

06-0107 & 06-0108
Locally Assessed Property Tax
Signed 04/24/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2,)	INITIAL HEARING ORDER,
)	
Petitioner,)	Appeal No. 06-0107
)	
)	Parcel No. #####-1, #####-2, #####-3, #####-4
)	
PETITIONER 3,)	Appeal No. 06-0108
)	Parcel No. #####-5
Petitioner,)	
)	
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	
WAYNE COUNTY,)	Tax Year: 2005
UTAH,)	
)	Judge: DEPAULIS
Respondent.)	

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, and
Marc Johnson, Commissioners

Appearances:

For Petitioner:	PETITIONER 1
For Respondent:	RESPONDENT REPRESENTATIVE 1, Assessor; RESPONDENT REPRESENTATIVE 2, Clerk/Auditor; RESPONDENT REPRESENTATIVE 3, Treasurer/Recorder; RESPONDENT REPRESENTATIVE 4, Attorney; RESPONDENT REPRESENTATIVE 5, Commissioner; RESPONDENT REPRESENTATIVE 6, Commissioner

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 March 17, 2006. Petitioners, PETITIONER 1 and PETITIONER 2 are appealing the assessed value as established by the Wayne County Board of Equalization for the subject parcels: #####-1, #####-2, #####-3, and #####-4, and through a power of attorney PETITIONER 1 is acting on behalf of Petitioner PETITIONER 3, Appeal Number 06-0108, for parcel number #####-5. The subject lots are located in a subdivision just outside the CITY, Utah. The lien date at issue in this matter is January 1, 2005. The Wayne County Assessor had originally set the value of the subject lots, as of the lien date at \$\$\$\$ apiece. The Wayne County Board of Equalization sustained the Assessor's value for the properties.

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. . . . (4) In reviewing the county board's decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised;

and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

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 lots are approximately one acre in size in an approved subdivision. The lots are from a 10-acre plot that was subdivided several years ago. Some of the lots have been sold over the years and the remaining lots have been listed for sale for some time.

Petitioner requests that the fair market value of the property be reduced to \$\$\$\$\$. Petitioner says that the lots won't sell without water from the CITY water district. When Petitioner applied for permission to develop his land through the County, he was required to put in infrastructure to deliver water to each lot. He also had to provide documentation that he had secured water from the water district. At the time of approval Petitioner was given a letter that the water district would provide water, and consequently, he was approved as having complied with all regulations under the County planning board and County Commission. Petitioner began his development and sold some lots over the years, but suddenly last year the CITY decided to put a moratorium on all water connections because of the drought. They advised Petitioner to drill wells on his lots. Petitioner says that it is not feasible for him to try and drill wells for water on each parcel because he has already been required to put in costly infrastructure to deliver water from the water district. There is no guarantee that he would hit water and even if he did the water quality from wells is very poor in this area.

Petitioner says that he had listed the lots for \$\$\$\$\$ and had actually sold a lot for just under \$\$\$\$\$ to a buyer who was willing to take a risk that the water district would reverse its position some time in the future. Petitioner says this sale is far from the \$\$\$\$\$ value that the Assessor put on the land.

Respondent says that the moratorium on water delivery is only temporary and that the CITY and the water district are in the process of developing new springs and making other improvement to deliver water to the Petitioner. The Assessor says that Petitioner will be first on the list to receive water when it is available. Under questioning, however, the Assessor admits that this is only hearsay information that she has heard from CITY officials and no one has put any of this information into writing for the Petitioner, or for anyone else. Further, the Assessor cannot confirm any time frame. The Assessor says that she has valued the property at \$\$\$\$\$ because it is accordance with the land guide values, and that she is required by law to value Petitioner's property according to the land guide in order to avoid a factor order from the State. She feels that her hands are tied and she can't lower the value. She also said that there were other comparable sales in the area that supported the assessed value for the subject property including one of Petitioner's own listings for \$\$\$\$\$, but she provided no written information. Further, the Assessor also testified, but did not identify, two other land sales. One was for \$\$\$\$\$ with water, but was located in the city. The other was for \$\$\$\$\$ for ten acres without water, located in the water district and equated to \$\$\$\$\$ per acre. There was no evidence that this land had been subdivided, as is the case with the subject property. When asked about the comparables she said that it would be inappropriate to share them with the Petitioner or the Hearing Officer. The Commission notes, however, that it is permissible to disclose these sales for hearing purposes.

Upon reviewing the information presented in this matter, the only sale that was presented that gives any guidance is the sale that Petitioner made of an identical lot situated in the same

subdivision under the same water restrictions. That sale was for something just under \$\$\$\$\$. Further, the Commission finds that the Respondent has not presented sufficient information of any comparables that would guide the Commission in supporting the land guide value that the Assessor used. The Commission notes that land guide values are just that, guides. In the absence of any other information they can serve as guides to the value of property, but in this case, there is a sale in the subdivision itself that indicates a value for the property between a willing buyer and a willing seller knowledgeable about the relevant facts of the water moratorium.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2005, is \$\$\$\$\$. 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.

Palmer DePaulis
Commissioner

Appeal No. 06-0107

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

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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