

06-0369
Property Tax/Locally Assessed
Signed 02/12/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No	06-0369
	)	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 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. . . (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 Salt Lake County Assessor had set the value of the subject property, as of the lien date at \$\$\$\$\$. The Salt Lake 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 reduced to \$\$\$\$\$.

The subject property consists of a .36-acre lot improved with a two-story style residence. The residence was approximately 12 years old and built of average to good quality of construction. It has 3,961 square feet above grade and 1,907 basement square feet of which none are finished. There is also a built-in three-car garage. The County considered the residence to be in good condition.

The Petitioner and the county have general agreement regarding the type of comparable sales that will best predict the value of the subject property. The parties both relied

on an October 27, 2004 sale of the home across the street from the subject. This comparable was approximately the same size and age as the subject and was constructed of the same style as the subject by the same builder. The only sizeable adjustments to this property in the county's appraisal were a \$\$\$\$ adjustment for seller concessions and a \$\$\$\$ adjustment for a fully finished walk out basement in the comparable property and an unfinished basement in the subject. The parties agree that these are reasonable adjustments made on the basis of objective data. The parties also generally agree that the other county comparables are appropriate in terms of selection, location, and all adjustments with the exception of time adjustment. The Petitioner maintains that the county is overstating the effect of increase in home values the portion of his neighborhood that is made up of the older homes.

The county presented the data on which it relied in creating its time adjustment. It looked at sales in what it calls the (X) and (X) areas of CITY. The county concluded that for 2004, these areas experienced price increases with a median of 8.65% and a mean of 8.48%. Accordingly, the county made upward adjustments to comparable properties selling in early to mid 2004.

The Petitioner agreed that these median and mean figures might be valid for the entire area involved. However, the Petitioner indicated that the homes in his neighborhood experiencing increases in value are the nearly new homes included in the county's data set. He agreed that these homes were experiencing dramatic increases but argued that the market for homes closer to 12 years of age was relatively flat for 2004. As evidence of this proposition, he pointed out that the county's comparable number 2 that sold for \$\$\$\$ on January 28, 2004 had only increased in value by \$\$\$\$ in approximately 4.5 years from the last time this house sold on July 26, 1999 for \$\$\$\$\$. He also provided evidence of a home at ADDRESS 2 that sold for \$\$\$\$ in May 2005 and then re-sold approximately nine months later for less money. The

county's data itself lends support for a theory of a two-tiered market for old and new homes in the area. The data show appreciation percentages as low as 0.48% and as high as 18.26% for the same neighborhood. The data seem to be distributed throughout this range and do not follow the expected bell-curve pattern. A range this large suggests that the data set may not be as similar as would be ideal for the creation of median and mean values for the neighborhood.

Reviewing the parties' evidence, the Commission agrees that the market comparison approach is the best way to value the subject property. The home across the street is a strong comparable and had a sales date close the January 1, 2005 lien date. By the county's analysis, this property had an adjusted value of \$\$\$\$ and thus supports the Petitioner's requested value of \$\$\$\$\$. The Petitioner's other comparable sales corroborate this value. The county's other comparables also lend support but for the application of an appreciation rate that may not accurately predict the value of older homes in the area of the subject property.

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

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