

06-0223
Property Tax/Locally Assessed
Signed 06/06/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p>ORDER</p> <p>Appeal No. 06-0223</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2005</p> <p>Judge: Jensen</p>
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Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE
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 August 22, 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. 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) and 59-2-1004(4).) The evidence required for adjustment on the basis of equalization under Utah Code Ann. Sec. 59-2-1004(4) is a showing that there has been an "intentional and systematic undervaluation" of property that results in "preferential treatment" to the property owners receiving the lower valuations. *Mountain Ranch Estates v. Utah State Tax Comm'n*, 2004 UT 86, ¶ 16.

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 in Salt Lake County, 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 between \$\$\$\$ and \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be reduced to \$\$\$\$.

The subject property consists of a .51-acre vacant lot in CANYON 1. It is part of the DEVELOPMENT 1, located to the south of CANYON 1 Road on a dirt road. Development in this area requires property features such as the availability of a septic system, access for emergency vehicles, and adequate distance from CANYON 1 Creek. The County presented evidence that the subject property would meet these requirements. The Petitioner did not present evidence to the contrary. The Petitioner did present evidence of a wash that bisects the subject parcel. The County's representative had inspected the property and agreed the subject had a large wash running across the parcel, but that the subject parcel was large enough and had sufficient access to ground with sufficient level area to allow construction of a cabin. The Petitioner likewise did present evidence to rebut this testimony.

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 the sales of three comparable properties with selling dates in mid to late 2005. The comparable properties were lots between .20 acres and 1.5 acres and had selling prices \$\$\$\$ and \$\$\$\$\$. Two were in CANYON 2 and one was in CANYON 3.

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 appraiser presented evidence of the sales of three comparable lots with sale dates between May 2003 and January 2006. The appraiser made adjustments for differences in time of sale, lot size, terrain, and water availability. After making these adjustments, the comparable properties had selling prices from \$\$\$\$ to \$\$\$\$\$. The

appraiser also presented evidence of a trust deed indicating that the subject property had sold in 2001 for \$\$\$\$\$.

The county's appraiser presented evidence that all three of the Petitioner's comparables suffered from problems that would prevent the building of improvements. He indicated that one of the Petitioner's comparable properties had a steep slope that would preclude building. The other two properties did not have water, which would be required for building.

Weighing the comparable properties presented by the parties, the Commission finds the county's comparables to be more like the subject than those presented by the Petitioner. The county's comparables appear to have much the same building challenges as the subject. The Petitioner's comparables each have a difficulty that has the potential to prevent any development on the property.

As a separate matter, the Petitioner also presented an equalization issue, arguing that the value of the subject property should be equalized with neighboring properties. Petitioner looked at the assessed value of the subject compared to fourteen other properties. At first blush, this appeared to present a problem with equalization because, on a per acre basis, the subject property had been assessed at nearly twice the value as the highest of these neighboring properties. However, to prevail on an equalization case, a party must not only demonstrate a disparity in valuation, but also that the parcels with lower values are equal to the subject parcel. At hearing, the Petitioner presented evidence of the assessed valuation, but did not demonstrate that these properties were equal to the subject in ways that would allow building on the parcels. To ensure a full presentation of evidence, the Commission allowed the parties to present additional evidence regarding these factors. From the evidence submitted, it appears that the differences in valuation are more likely tied to differences in access and similar features that would affect whether a lot could be improved. The evidence does not support a finding of an

Appeal No. 06-0223

intentional and systematic undervaluation of property that results in preferential treatment to the property owners receiving the lower valuations.

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 _____, 2007.

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 _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner