

06-0079
Locally Assessed Property
Signed 12/20/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	06-0079
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/ Locally Assessed
BOARD OF EQUALIZATION)		
OF DAVIS COUNTY,)		
STATE OF UTAH,	)	Tax Year:	2005
)		
Respondent.	)	Judge:	Jensen

Presiding:

Clinton D. Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE 1, Appraiser
RESPONDENT REPRESENTATIVE 2, 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 May 15, 2006 in accordance with 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 approximately ADDRESS in CITY, Utah.

The parties provided a copy of a Stipulation for Entry of Order and an Order from the Davis County Board of Equalization. The Stipulation and Order indicated that the County Board of Equalization was sustaining the assessed value of the subject property but that either party was free to appeal to the Utah State Tax Commission. The parties provided a copy of the Petitioner's appeal notice to the County Board of Equalization, which indicates that the County Assessor's office had originally set the value of the subject property, as of the lien date, at \$\$\$\$\$. Thus, it appears that the value as set by the Board of Equalization was \$\$\$\$\$. At hearing before the Tax Commission, the County requested that the assessed value of the subject property, as of the lien date, be lowered to \$\$\$\$\$. The Petitioner requested a valuation of \$\$\$\$\$.

The subject property consists of a 1.01-acre unimproved lot in CITY, Utah. It is within the Accident Potential Zone ("APZ") for (X). The APZ encumbers the property with a prohibition against building any residence or business property likely to be inhabited. The parties

agree that the highest and best use of the property is agricultural use and that the greatest improvement available to the subject property is a barn or similar building because the APZ designation prohibits any building beyond that.

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 a history of his ownership of the property and its taxation. He did not provide an appraisal or comparative sales although he did discuss the comparable sales as presented by the County.

Respondent provided an appraisal, prepared by RESPONDENT REPRESENTATIVE 1. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser considered the sales of three comparable properties. Comparable 1 was a sale of 22.5 acres, which sold for \$\$\$\$\$ or \$\$\$\$\$ per acre on December 30, 2002. Approximately half of this comparable property was within the APZ. Comparable 2 was a one-acre parcel on STREET but not within the APZ. It sold on December 30, 2005 for \$\$\$\$\$. Comparable 3 was a 1.012-acre parcel on STREET within the APZ. It sold for \$\$\$\$\$ on February 14, 2005, but included personal property valued at \$\$\$\$\$. Thus, the net selling price of this parcel was \$\$\$\$\$.

Considering the evidence presented by the parties, the County appraiser's comparable sale number 3 is most comparable to the subject property. It is similar to the subject property in lot size and its location on STREET within the APZ. It sold on February 14, 2005, which is very close to the January 1, 2005 date for which Utah statute requires that the subject property be valued. On the basis of a property so comparable to the subject property selling for \$\$\$\$\$, the County's requested valuation of \$\$\$\$\$ is well supported. The Commission notes that the \$\$\$\$\$ valuation requested by the Petitioner is approximately half of the selling price of a similar parcel on the same street as the subject property.

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 Davis County Auditor is ordered to make any adjustment necessary in its records to be in accordance with this decision. 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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