

BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 06-0608</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2005</p> <p>Judge: Phan</p>
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**This Order may contain confidential “commercial information” within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37 the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this order, specifying the commercial information that the taxpayer wants protected.**

**Presiding:**

Pam Hendrickson, Commission Chair  
Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER  
For Respondent: RESPONDENT REPRESENTATIVE, Licensed Appraiser, Appraiser Manager,  
Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on August 9, 2007. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the assessed value of the subject property for the lien date January 1, 2005.

2. The property at issue is Parcel No. #####, and is located at ADDRESS, CITY, Utah.

3. For the January 1, 2005 lien date the County Assessor had valued the property at \$\$\$\$ and the County Board of Equalization had sustained the value.

4. The property consists of .24 acres of land improved with a rambler style residence. The residence was 49 years old, of average quality and in average condition. There are 1,203 square feet above grade and a basement with 1053 square feet that is 73% finished. There are visible cracks in the brick exterior of the residence and some on the interior as well. Petitioner indicated that in the garage, which was attached to the house, it was obvious that the construction had been unreinforced cinderblock, with a brick veneer on the exterior. Petitioner had concerns that this type of construction would not hold up well in an earthquake. In addition Petitioner felt that the kitchen was inadequate as it had very limited counter space and cupboards. He also provided information on the size of the full bath in the residence, which he argued was too small.

5. In addition to the problems with the residence itself, it was Petitioner's position that the location also was problematic and decreased the value of the property. The subject property is not located on, but is only four residences in, from STREET 1. Petitioner indicates that the traffic on STREET 1 has increased significantly over the years and there is now constant commercial traffic. He indicates that the noise level is high in his back yard due to the traffic. In addition he has issues with the traffic at the front of the residence, which is located right at the middle of the cross street on a 'T' intersection. There are three way stop signs on each side of the T, also near the subject residence. Due to the layout of the intersection, car headlights shine directly at Petitioner's residence. In addition he indicates there is a noise problem with cars stopping and then accelerating.

6. Petitioner indicates that the best comparable to determine a value for the subject property was his own purchase of the subject property in 2001, for \$\$\$\$\$. He said the house was listed for more than one

year when he purchased it. He also indicated that at the time the County had valued the property at \$\$\$\$\$. Around the time of his purchase he indicates that the property next door had sold for \$\$\$\$\$ more than his, then latter in 2003 had sold for \$\$\$\$\$ according to Petitioner if concessions are considered. Respondent indicated that the price had actually been \$\$\$\$\$. Petitioner did not provide the Multiple Listing Printout or any other documentation concerning this sale to support the sale price or for the Commission to compare how similar it was to the subject.

7. Respondent submitted an appraisal in this matter, prepared by RESPONDENT REPRESENTATIVE, Licensed Appraiser. It was RESPONDENT REPRESENTATIVE'S appraisal conclusion that the subject property had been overvalued by the County Assessor and Board of Equalization, as he determined the value for the subject as of the lien date at issue was \$\$\$\$\$. In the appraisal he considered nine comparable sales, all fairly similar in style and location to the subject. Many of the sales took place within a few months of the lien date. These sales had sold in a range from \$\$\$\$\$ to \$\$\$\$\$. RESPONDENT REPRESENTATIVE made appraisal adjustments for the differences between the subject and the comparables. One of the adjustments he made was \$\$\$\$\$ for functional utility for both the traffic noise and settling problems. In his appraisal, RESPONDENT REPRESENTATIVE indicated that the exterior cracks in the brick were not necessarily uncommon in a house of that age, but the cracks on the interior tended to indicate settling problems. After making the appraisal adjustments, RESPONDENT REPRESENTATIVE'S indicated value range for the subject property was from \$\$\$\$\$ to \$\$\$\$\$. His final value conclusion for the property was \$\$\$\$\$.

8. Petitioner argued that RESPONDENT REPRESENTATIVE'S comparables were dissimilar. He provided photographs of the mountain views from comparables on STREET 2, STREET 3, STREET 4 and STREET 1. He felt that they all had superior views. Also he argued that none of the County's comparables

had the same traffic problems. Additionally he argued that his kitchen needed to be remodeled and that it would cost \$\$\$\$\$ or \$\$\$\$\$ to do so. In his appraisal, RESPONDENT REPRESENTATIVE had determined that two of the nine comparables had been remodeled and he had adjusted only \$\$\$\$\$ for this difference. Petitioner argued this adjustment was inadequate.

9. Upon review of the evidence in this matter, the Commission concludes that the weight of the evidence supports RESPONDENT REPRESENTATIVE'S appraisal value. Although Petitioner had numerous criticisms with the comparables and the adjustments he did not provide evidence that would support a specific lower value. He provided no comparables near the lien date and insufficient information about the neighboring property that sold in 2001 and 2003 from which to draw an appraisal conclusion. It appears in his appraisal that RESPONDENT REPRESENTATIVE did attempt to take into account problems with the property and make appraisal adjustments accordingly. There was no evidence that the other seven of the nine comparables had remodeled kitchens, and the cost of a remodel, even if Petitioner was correct on the estimate, does not necessarily equate to a dollar for dollar increase in market value. Respondent's appraisal does indicate that the property was overvalued.

#### APPLICABLE LAW

1. 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. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (Utah Code Ann. Sec. 59-2-103.)

2. "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. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value. (Utah Code Ann. 59-2-102(12).)

3. (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. . . (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

CONCLUSIONS OF LAW

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).

2. In this matter Petitioner has not provided sufficient evidence to support a specific lower value for the property, beyond that established in the appraisal submitted by Respondent.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2005, is \$\$\$\$\$. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Appeal No. 06-0608

Jane Phan  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION:

The Commission 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

**Notice of Appeal Rights:** You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. Sec. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Sec. 59-1-601 et seq. and 63-46b-13 et seq.

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