

05-1782  
Locally Assessed Property  
Signed 01/09/2007

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,	)	<b>ORDER</b>
	)	
Petitioner,	)	Appeal No: 05-1782
	)	Parcel No. #####
v.	)	
	)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION	)	
OF DAVIS COUNTY,	)	Tax Year: 2005
STATE OF UTAH,	)	
	)	Judge: Jensen
Respondent.	)	

---

**Presiding:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER  
For Respondent: RESPONDENT REPRESENTATIVE 1, Davis County Assessor's Office  
RESPONDENT REPRESENTATIVE 2, Davis County Assessor's Office  
RESPONDENT REPRESENTATIVE 3, Davis County Assessor

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 August 17, 2006 in accordance with the provisions of Utah Code Ann. §59-1-502.5.

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, CITY, Utah. The County Assessor had set the value of the subject property, as of the lien date at \$\$\$\$\$. The County Board of Equalization lowered the value to \$\$\$\$\$. Petitioner requests that the value be reduced to \$\$\$\$\$ or less. 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 bi-level style residence. The residence was approximately 20 years old and built of average quality of construction. It has 1,692 square feet above grade and 840 basement square feet, which are

finished with two bedrooms and a full bath. There is also a built-in two-car garage. The County assumed the residence to be in average condition.

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 evidence of the sales of four properties in on the same street as the subject property. The approximate dates of these sales were November 2002, November 2003, June 2005, and July 2005. The MLS listing for the November 2002 sale indicated that there might have been no sale at all. The property was listed for \$\$\$\$ but the listing expired without a sale. The November 2003 sale was for \$\$\$\$\$, and the MLS listing indicated that the home was offered as a HUD home with no warranties. The June 2005 sale was for \$\$\$\$ but was sold by without a listing on the MLS and thus no verification of any of the details of the sale. The Petitioner originally submitted a document showing the July 2005 sale at \$\$\$\$\$, but the \$\$\$\$\$ price was also crossed out and \$\$\$\$ was handwritten in its place. There may have been two sales of this property, because the MLS listing showed the sale date as September 2004 and the selling price as \$\$\$\$\$. According to the MLS listing, this sale was made “with no disclosures or warranties expressed or implied,” in “as-is” condition, and subject to a requirement that the property be re-keyed at the buyer’s expense. The sale was limited to buyers with a pre-qualifying letter or proof of funds.

Respondent provided an appraisal, prepared by RESPONDENT REPRESENTATIVE 2. It was the appraiser’s conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser relied on the sales of two comparable properties in September 2004 one in June 2005. The farthest of the comparable properties was .68 of a mile from the subject property and the other two were within a half-mile. The appraiser made adjustments for differences in factors such as home condition and size, basement finish, and

garage. After making these adjustments, the comparable properties had adjusted selling prices between \$\$\$\$\$ and \$\$\$\$\$. The appraiser mistakenly listed the subject property with a half bath in the basement rather than a full bath.

Weighing the evidence before it, the Commission finds insufficient evidence to show error in the board of equalization value. The Petitioner bears the burden of proof on this issue and, while he has presented some comparable sales, each of those sales suffers from a factor that calls its value into question. Two of the sales were sold with “as-is” conditions that are not typical of a market sale, one was a by owner sale without verification of the sale or the price, and one was an expired listing with no sale.

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 \_\_\_\_\_, 2007.

\_\_\_\_\_  
Clinton Jensen  
Administrative Law Judge

Appeal No. 05-1782

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 \_\_\_\_\_, 2007.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

CJ/05-1782.resprop.int