

06-0576
Locally Assessed Property
Signed 12/19/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,	)	INITIAL HEARING ORDER	
)		
Petitioners,	)	Appeal No.	06-0576
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION)		
OF SALT LAKE COUNTY,	)	Tax Year:	2005
STATE OF UTAH,)		
	)	Judge:	Robinson
Respondent.)		

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1, *pro se*
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake
County

STATEMENT OF THE CASE

Petitioners bring this appeal from the decision of the County Board of Equalization. The parties participated in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on August 7, 2006. Petitioner is appealing the assessed value as established for the subject property by Salt Lake County Board of Equalization. The lien date at issue is January 1, 2005.

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(12).)

(1) 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. . . . (4) 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)&(4).)

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

The subject property is parcel no. ##### and is located at ADDRESS 1, #####, in CANYON, CITY, Utah. The Salt Lake County Assessor’s Office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization determined the value was \$\$\$\$\$. At the hearing, the Respondent recommended a value of \$\$\$\$\$

The subject property consists of .19 acres of land and a cabin constructed in 1919. It was in average condition on the lien date. On the lien date, it had a total of 655 square feet above grade and deck/patio of 418 square feet. The cabin had a total of five rooms. It had two bedrooms and a .75 bathroom. Since the lien date, additional living space has been added on the deck/patio area. The Respondent's appraisal did not include the additional living space in arriving at a value on the lien date.

The property is located in CANYON in what is known as (X). (X) is a recreational neighborhood that is remote in location. Road access to (X) is gated. The property is ##### miles from the gate. PETITIONER 1 said Petitioners cannot use the property year round. Winter access is by snowmobile. There are no ski resorts nearby.

PETITIONER 1 said the cabin has no county services. He said the stream on the property is a disadvantage, which he feels lowers the value of the property. He said spring run-off has been a hazard to the cabin.

Petitioners' focused their appeal on a change made by the county in valuing it. Petitioners' concern is based on information in Petitioners' tax notice, dated September 30, 2005. It lists market values for 2004 and 2005. In 2004, the County valued the land at \$\$\$\$\$, and the improvement at \$\$\$\$\$. In 2005, the County valued the land at \$\$\$\$\$ and the improvement at \$\$\$\$\$. Petitioners' seem puzzled at this and requested a land value of \$\$\$\$\$ in their appeal to the Tax Commission. Petitioners' requested value before the Salt Lake County Board of Equalization (BOE) was \$\$\$\$\$. Petitioners' appeal form for the BOE noted they were "concerned with increase in land value."

As part of their appeal to the Commission, Petitioners submitted MLS listings for three parcels of vacant land in (X). All three are in excess of one acre in size. The

asking prices range from \$\$\$\$\$ to \$\$\$\$\$. Petitioners did not establish comparable value of these raw land listings.

Petitioners also submitted information, apparently faxed from COMPANY, on property located at ADDRESS 2. The fax shows the information was provided by the Salt Lake County Assessor's Office. According to Petitioners, this property is 1.06 acres in size with a cabin. The fax shows a land value of \$\$\$\$\$ and a building value of \$\$\$\$\$. The primary lot (.5 acres) is valued at \$\$\$\$\$. The residual .56 acres is valued at \$\$\$\$\$. Final value is shown as \$\$\$\$\$. This information was updated as of January 2006.

Petitioners submitted similar information showing a different owner. That information shows a land value of \$\$\$\$\$ (no residual acreage is noted) and a building value of \$\$\$\$\$. Final value is shown as \$\$\$\$\$.

The records submitted by Petitioners show a distinction in the nature of the building. The first record referenced above shows a main floor with 527 sq. feet and a finished attic of 357 sq feet. It also shows two porches. One is described as a wood deck of 322 sq. feet, the other as a covered patio/wood deck of 102 sq. feet. The second record referenced above shows a main floor area of 576 sq. feet. No attic is listed. This record also shows a 64 sq. feet wood deck.

The two records submitted by Petitioners show changes made to the cabin. The records do not establish the date of the changes. However, the changes may explain, at least in part, the difference in valuation of the cabin.

One record values primary and residual acreage. The other does not. Ascribing a separate value to primary and residual acreage may also help explain the difference in valuation of the land.

Petitioners maintain this property sold in August of 2005 for \$\$\$\$\$. The source of this information is unknown.

Petitioners also provided Salt Lake County Board of Equalization data on other (X) properties. However, Petitioners did not adjust them to the subject.

Respondent submitted an appraisal with four comparables. Three of the four comparables are within one mile of the subject. Comparable number 3 is 5.5 miles from the subject.

Respondent's comparable number 1 is located at ADDRESS 3, 0.6 miles southeast of the subject. The closing statement showed it sold for \$\$\$\$\$ on September 15, 2005. After making adjustments, RESPONDENT REPRESENTATIVE opined that the adjusted sales price of this comparable was \$\$\$\$\$. RESPONDENT REPRESENTATIVES adjustment to the sales price included a one percent per month adjustment, as the sale was a post lien date sale.

Respondent's comparable number 2 is located at ADDRESS 4, 0.75 miles southeast of the subject. This is one of the properties relied upon by Petitioners, discussed above. Respondent's appraisal states the property sold on September 14, 2005, for \$\$\$\$\$. The source of this information is the MLS.

After making adjustments, RESPONDENT REPRESENTATIVE opined that the adjusted sales price of this comparable was \$\$\$\$\$. RESPONDENT REPRESENTATIVE'S adjustment to the sales price included a one percent per month adjustment, as the sale was a post lien date sale.

Respondent's comparable number 3 is located at ADDRESS 5, 5.5 miles northeast of the subject. It sold on August 19, 2005 for \$\$\$\$\$, per MLS information.

After making adjustments, RESPONDENT REPRESENTATIVE opined that the adjusted sales price of this comparable was \$\$\$\$\$. RESPONDENT REPRESENTATIVE'S adjustment to the sales price included a one percent per month adjustment, as the sale was a post lien date sale.

Respondent's comparable number 4 is located at ADDRESS 6, one mile southeast of the subject. MLS information showed it sold for \$\$\$\$\$ on September 13, 2004. After making adjustments, RESPONDENT REPRESENTATIVE opined that the adjusted sales price of this comparable was \$\$\$\$\$.

Respondent's comparable number 1 is closest to the subject. The lot is .11 acres smaller. It is 75 years old, as opposed to the 87 year-old subject, and has an effective age of 25 years, as opposed to the subject's effective age of 20 years. It has the same total number of rooms (5) and same number of bedrooms (2). However, it has 1.75 baths. The subject has a .75 bath.

Comparable number 1 is larger, 888 sq. feet versus 655 sq. feet. It has a larger deck and is not by the creek. RESPONDENT REPRESENTATIVE considered proximity to the creek as adding value to the subject. Petitioners felt this detracted from the value of the subject.

Comparable number 2 has much more land (1.06 acres versus .19 acres). The cabin is twenty-nine years old, with an effective age of twenty years. It has two bedrooms and a full bath. It has 229 more square feet than the subject. It is also by the creek.

Respondent's indicated value using the sales comparison approach is \$\$\$\$\$. Using the cost approach, Respondent found the subject's value to be \$\$\$\$\$.

The Commission notes that valuations for these types of property are generally determined from market sales of comparable properties. Comparable properties for

the subject are properties that have both land and a cabin, as it does. Such properties sell the land and improvement together on a combined basis for a total value. The County Board of Equalization's value was based primarily on the total sale price of comparable sales (land plus building). Once the County determines a total value it is allocated between land and building based on land guidelines developed by the County Assessor.

Neither the County's appraisal value nor the County Board of Equalization value were based primarily on a cost approach, which is where the value of the land is determined from land only sales and then a cost to construct the building minus depreciation is estimated and added to the land value. The cost approach may be used as a back up approach, or when there are no comparables sales. It does not appear that the County Board of Equalization's value relied on a cost approach. Rather, in this situation the value was determined by the sales comparison approach.

When hearing a valuation appeal of improved property the Commission determines a total value for the property, including the improvements. It does not determine a separate value for the land and a separate value for the building.

Upon consideration of the information submitted the Commission agrees that the more reliable means of determining the value of this property was the comparable sales. Respondent's comparables 1 and 2 are the best of the four. These sales support the value set by the County Board of Equalization.

Petitioners did not show the Board of Equalization value was erroneous, nor did their evidence establish an alternative value. Perhaps this is because Petitioners focused on changes in land value, rather than combined value of land and improvements. Respondent's appraisal supports 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 \$\$\$\$\$. 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.

R. Spencer Robinson
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

D'Arcy Dixon Pignanelli

Appeal No. 06-0576

Commissioner

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Commissioner