

06-0634
Locally Assessed Property
Signed 12/05/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-0634
)	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 1

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 1, 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 1.14 acres of land improved with a cabin style recreational residence. The cabin is 5 years old and of fair quality of construction. It was in very good condition on the lien date. It has a total of 928 square feet above grade and an unfinished

basement of 704 square feet. The cabin has two bathrooms. It is located in the (X) subdivision of CANYON. It is a recreational neighborhood that is remote in location and is not near ski resorts. There is no road access in the winter months. Petitioner's cabin is the most recent one constructed in the subdivision. He acknowledged that there were some policy changes with the County that made it more difficult to build on an unimproved lot, even if water was available.

Petitioner's major contention with the value was not necessarily an argument against the total market value of the property, but instead that the value indicated for the land on the County records was too high. Petitioner was concerned that if the value for the land remained that high it would result in further increased values for subsequent years.

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. These type of properties sell 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. 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

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.

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's primary contention was about the land value he did submit some comparable cabin sales in CANYON 1. Petitioner submitted the Multiple Listing Report ("MLS") for a property at ADDRESS 2 that had sold for \$\$\$\$\$ in September 2005. The MLS report indicated that this property needed some "T.L.C." and was being sold "As Is" It is clear that the cabin, built in 1919, was inferior to the subject cabin, which was new and in very good condition. However, this property was comparable as far as location. A second cabin property at ADDRESS 3 had sold for \$\$\$\$\$ in December 2005. The MLS printout for this comparable indicated it was a "Shell-needs to be finished." This comparable cabin had been constructed in 1940, and was again inferior, although the lot was larger. A third comparable submitted by Petitioner was a cabin property at ADDRESS 4, again near the subject property. It had sold for \$\$\$\$\$ in September 2004. The cabin was older and clearly inferior, but the lot was over ten acres. There was a fourth sale, Lots 71 & 72 with a cabin, but Petitioner did not present the full MLS sheet so the Commission does not have the details regarding this sale or the address. Petitioner represents the sale included 6 acres and a 1,000 square foot cabin which had sold for \$\$\$\$\$.

Respondent submitted an appraisal in this matter that indicated a value for the subject property of \$\$\$\$\$ and he requested that the value be raised to this amount. In the appraisal he considered three comparable sales that ranged in price from \$\$\$\$\$ to \$\$\$\$\$. As far as the cabins on these properties they were clearly more similar to the subject, also they had smaller lots like the subject. However, the locations were less comparable than the ones submitted by Petitioner. Only one of these comparables was in CANYON 1, located at ADDRESS 5, and it was the lowest priced sale, at \$\$\$\$\$. The highest sale at \$\$\$\$\$ was in CANYON 2. The third comparable was located in (X) and had sold for \$\$\$\$\$.

The County did look at a cost approach in its appraisal and concluded a value of \$\$\$\$ from that approach. However, the appraisal stated that the best data for determining the value was the sales approach.

Upon consideration of the information submitted the Commission agrees that the best evidence to value this property was the comparable sales. The best comparable offered was the property in lower CANYON 1 that had sold for \$. The lot was similar in size to the subject. The cabin was relatively new and in good condition. It did not have a basement. The subject cabin was superior and from this the Commission concludes that the value for the subject would be higher than \$. Petitioner's comparables were very near the subject in location. All of Petitioner's comparable cabins were inferior, but the lots were larger. The two properties that needed work had sold for significantly less than the comparables offered by Respondent. The one comparable from the MLS that did not indicate it was a "fixer upper" had sold for \$ and it was near the subject property. It is clear that the subject cabin was superior to this comparable. These sales tend to support a value around that set by the County Board of Equalization.

Either party has the burden of proof to either raise or lower the value above that established by the County Board of Equalization. The Commission concludes that neither side has been able to do so with the information presented.

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.

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