

06-0809  
Property Tax/Locally Assessed  
Signed 03/14/2007

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No	06-0809
	)	Parcel No.	#####
v.	)		
	)	Tax Type:	Property Tax/Locally
	)		Assessed
BOARD OF EQUALIZATION OF	)		
SALT LAKE COUNTY,	)	Tax Year:	2005
STATE OF UTAH,	)		
	)	Judge:	Jensen
Respondent.	)		

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**Presiding:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER 1  
PETITIONER 2

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 on October 30, 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, 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

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. #####, located at ADDRESS in CITY 1, Utah. 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 sustained.

The subject property consists of a condominium. The condominium was approximately 23 years old and built of stucco and frame construction. It has 950 square feet above grade and no basement. The County considered the residence to be in average condition.

Petitioner has the burden of proof in this matter 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 evidence of the actual purchase of the unit on March 28, 2005 for \$\$\$\$\$ from a seller selling by owner. The Petitioner points to the statutory requirement for the county to value property at fair market value. The Petitioner looks

to the definition section of the Property Tax Act in Utah Code Ann. §59-2-102(12) which provides that “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.” Petitioner argues that this definition describes precisely that which happened on March 28, 2005 because the purchase on that date was an arm’s length transaction between a willing buyer and seller with neither having other than normal market motivations.

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 \$\$\$\$\$. The appraiser relied on five comparable sales within the same condominium project with the same square footages and similar floor plan as the subject. These sales were, for the most part, within a few months before and after the lien date. After making adjustment for minor differences in factors such as seller concessions and time of sale, the five comparable properties had adjusted selling prices from \$\$\$\$\$ to \$\$\$\$\$. As for the subject property’s purchase for less than these figures, the Respondent’s representative testified that homes sold by owner were not indicative of the market because most of the real estate in the CITY 2 area is sold through realtors through the Multiple Listing Service.

The Respondent does not dispute that the Petitioner’s purchase was an arm’s length transaction between a seller and buyer with equal motivation. The Petitioner likewise agrees that the Respondent’s comparable sales are valid and represent the selling prices in the condominium project containing the subject property. The parties agree that the difference between the \$\$\$\$\$ price for similar properties and the \$\$\$\$\$ purchase price of the subject was the lack of a realtor’s fee for the subject property.

Weighing the effect of a realtor's fee in the market, the Commission finds that selling a property through a realtor over the Multiple Listing System is more typical of the market for a property such as the subject. The \$\$\$\$ purchase price of the subject was thus under market and did not have the normal transaction costs associated with this market. The \$\$\$\$ appraisal is more indicative of the market and is thus the fair market value of the subject of the lien date. On this basis, the Commission concludes that the Petitioner has not sustained the burden of proof necessary to support a value lower than that set by the Board of Equalization.

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.

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.

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Clinton Jensen  
Administrative Law Judge

Appeal No. 06-0809

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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