

06-0371
Property Tax/Locally Assessed
Signed 02/12/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,	)	ORDER	
)		
Petitioner,	)	Appeal No	06-0371
	)	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 1
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 September 18, 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 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 .21-acre lot improved with a two-story style residence. The residence was 11 years old and is finished with stucco. It has 2,465 square feet above grade and 650 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 very good condition. The subject property has, at least to some extent, city views.

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 evidence of three comparable

sales between .44 miles and .98 miles from the subject with sale dates between December 23, 2004 and January 31, 2005. One was a rambler-style home with 1,544 square feet above grade with a 1,544 square foot basement that sold for \$\$\$\$\$. The MLS sheet for this home indicated no views and indicated that the basement had been finished as a possible rental unit. The Petitioner's other comparables sold for \$\$\$\$\$ and \$\$\$\$\$, were of two-story design, and were advertised with both mountain and valley views. Both had smaller above-grade area than the subject property. One had 2,149 square feet and the other had 2,046 square feet above grade. One was listed as bank-owned with the listing indicating that the property was sold "as-is" and without some of the seller warranties that would normally appear in a real estate contract. The MLS listings did not indicate a three-car garage for any of the Petitioner's comparables.

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 three comparable sales with sale dates in June 2004. The appraiser made upward adjustments for the time these sales preceded the January 1, 2005 lien date and presented sales data to support the amount of the time adjustments. The county's comparables were all two-story design. One had about the same square footage as the subject property, one was slightly more, and one was slightly less. Two showed valley views in the appraisal form. The appraiser made an adjustment for the other property, which did not list a view. There was no indication of unusual factors such as "as is" condition for any of the county comparables and all had three-car garages. The appraiser made adjustments for differences in various factors such as square footage and basement finish. The county comparables had final selling prices, after taking into account all adjustments, of between \$\$\$\$\$ and \$\$\$\$\$.

Reviewing the evidence presented by the parties, the county's comparables better approximate the value of the subject property. They are more similar in various aspects such as

home design, square footage, and amenities such as garage. The Board of Equalization value of \$\$\$\$ is well within the range set by these comparables and no party has shown error in 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 _____, 2007.

Clinton Jensen
Administrative Law Judge

Appeal No. 06-0371

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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