

06-0026
Locally Assessed Property
Signed 10/06/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	06-0026
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally
	)		Assessed
BOARD OF EQUALIZATION OF)		
WEBER COUNTY,	)	Tax Year:	2005
UTAH,)		
	)	Judge:	Jensen
Respondent.)		

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Weber County Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Weber County Board of Equalization. The parties appeared at an Initial Hearing on April 4 2006 in accordance with Utah Code Sec. 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 reduced the value to \$\$\$\$\$. 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 .14-acre lot improved with a cottage style residence. The residence was 88 years old and built of average quality of construction. It has 1192 square feet above grade and 837 basement square feet of which none are finished. There is also a detached 21' x 22' one-car garage built in 2002. The County considered the residence to be in average condition and the garage to be in good condition. The subject property was originally constructed as two houses that were later combined into a single dwelling. Accordingly, it has a floor plan that is not optimal and has layout problems.

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 three properties. These comparable sales are all within a few blocks of the subject property and two of the properties are of similar vintage as the subject property. The first and second comparable sales provided by the Petitioner are from estate sale situations likely to have been brought about by the death of the owner. The evidence presented by the parties does not indicate whether Petitioner's comparable sales 1 and 2 are sales with normal seller motivations or whether these sales had unusual seller motivations brought about by the nature of the estate sales. Petitioner's comparable sale number 3 has no such questions. In fact, the Respondent also used this comparable sale in arriving at the county's requested value. The Petitioner's comparable sale number 2 is a home that sold in July 2005 for \$\$\$\$\$ with \$\$\$\$\$ in sales concessions for a net selling price of \$\$\$\$\$. This home was smaller by 150 square feet on the main floor and 787 square feet in the basement when compared to the subject property, and did not have the large well-built garage present with the subject property.

Respondent provided an appraisal, prepared by RESPONDENT REPRESENTATIVE, a licensed real property appraiser. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser arrived at this valuation after review of comparable sales in the area. The appraisal report form includes detail on four of the comparable sales that the appraiser testified best approximated the market for the subject property. The comparable sales were all within a few blocks of the subject property within the same neighborhood as the subject property. The appraiser made adjustments to the comparable properties for differences in lot size, square footage of the homes, and similar factors. The appraiser listed the subject home as having a two-car garage when in actuality the garage

only had a 12-foot wide door. The appraisal report form indicated no adjustment for a comparable sale with a two-car garage and a \$\$\$\$ adjustment for comparable sales with no garage. Even though the appraisal report was not technically correct in listing a two-car garage, the appraiser testified that changing the report to reflect a one-car garage with 21' x 22' dimensions would not change the value placed on the subject property because a new 21' x 22' garage with a door that would allow one car would be at least as valuable to buyers as an older garage of the same size with a door that would allow the parking of two cars. The appraiser testified that the subject property with its garage would be at least \$\$\$\$ more valuable than a comparable property with no garage.

One of the rooms listed as a bedroom on the appraiser's report did not have a closet. Worse, the layout of the subject property required that traffic flow through what would otherwise be a bedroom. The appraiser testified that she was not aware of this design flaw. In terms of the relative strengths of the four comparable sales in the county's appraisal, the Respondent's appraiser testified that comparable sale number 4 was the best indicator of value. Respondent's comparable sale number 3, on the other hand, appears to be a sale that has a price per square foot outside the range of the other comparable sales presented by both parties.

Respondent's comparable sale number 4 is the same property provided by the Petitioner as Petitioner's comparable sale number 3. Thus, the comparable sale that Respondent found the best indicator of value is also the Petitioner's comparable that had no questions of possible influences from being sold in an estate setting. This property had a selling price on July 25, 2005 of \$\$\$\$\$. It had sales concessions of \$\$\$\$\$ that need to be deducted from the sale price. The property also had several factors that were not as good as the subject property. The county appraiser thus made positive adjustments to bring this comparable up to the standard of

the subject property. These adjustments include the following:

- \$\$\$\$ - brick on the subject property compared to aluminum on the comparable;
- \$\$\$\$ - subject property built in 1917 compared to 1912 for the comparable;
- \$\$\$\$ - two bathrooms in subject property compared to one in comparable;
- \$\$\$\$ - 1192 square feet above ground in subject and 1045 square feet above ground for comparable;
- \$\$\$\$ - 837 square feet basement size in subject and 50 square feet size for comparable;
- \$\$\$\$ - two-car garage for subject property and one-car garage for comparable;
- \$\$\$\$ - central air in subject and none in comparable;

Subtracting the \$\$\$\$ in sales concessions and adding for the features of the subject property that were better than the comparable, the Respondent's appraiser adjusted the selling price of this comparable to \$\$\$\$.

Two of the Respondent's proposed adjustments to this comparable sale merit further discussion. The \$\$\$\$ adjustment for a two-car garage is technically incorrect since the parties agreed that only one car would fit through the door of the garage door of the subject property. However, the county's appraiser provided credible testimony that this technical error in description would not change value. The \$\$\$\$ adjustment for construction of the subject property in 1917 compared to the 1912 construction of the comparable appears to be an adjustment without evidentiary support. While a home as old as 1912 may have design problems and layout that is less than ideal, there is evidence that the subject property suffered from layout problems of its own. There appear to be no problems with any of the other adjustments that the county appraiser made to this comparable. Taking these factors into account, a reasonable adjusted value of the comparable sale relied upon by both parties would be \$\$\$\$.

Weighing all of the evidence, the Commission finds the work of the county's appraiser credible. Given the appeal of a garage as large and as new as the one associated with the subject property, the appraiser has accurately valued the garage improvements to the property notwithstanding a technical error in describing the garage. If it were not for the layout problems inherent in the subject property, the evidence would support the Board of Equalization value of \$\$\$\$\$. The Commission agrees that the layout issues of the subject property lessen its value. Although the comparable properties presented by the parties are of an age that they already take into account some of the functional design issues present in the subject property, a \$\$\$\$\$ adjustment is appropriate given the construction method of combining two houses into one and the difficulties in using all of the rooms that would otherwise be bedrooms. Accordingly, the value of the subject property was \$\$\$\$\$ as of the January 1, 2005 lien date.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2005 is \$\$\$\$\$. The Weber County Auditor is ordered to adjust its records in accordance with this decision.

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.

BY ORDER OF THE UTAH STATE TAX COMMISSION.

Clinton Jensen
Administrative Law Judge

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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