

06-0631
Locally Assessed Property
Signed 02/26/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	ORDER
)	
Petitioner,)	Appeal No. 06-0631
)	Parcel No. #####-1
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION)	
OF SALT LAKE COUNTY,)	Tax Year: 2005
STATE OF UTAH,)	
)	
Respondent.)	Judge: Jensen

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 in accordance with the provisions of Utah Code Ann. §59-1-502.5, on October 30, 2006 and December 11, 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, a party requesting a change in the value as set by the County Board of Equalization must (1) demonstrate that the Board of Equalization assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by party requesting the change in value. *See 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. #####-1, located at ADDRESS (CITY coordinates) in the (X) area. The County Assessor had set the value of the subject property, as of the lien date at \$\$\$\$\$. The County Board of Equalization lowered the value to \$\$\$\$\$. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be increased to \$\$\$\$\$.

The subject property consists of a .75-acre vacant lot. The property has limited building potential because of the terrain of both the subject property and the general area in which the subject is located. Access to the subject is via a steep dirt road with sharp switchbacks. The parties agree that the county is unlikely to approve a building permit without extensive work given the access problems and their effect on the ability of a fire truck to reach the property. The

property suffers from lack of a site for two septic systems, which would also be necessary for the approval of a building permit.

Petitioner has the burden of proof with regard to showing a value less than that established by the Board of Equalization 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 information regarding the sale of a neighboring property with parcel number #####-2, which the parties identified as the "(X)." The Petitioner testified that the owner of this parcel, (X), had expended a great deal of time and effort trying to gain approval to build on the (X) property and had finally given up. The Petitioner's understanding was that the (X) property had such little value that (X) sold it on (X) for whatever he could get. The testimony at hearing was that the Petitioner did not know the amount of the (X) sale, but that it was very low.

Respondent bears the burden of proof with regard to showing any value in excess of the Board of Equalization value of \$\$\$\$\$. At the hearing set for this matter, the 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 \$\$\$\$\$. For the appraisal presented at hearing, the appraiser relied on five comparable sales with sales dates of June 2006, January 2006, August 2005, July 2000 and October 2000. The appraiser made no time adjustment for the comparable sales because he found that the market for property such as the subject had been flat between 2000 and 2006. The June 2006 sale was across the road from the subject property and had building and development issues that were similar to the subject property. It sold for \$\$\$\$\$, but the appraiser adjusted the value to \$\$\$\$\$ to account for a size difference between it and the subject. The other four parcels were between 7.5 and 9.5 miles away and appeared to be in CANYON. The appraiser indicated that some of these comparable

sales were distant in both location and time, but that they were the best comparables that he could locate notwithstanding a search of the MLS system.

The Petitioner questioned the county's comparable selling in June 2006 in (X) because his understanding was that the owner was unaware of the building limitations and thus overpaid for the lot. The county's appraiser acknowledged that the MLS listing for this comparable listed an "exceptional buildable lot with fantastic views in a private gated community." Given the limited sales information available at hearing and the possibility of the (X) property as another comparable sale close to the subject, the Administrative Law Judge recessed the hearing to allow the parties to gain additional information regarding the two sales in the (X) area.

On December 1, 2006, the county appraiser provided additional written information for use at the continuation of the hearing on December 11, 2006. The appraiser had researched records and had interviewed parties involved in both sales in the (X) area. The (X) property had sold in July 2003 from the (X) Trust to a (X). (X) said that he paid a little over \$\$\$\$ for the property. He said that he was aware of the limitations to development, but only planned to occasionally park a trailer on the property. In July 2004, (X) sold the property again to a (X) for a price between \$\$\$\$ and \$\$\$\$. (X) indicated that he told (X) about the limitations to building on the property and that (X) purchased the property with full knowledge of the limitations.

The county's appraiser interviewed a (X), who was listed as the selling realtor on the June 2006 sale of the (X) property advertised as a buildable lot. (X) indicated that he told the buyer of the property, a (X), about the building limitations. (X) further implied that (X) was already familiar with building limitations because he had family or friends with property in the area.

The Petitioner did not dispute the county's supplemental evidence. He did not present additional evidence to supplement that which he presented at the first part of the hearing on October 30, 2006.

Weighing the evidence presented by the parties, the Commission finds that the county has shown error in the value as set by the Board of Equalization and has provided evidence to support a valuation of the subject property, as of the lien date, of \$\$\$\$\$.

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

Appeal No. 06-0631

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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