

06-0145
Locally Assessed Property Tax
Signed 06/05/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)		
	)	ORDER	
Petitioners,)		
	)	Appeal No.	06-0145
v.)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,	)	Tax Year:	2005
STATE OF UTAH,)		
	)	Judge:	Chapman
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 notice, 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:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2 (by telephone)
 PETITIONER 1 (by telephone)
For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake County Assessor's
 Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. 59-1-502.5, on May 31, 2006.

At issue is the fair market value of the subject property as of January 1, 2005. The subject property is a single-family residence located at ADDRESS in CITY, Utah. The County Assessor assessed the property, as of the January 1, 2005 lien date, to have a fair market value of \$\$\$\$\$, a value that the Salt Lake County Board of Equalization ("County BOE") sustained.

The subject property consists of 0.29 acres of land and a one-story home with a full basement that was built in 1962. Both the main floor and the basement are 1,613 square feet in size, and the basement is approximately 73% complete. The home has a two-car garage and 1.75 baths. The Petitioners describe the master bath as unusually small. The Petitioners explain that they believe the home is “sliding down the hill” as there exists a two-inch gap between two of the concrete pads in the driveway and a ¼-inch separation of the kitchen cabinets from the kitchen ceiling. However, the Petitioners have not consulted a structural engineer to have the problem assessed and were aware of the situation when they purchased the home in 2002 for \$\$\$\$\$.¹

The Petitioners presented the multi-listing service (“MLS”) information of four comparable sales at the County BOE. These four comparables sold at prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$, respectively. The four homes sold between October 2004 and June 2005 and are all relatively close in location to the subject property. Because all of the homes appear to be larger than the subject property, their respective sales prices’ would suggest that the subject property’s fair market value should be less than \$\$\$\$\$.

The Petitioners also argue that information on the MLS sheets for the four comparables show that although they all sold for values higher than the subject’s \$\$\$\$\$ assessed value, they were all assessed at a value lower than \$\$\$\$\$, thus resulting in an inequity in assessment and taxation. The Petitioners concluded that they were assessed at values less than \$\$\$\$\$ for the 2005 tax year and that an equalization issue exists because the amount of taxes due on the subject property for the 2005 tax year was \$\$\$\$\$, while the taxes reported for the four comparables on their respective MLS sheets were all less than \$\$\$\$\$.

However, a property’s 2005 tax liability is determined by multiplying the property’s 2005 assessed value (minus any primary residential exemption) by the 2005 tax rate that is applicable to the

¹ The County indicates that its records show that the Petitioner purchased the home for \$\$\$\$\$ in 2002.

property. It is a possibility that due to the proximity of the comparables to the subject property, they are all in the same tax area and would be subject to the same 2005 tax rate as the subject property. However, this fact cannot be determined from the information submitted. Furthermore, 2005 property tax rates were not known until September 2005, and all four comparables were listed and sold prior to this time. Accordingly, their respective 2005 tax rates were not known when the homes were listed and sold through MLS. For these reasons, the taxes reported on the respective MLS sheets for the four comparables were probably indicative of their 2003 or 2004 tax year liability, not their 2005 tax liability. Accordingly, there is insufficient evidence to conclude that the four comparables were assessed at values lower than \$\$\$\$\$ for the 2005 tax year.

The County proffered an appraisal prepared by RESPONDENT REPRESENTATIVE, an appraiser with the County Assessor's Office. In his appraisal, RESPONDENT REPRESENTATIVE used four comparable sales that sold for values of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. RESPONDENT REPRESENTATIVE compared these comparables to the subject property and determined that the subject had an adjusted value of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, based on the respective comparables. RESPONDENT REPRESENTATIVE correlated these four adjusted values and determined that \$\$\$\$\$ was a reasonable value for the subject property for the 2005 tax year.

The Commission notes that two of these comparables sold and adjusted at values of between \$\$\$\$\$ and \$\$\$\$\$ and the other two sold and adjusted at values above \$\$\$\$\$. From this information, one could conclude that there exists one market above \$\$\$\$\$ for relatively larger homes, such as the County's comparable #1, and better condition (perhaps extensively remodeled) homes, such as County comparable #4. One could also conclude that there exists another market in the \$\$\$\$\$ to \$\$\$\$\$ range for smaller homes in average to good condition, such as County comparables #2 and #3. The subject property would appear to be more similar to the homes in the latter market because of its smaller size and average to good condition.

However, the comparables submitted by the Petitioners and the County, when considered as a whole, show that a majority of the homes in the subject's neighborhood sells for more than the subject's current value of \$\$\$\$\$. Without evidence of additional comparables selling below \$\$\$\$\$, the Commission is not convinced that the County's information shows the County BOE value to be excessive. For these reasons, the Commission sustains the County BOE value of \$\$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-1006(1) provides that “[a]ny 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”

Any party requesting a value different from the value established by the County BOE has the burden to establish that the market value of the subject property is other than the value determined by the county board of equalization.

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must (1) demonstrate that the value established by the County BOE contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the County BOE to the amount proposed by the party. *Nelson V. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

Section 59-2-1006(4) provides that “. . . 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.”

DISCUSSION

As discussed above, the Petitioner's evidence suggests that the subject property's fair market value is less than \$\$\$\$\$, but does not show the fair market value to be less than the \$\$\$\$\$ value sustained by the County BOE. In addition, the Petitioner's evidence is insufficient to show that the subject's 2005 assessed value is not equalized with other properties' 2005 assessed values. Accordingly, the Petitioner has not proffered any information to show that its current value of \$\$\$\$\$ value is incorrect.

Furthermore, the County's appraisal suggests that the \$\$\$\$\$ may be a reasonable value for the subject property. Although two of the County's four comparables suggests that the subject's value may be less than \$\$\$\$\$, these two comparables, when considered with all comparables submitted by both parties, are insufficient to convince the Commission that a lower value is appropriate.

DECISION AND ORDER

Based upon the foregoing, the Commission finds that the evidence submitted at the Initial Hearing is insufficient to show that the fair market value of the subject property is other than \$\$\$\$\$ and that other similar or superior properties were assessed and taxed at values lower than that at which the subject was assessed and taxed. Accordingly, the Commission sustains the \$\$\$\$\$ value that the County BOE established for the subject property for the 2005 tax year. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files 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

Appeal No. 06-0145

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2006.

Kerry R. Chapman
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission 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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