

05-1733
Locally Assessed Property
Signed 10/06/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	05-1733
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally
	)		Assessed
BOARD OF EQUALIZATION OF)		
SALT LAKE COUNTY,	)	Tax Year:	2005
STATE OF UTAH,)		
	)	Judge:	Jensen
Respondent.)		

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Salt Lake County Board of Equalization. This matter was argued in an Initial Hearing, pursuant to the provisions of Utah Code Sec. 59-1-502.5, on March 30, 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 ADDRESS in Salt Lake County, Utah. The County Assessor had set the value of the subject property, as of the lien date at \$\$\$\$\$. The County Board of Equalization sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property consists of a .25-acre lot improved with a bungalow style residence. The residence was approximately 64 years old and built of fair quality of construction. It has 840 square feet above grade and no basement. There is also a one-car garage that appears to have been originally constructed as a detached garage but is now somewhat connected to the house by a shed-like addition. The County considered the residence to be in poor condition and made particular note in its valuation that the home was in disrepair, needing some maintenance and remodeling. The subject property is on STREET which has recently been the subject of recent construction, including renovation of sidewalks, curbs, gutters, and the street itself. The

effect of this street work on the value of the subject property forms the main basis of contention between the parties.

Petitioner has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. In this matter Petitioner provided photographs of the front of the subject property. The Petitioner brought only original photographs and did not wish to enter them into the record because they showed essentially the same thing as the county's photographs contained in the county appraisal. While the Petitioner agreed with the county's market approach, property attributes, square footages, and condition assessment, he disagreed with the county on two points. First, the Petitioner argued that while recent construction may have improved STREET, it was constructed in part of his property for which no party held a valid easement. Since the road construction took this property from the Petitioner, he requests that it be deducted from his value. Other than his own belief regarding the easement issue, the Petitioner offered no evidence to substantiate that part of the STREET improvements were built on land that he owned free of any easement.

The STREET improvements also form the basis of the Petitioner's second area of disagreement with the county. The Petitioner's contention is that STREET has been raised three feet and that there is now a drop-off of at least three feet between the new improvements and the level of his existing driveway. The Petitioner indicated that although the contractor doing the road construction tried to mitigate the effect of the drop-off by adding a gravel ramp to the existing gravel driveway, this did not help because the ramp formed by the gravel is three feet high and three feet wide which results in a 45-degree angle. The Petitioner acknowledged that the two trucks shown in the county's photographs do go in and out of his driveway but that they sometimes flip gravel as they do so.

Respondent provided an appraisal, prepared by RESPONDENT REPRESENTATIVE. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. However, the county was requesting upholding the \$\$\$\$\$ value as set by the Board of Equalization rather than arguing for a higher value. The parties are in agreement that the appraisal had reasonably-selected comparable properties and that adjustments for factors such as home size, condition, lot size, and date of sale were appropriate. The parties strongly disagreed regarding the effect of improvements to STREET. The county's appraiser testified that he personally inspected the outside of the subject property and found no three-foot drop between the road and the driveway. While the new construction may be a few inches higher than it was previously, he saw nothing that would detract from value. As for the claim of the street being constructed on the Petitioner's land, he was unable to locate anything to indicate that the road was in an area not already covered by ownership or easement. He indicated that, if anything, the improvements would make the street more appealing to buyers. Accordingly, to appraise conservatively, he made no change to the value of the subject for street improvements.

Reviewing the evidence presented, the Commission finds that there is no evidence to support a decrease in value on the basis of a drop off or a taking of property for road improvements. The photographs presented by both the Petitioner and Respondent indicate a grade difference of only inches between street and driveway. There is insufficient evidence of a drop off that would affect value. If a more significant drop is present but did not photograph well, the Petitioner is invited to present better photographs at a formal hearing as explained below.

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:

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.

Clinton Jensen
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

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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