

06-0158  
Locally Assessed Property  
Signed 01/09/2007

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No	06-0158
	)	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	1,	Salt	Lake	County	
		Assessor's Office					
	RESPONDENT	REPRESENTATIVE	2,	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 6, 2006.

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 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 sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property consists of a .20-acre lot improved with a two-story style residence. The residence was approximately 19 years old and built of average to good quality of construction. It has 1,810 square feet above grade and 716 basement square feet of which none are finished. There is also a two-car built in garage. The County considered the residence to be in good condition. As of the lien date, the residence had evaporative cooling which has since been converted to central air. The evaporative cooler left stains on the roof, which have not been removed or repaired.

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 information regarding the sales of five comparable properties. These properties had sales dates from November 2004 through September 2005 and selling prices between \$\$\$\$\$ and \$\$\$\$\$.<sup>1</sup> The distances between the subject property and the Petitioner's comparable sales ranged between .39 of a mile and 1.76 miles. Four of the Petitioner's comparables were of similar size, age, and style compared to the subject.

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 county's appraiser relied on the sales of three comparable properties selling in the last few months of 2004. All of the county's comparable sales were .40 of a mile or less from the subject. All are of two-story design as is the subject. The appraiser made adjustments for differences in various factors such as lot size, home size, and date of sale. The appraiser made no adjustment for an evaporative cooler on the subject property when compared to the selling prices properties with central air. The county's representatives at hearing testified that this was an oversight, but that the adjustment for this difference would be in the range of \$\$\$\$\$ for a home of this age.

The comparable sales presented by both parties yield similar values. After removing from consideration the Petitioner's first comparable because it is 1.76 miles away from the subject, is a split level instead of a two story, and is 24 years older than the subject, the Petitioner's remaining four comparables have two with selling prices above and two selling prices below the county appraiser's value of \$\$\$\$\$. While the \$\$\$\$\$ value is close to the \$\$\$\$\$ value set by the board of equalization, it did not adequately adjust for the evaporative cooling in the subject property when most similar properties in the neighborhood seem to have central air.

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<sup>1</sup> The written materials provided by the Salt Lake County Board of Equalization also included information regarding a property at ADDRESS 2 in CITY along with comparable sales for the ADDRESS 2 property. The Petitioner did not rely on the additional material at hearing and the Commission did not consider it in this appeal.

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Deducting \$\$\$\$ from the county's appraised value of \$\$\$\$ yields a net value of \$\$\$\$, which is somewhat lower than the board of equalization value.

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. 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

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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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