

06-0151  
Locally Assessed Property  
Signed 12/20/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	06-0151
	)	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.	)		

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**Presiding:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, 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 26, 2006 in accordance with the provisions of 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 a party requesting a change from the value established by the Board of Equalization 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 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 sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be increased to \$\$\$\$\$.

The subject property consists of a .21-acre lot improved with a two-story style residence. The residence was approximately 10 years old and built of average quality of construction. It has 1668 square feet above grade and 672 basement square feet of which none are finished. There is also a detached two-car garage. The County considered the residence to be in good condition.

In asking for a different value than that established by the County Board of Equalization, the Petitioner has the burden of proof and must demonstrate not only an error in the valuation set by the Board of Equalization, but also provide an evidentiary basis to support a new value. In this matter Petitioner provided evidence regarding five comparable properties selling in the ##### zip code in between late 2004 and mid 2005. According to the MLS search result provided by the Petitioner, these comparable sales came as a result of doing a search not to find sales at whatever market price may have been, but by setting a maximum price of \$\$\$\$\$ for the search. The newest of these comparables was 28 years old in 2005. The other four ranged between 44 and 69 years old. None of the Petitioner's comparables have the same style home as the subject property.

Because the Respondent also seeks a value different from that established by the Salt Lake County Board of Equalization, it likewise bears the burden of proof with regard to showing an error in the Board of Equalization value and in providing evidence to support a value higher than \$\$\$\$\$. In this case, Respondent provided an appraisal, prepared by APPRAISER. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser relied on nine comparable sales occurring in mid to late 2004 and early 2005. The appraiser made adjustments for time of sale to compensate for changes in the selling prices of properties in 2004 and 2005. All of the comparable sales are two-story design as is true of the subject property. The ages of the properties range between nine years for the newest comparable and 16 years for the oldest. The appraiser provides neighborhood boundaries for the neighborhood in which the subject property is located: STREET 1 for the north boundary, STREET 2 for the south boundary, HIGHWAY for a west boundary, and STREET 3 for an east boundary. While the appraiser's subject properties are fairly close to the subject property, none of the nine are within the neighborhood boundaries established by the appraiser. The appraiser

has made what appear to be reasonable adjustments for differences between the subject property and the comparables such as lot size, square footage, and basement finish.

Weighing the evidence presented, it appears that neither party has presented evidence that would sustain the burden of proof necessary to show that Board of Equalization value of \$\$\$\$\$ is in error. The Petitioner's comparable sales were for homes between 28 and 69 years old and are thus considerably older than the home on the subject property, which was not quite ten years old as of January 1, 2005. None are the same style home as is constructed on the subject property.

The county had better comparable sales. They are similar to the subject in style, age, and construction. If not for the comparable sales lying outside the boundaries of the neighborhood set by the county's appraiser, there would be evidence to support raising the value of the subject property from \$\$\$\$\$ to \$\$\$\$\$. But because the comparable sales were close but not technically within the same neighborhood boundary, there remains enough concern regarding sufficiency of the evidence that the Commission will not upset the \$\$\$\$\$ value as determined by the Board of Equalization.

DECISION AND ORDER

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

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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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