

06-0121
Locally Assessed Property
Signed 12/18/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	06-0121
	)	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
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 on June 1, 2006. Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes. Petitioner makes two arguments. First, he maintains that the County has valued his home higher than similar homes in the area and that his value should be lowered to equalize his value with other valuations in the area. Second, even if his home is valued in accordance with other homes in the area, the County has overvalued his property given its condition. The lien date at issue in this matter is January 1, 2005. The subject property is parcel no. #####, located at ADDRESS 1 in 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 \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be reduced to \$\$\$\$\$.

The subject property consists of a .23-acre lot improved with a two-story contemporary style residence. The residence was approximately 23 years old and built of good quality construction. It has 2,359 square feet above grade and 1,284 basement square feet of which 1,220 are finished. There is also an attached two-car garage. The County considered the residence to be in good condition.

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

Property Equalization

Section 59-2-1006(4) provides that the Commission shall equalize a property's assessed value for property tax purposes if a taxpayer meets two conditions: (1) raise the issue of equalization; and (2) show that the assessed value deviates plus or minus 5% from the assessed value of comparable properties. The Petitioner raised the issue of equalization at the Initial Hearing and meets the first condition.

To meet the second condition, the Petitioner provided assessment information for 29 properties in the general area of the subject property, some of which were assessed significantly less in 2005 than the subject property. The County objected to this approach for this neighborhood because this is an area in which some homes have view lots while others do not. Thus, homes next to each other may have significantly different values if one has city views and one does not. But that need not be a concern for an equalization of the subject property, because the county's appraisal has "none" entered in the box labeled "view" for the subject property. Because the subject property has no view, homes in the neighborhood with views should be, if anything, valued higher than the subject property. Thus, the Petitioner has a start toward proving an equalization case.

Although the Petitioner has what may be the start of a case for a lowering of his assessed value on the basis of equalization, he has submitted insufficient information regarding the other properties to allow the Commission to consider whether the difference in assessed value

between the subject property and neighbors is indicative of an equalization problem or whether the difference can be explained in home square footages. For example, the home next to the subject property is at ADDRESS 2. For 2005, the County valued it at \$\$\$\$\$. The next house on the street is at ADDRESS 3. For 2005, the County valued it at \$\$\$\$\$. If these two homes were at least as large, new, and desirable in all material ways as the subject property, the Petitioner would have given evidence sufficient to support an equalization of his property from its current assessment to \$\$\$\$\$. But the Commission is unable to make this kind of determination without evidence such as square footages or a photograph of the properties to which the Petitioner is requesting the subject property be equalized. At hearing, the County's representative explained how the Petitioner could gain information such as square footage from County records. The Commission would need to receive such evidence for at least two properties to support an equalization case. While the Petitioner may wish to request a formal hearing following the instructions at the bottom of this Order to present such evidence, the Commission finds insufficient evidence at this stage of the case to change value on the basis of equalization.

Property Valuation

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 fee appraisal prepared by a licensed appraiser, APPRAISER. APPRAISER includes photographs of both the inside and outside of the subject property. He has noted that the subject property has been maintained in above average condition with typical wear and tear, which is reflected in the effective age of the home. This appraisal valued the subject property at \$\$\$\$\$ as of September 30, 2005, but uses comparable sales in March, June, and July of 2005 with no adjustment for time of the sale. The comparable sales are all within a few blocks of the subject property. Lot sizes of the comparable

sales were close to the lot for the subject property. The styles of the comparable homes are markedly different from the subject. One of the comparable has a busy street, STREET, nearby but makes no adjustment for this factor.

Although the Petitioner presented the appraisal prepared by APPRAISER, he argued that the appraisal was higher than the actual value of the subject property. The Petitioner argued that the interior of his home is old, out of date, and in need of repairs. However, the Petitioner did not allow the County's representative access to the inside of the subject property to verify these claims.

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 \$\$\$\$\$. The County's appraiser relied on four comparable sales in about the same proximity as the Petitioner's appraiser's comparables. These comparable sales all sold in mid to late 2004 and were appropriately adjusted for time of sale. The County's appraiser also made adjustments that appear to be reasonable for differences such as lot size, home style, square footage, basement finish, garage, and air conditioning. The adjusted values of the County's comparable sales ranged between \$\$\$\$\$ and \$\$\$\$\$.

Weighing the evidence regarding valuation of the subject property, the Commission finds sufficient evidence to show that the original assessment by the Board of Equalization contained error in that \$\$\$\$\$ is in excess of the value of the subject property. As for the correct value to be placed upon the subject property, the Commission finds the county's appraisal of \$\$\$\$\$ to be the appraisal more representative of the value of the subject property because it relies on sales of homes more like the subject property in style and construction. The Commission declines the Petitioner's invitation to find a lower value on the basis of problems with the interior of the subject property, both because the Petitioner's testimony conflicts with the

findings of the appraiser on whom the Petitioner relies and because the Respondent was prevented from inspecting the interior of the subject property notwithstanding efforts to gain permission from the Petitioner.

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 Salt Lake 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.

Clinton Jensen
Administrative Law Judge

Appeal No. 06-0121

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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