by road in winter and located relatively close to CITY 1. Unlike the subject, which has a private well, this comparable has no well, which requires that water must be trucked into the property. Unlike the subject and the other two comparables, which are all located on lots in excess of 30 acres, this comparable's lot is less than one acre in size.

RESPONDENT REPRESENTATIVE 2 states that lots in the development where Comparable #1 is located sell for \$. If the subject acreage would sell for \$ an acre, or \$ for the 40-acre site, as RESPONDENT REPRESENTATIVE 2 proffers, the \$ "site" adjustment that she made to Comparable #1 may be conservative. If the actual difference in value between the subject lot and the comparable lot is \$ (\$ minus \$), the site adjustment may need to be adjusted upward by \$ (\$ minus \$). Adding \$ to RESPONDENT REPRESENTATIVE 2's adjusted sales price of \$ would result in a revised adjusted value of \$.

RESPONDENT REPRESENTATIVE 2's Comparable #2 is located two miles north of CITY 2, Utah, which is closer in location to CITY 3 and CITY 4 than to CITY 1. However, RESPONDENT REPRESENTATIVE 2 explains that she used this property to show the sales price of another recreational property in Iron County that is inaccessible by road in winter. This comparable, whose cabin is also much smaller than the subject, sold for \$ and was adjusted by RESPONDENT REPRESENTATIVE 2 to show

a value of \$\$\$\$\$ for the subject. RESPONDENT REPRESENTATIVE 2 explained that no site adjustment was necessary even though Comparable #2's lot is twice the size of the subject, because land in the comparable's area sells for about one-half the price per acre as compared to land in the subject's area.

RESPONDENT REPRESENTATIVE 2's Comparable #3, although most similar to the subject in size and accompanying acreage, is also the one that is most dissimilar as to accessibility and utility. This property sits on 31 acres and sold for \$\$\$\$\$. However, it is located in the CITY 1 limits, is accessible during winter, and has city water and other related amenities. Although the log cabin on this property is smaller than the subject, it also has more bathrooms and a larger, four-car garage.

For Comparable #3, RESPONDENT REPRESENTATIVE 2 estimated a "site" adjustment of \$\$\$\$\$ to account for the difference in value between its lot and the subject's lot. The parties agree that an acre of land in the city limits of CITY 1, where Comparable #3 is located, would sell for significantly more than the \$\$\$\$\$ per acre at which property near the subject is selling. RESPONDENT REPRESENTATIVE 2 estimates that acreage in CITY 1 limits would have sold between \$\$\$\$\$ and \$\$\$\$\$ an acre as of the lien date. At these rates, Comparable #3's 31-acre lot would have been worth between \$\$\$\$\$ and \$\$\$\$\$ as of the lien date. If the 40-acre subject property is worth approximately \$\$\$\$\$ per acre, or \$\$\$\$\$ in total, it would appear that Comparable #3's lot would be worth approximately \$\$\$\$\$ to \$\$\$\$\$ more than the subject. When RESPONDENT REPRESENTATIVE 2 was asked whether her \$\$\$\$\$ adjustment could have been too low given these circumstances, she stated that it may be appropriate to revise the site adjustment she applied in her appraisal. Applying a site adjustment of \$\$\$\$\$ would lower the adjusted sale price to \$\$\$\$\$. Applying a site adjustment of \$\$\$\$\$ would lower the adjusted sale price to \$\$\$\$\$.

RESPONDENT REPRESENTATIVE 2 also states that in her appraisal, she included time adjustments in her market approach and based the adjustments on a 15% appreciation per year for property in

the CITY 1 area. Although she did not state whether such appreciation had occurred for the entire period since the subject was completed in 2001, the Commission notes that if the subject cost \$\$\$\$ (for the building and land) as of January 1, 2002 and appreciated in the intervening years at 15%, its value as of January 1, 2005 would 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

PETITIONER REPRESENTATIVE states that no appraisal can reasonably be used to estimate a property’s fair market value when the net adjustments in the market approach total more than \$\$\$\$ or \$\$\$\$\$. Because all of the comparables used by the County in its market approach were adjusted more than \$\$\$\$\$, PETITIONER REPRESENTATIVE urges the Commission to disregard it. Were the Commission to

follow PETITIONER REPRESENTATIVE'S suggestion, it would deny the appeal and sustain the County BOE's value of \$\$\$\$ because the Commission has found that the Petitioner, on its own, has provided no convincing evidence that the County BOE value is incorrect.

However, the Commission believes that the County's market approach, with a few revised adjustments, is the best evidence of value that the parties have proffered and that it shows a value for the subject property that ranges between approximately \$\$\$\$ and \$\$\$\$\$. Accordingly, based on the evidence and testimony proffered at the Initial Hearing, it appears that the subject's fair market value is less than the \$\$\$\$ value established by the County BOE.

Of the three comparables the County included in its market approach, the Commission is not convinced that Comparable #3, a property in CITY 1 limits, with adjustments approaching 50% of the purchase price, is the best evidence of the subject's value. As there appears to be a different market for properties in the CITY 1 limits, the Commission places little weight on Comparable #3. Remaining for consideration are Comparable #1, with a revised adjusted sales price of \$\$\$\$\$, and Comparable #2, with an adjusted sales price of \$\$\$\$\$. The range of adjusted values shown by these two comparables does not appear unreasonable for the subject, given that Comparable #2, a much smaller cabin which is also inaccessible by road in winter, sold for \$\$\$\$\$.

Of the three comparables proffered, the Commission finds that Comparable #2 is most like the subject, as it has a large lot, is inaccessible in winter, and requires the least adjustments, not only by a total dollar amount, but also by a percentage of sales price. For these reasons, the Commission finds that \$\$\$\$ is the best evidence of the subject's fair market value for the 2005 tax year, based on the evidence and testimony proffered at the Initial Hearing. Although this factor weighed little in the Commission's decision, the



Commission also notes that this value is similar to that produced by applying the 15% yearly appreciation rate to the subject's \$\$\$\$\$ cost to complete in 2001.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be reduced from \$\$\$\$\$, as established by the County BOE, to \$\$\$\$\$ for the 2005 tax year. The Iron County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

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.

\_\_\_\_\_  
Kerry R. Chapman  
Administrative Law Judge

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.

Appeal No. 05-1706

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

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