

05-1726  
Locally Assessed Property Tax  
Signed 06/05/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>INITIAL HEARING ORDER</b>
	)	
	)	
Petitioner,	)	Appeal No.    05-1726
	)	Parcel No.    #####
v.	)	
	)	Tax Type:    Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF	)	
KANE COUNTY,	)	Tax Year:    2005
UTAH,	)	
	)	Judge:        DePaulis
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 order, 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:**

Palmer DePaulis, Commissioner  
Marc Johnson, Commissioner

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE  
For Respondent:    RESPONDENT REPRESENTATIVE 1  
                    RESPONDENT REPRESENTATIVE 2

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 pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on April 11, 2006. Petitioner is appealing the assessed value as established for the subject property by Kane County Board of Equalization. The subject property is parcel no. ##### and is located in the SUBDIVISION in the ( X ) of Kane County. The lien

date at issue in this matter is January 1, 2005. The Kane County Assessor's Office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. The Kane County Board of Equalization reduced the value to \$\$\$\$\$, which results in a value per acre of \$\$\$\$\$.

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. . . . (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

The subject property consists of 32 acres of land that is unimproved. The property is in a ( X ) subdivision, however, its use is limited. Petitioner indicates he cannot build a cabin on the property due to a denial from the building department. This property also has slope and access issues. Petitioner argues that due to its limited use the property should be valued at \$\$\$\$\$ for the entire parcel or around \$\$\$\$\$ to \$\$\$\$\$ per acre. Petitioner provided one

comparable of a 10-acre property that had sold for \$\$\$\$\$. Petitioner submitted information regarding two other sales. However, both had sold for a higher amount per acre than Respondent's value for the subject property.

Respondent's representatives indicated that they had taken the slope and access issues into consideration at the County Board of Equalization and that is the reason they had reduced the value for the subject property. The County provided five property sales within a reasonable area of the subject property. They ranged in price from \$\$\$\$\$ to \$\$\$\$\$ per acre. The lowest price property had been a 234-acre parcel. Two of the comparables were similar in size to the subject, one at 38.40 acres and had sold for \$\$\$\$\$ per acre and the other at 36 acres that had sold for \$\$\$\$\$ per acre. The average price per acre of the County's sales was \$\$\$\$\$. However, based on the problems with the slope, access and utility the County had set the value lower than the sales comparables would suggest and appears to be making a reasonable estimate addressing the problems that Petitioner has presented in the hearing.

After weighing the evidence presented in this matter, there is only one comparable that sold for an amount that supported Petitioner's requested value. There are seven comparables that sold for more than the value set by the County. The Commission is not convinced that the comparable that sold for \$\$\$\$\$ for all ten acres is so much more similar to the subject as to outweigh all other sales in the area when determining value.

#### 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:

Appeal No. 05-1726

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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Palmer DePaulis  
Commissioner

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

Marc B. Johnson  
Commissioner

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