

06-0632
Locally Assessed Property
Signed 12/06/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-0632
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	
SALT LAKE COUNTY,)	Tax Year: 2005
UTAH,)	
)	Judge: Phan
Respondent.)	

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on October 16, 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, 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 reduced the value to \$\$\$\$\$.

The subject property consists of 1.03 acres of land improved with a cabin style residence that is located in the (X) subdivision. The cabin is 71 years old and of poor quality of construction. It had an effective age of 35 years. The cabin has 808 above grade square feet.

There is no basement or garage. The subject has year round water and power. The area is mostly summer recreational properties and there is limited road access in the winter. It is not located near ski resorts. Petitioner does reside at the property year-round and may access the property by snowmobile during the winter.

Petitioner's major contention with the value was that the value indicated for the land on the County records was too high. Petitioner argued that the County had reduced the land value on a number of other lots, but argued that the value on his land of \$\$\$\$\$ was not reasonable. Petitioner argued that unimproved lots with water sold for around \$\$\$\$\$. Petitioner also indicates that there is a history with his having to appeal the value of the property, obtain a lower value only to have the County raise it again for subsequent years.

The Commission notes that valuations for this type of property are determined from market sales of comparable properties. Comparable properties for the subject are properties that have both land and a cabin. These type of properties sell together on a combined basis for a total value. The County's appraisal valuation and the County Board of Equalization value is based primarily on the total sale prices of comparable sales (land plus building). Once the County determines a total value the County allocates the value between land and building based on land guides developed by the County Assessor. Additionally, Petitioner's land value may not be comparable to the value of an unimproved lot in the area because of building and zoning requirements that may make it difficult and time consuming to obtain a permit for new construction.

Neither the County's appraisal value nor the County Board of Equalization value were based 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.

Had the County Board of Equalization's value relied on a cost approach, Petitioner's argument that the land was overvalued would be relevant.¹ However, in this situation the value was determined by the sales comparison approach. When hearing a valuation appeal the Commission determines a total value for the property. It does not determine a separate value for the land and a separate value for the building.

Although Petitioner had offered as comparable some vacant lot sales, Petitioner provided no comparable sales for the subject that were land and a cabin. He indicated that the appraiser for Respondent, RESPONDENT REPRESENTATIVE, had told him about two sales near his residence, one next door that had sold for \$\$\$\$\$. However, Petitioner did not provide any multiple listing or other information to support his contention or provided a full description of these properties that had sold. He argued that Respondent should have provided this.

Respondent submitted an appraisal in this matter prepared by RESPONDENT REPRESENTATIVE that indicated a value for the subject property of \$\$\$\$\$. This value is lower than that set by the County Board of Equalization. In the appraisal he considered three comparable sales that ranged in price from \$\$\$\$\$ to \$\$\$\$\$. Comparable No. 1 was located next door to the subject and was really similar to the subject. The other two comparables were located approximately one half mile away and were also good comparables for the subject. RESPONDENT REPRESENTATIVE made appraisal adjustments for the differences and concluded that his comparables indicated a value range for the subject from \$\$\$\$\$ to \$\$\$\$\$.

RESPONDENT REPRESENTATIVE did look at a cost approach in his appraisal and determined a value of \$\$\$\$\$ from that approach. However, the appraisal indicated that the sales approach was given the most weight because it was the best data for determining the value.

¹ Based on familiarity with County practices it is unlikely that the County's original assessed value was determined by cost approach, and was instead likely based on comparable sales, but Petitioner could clarify that with the County if he continues to have questions about the process.

RESPONDENT REPRESENTATIVE stated that he did not use as a comparable the other property next door, which had sold for \$\$\$\$\$, because the cabin had been in a dilapidated and non-livable condition. The cabin had been located too near the streambed and a portion had been washed away.

Upon consideration of the information submitted, the Commission notes that Respondent has presented an appraisal with some truly comparable properties. The appraisal supports a value lower than that set by the County Board of Equalization. Petitioner has the burden to prove that the County Board's value is in error and provide an evidentiary basis for a lower value. If there are sales in the area of the subject property that would support a lower value, it would be up to Petitioner to find the evidence of the sales and present them at the hearing.

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 hereby 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 _____, 2006.

Jane Phan
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
Commissioner

D'Arcy Dixon Pignanelli
Commissioner