

06-0810  
Property Tax/Locally Assessed  
Signed 02/21/2007

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>INITIAL HEARING ORDER</b>
	)	
Petitioner,	)	Appeal No.    06-0810
	)	
v.	)	Parcel No.    #####
	)	Tax Type:    Property Tax/Locally
BOARD OF EQUALIZATION	)	Assessed
OF SALT LAKE COUNTY,	)	
STATE OF UTAH,	)	Tax Year:    2005
	)	
Respondent.	)	Judge:        Robinson

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**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, *pro se*

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

The Salt Lake County Board of Equalization valued the above noted property at \$\$\$\$\$. From that decision, Petitioner appeals, asking the Commission to redetermine the value of the property and proposing a value of \$\$\$\$\$. As part of the appeal process, the parties participated in an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-2-501.5 on October 10, 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 provided by law. (Utah Code 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 Sec. 59-2-102(12).)

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 Sec. 59-2-1006(1).)

Per the Utah Supreme Court, Petitioners' burden under Utah Power & Light Co. v. Utah State Tax Commission, 590 P.2d 332 (Utah 1979), is in two parts. "Where the taxpayer claims error, it has an obligation, not only to show substantial error or impropriety in the assessment but also to provide a sound evidentiary basis upon which the Commission could adopt a lower valuation." The Court reaffirmed this standard in Nelson v. Board of Equalization, 943 P.2d 1354 (Utah 1997).

#### DISCUSSION

The subject property is a single-family dwelling located at ADDRESS, CITY, Utah. It is a 6-year-old two-story home in average condition. The gross living area above grade consists of 3,433 square feet. The basement consists of 1,229 unfinished square feet. The lot is .60 acres in size. The Board of Equalization determined the market value of the subject property to be \$\$\$\$\$. Petitioner appeals that value, proposing a value of \$\$\$\$\$.

Petitioner did not submit an appraisal, though he did provide a comparative market analysis. The identity and qualifications of the person preparing it are unknown. It contains information on nine other properties. Eight of them are located in a residential subdivision approximately three miles from the subject. They are not in CANYON. The ninth is located at the base of CANYON.

Respondent submitted an appraisal with three comparable properties, all located within ½ mile of the subject. The appraisal was prepared in accordance with the Uniform Standards of Professional Appraisal Practice. Appropriate adjustments were made. Based on the analysis using the sales comparison approach, the appraisal set the value of the subject property at \$\$\$\$\$.

Petitioner felt Respondent's three comparables were not valid. He pointed out eight ways in which the three comparables differed from his property, which is located on the other side of the road from the Respondent's comparables. They have paved roads. The subject does not. Their roads are large enough to accommodate emergency vehicles. Petitioner said the fire department will not provide service to his property because of the road. The comparables have access to the sewer line. The subject does not. The comparables have access to a gas line. The subject does not. It uses propane. The road of comparables is plowed. Petitioner must plow his own road. The comparables have good telephone lines and access to DSL. The subject does not. The comparables receive more sunshine. The subject is in the shadow four months of the year. Comparable number three overlooks CREEK. The subject overlooks a dry stream bed.

RESPONDENT REPRESENTATIVE noted in his appraisal that the location of the comparables was superior, and made adjustments ranging from \$\$\$\$\$ to \$\$\$\$\$ for location. This adjustment appears to take into consideration the differences between Petitioner's property and the comparables. RESPONDENT REPRESENTATIVE also made other adjustments. He concluded the fair market value of the subject property is \$\$\$\$\$.

RESPONDENT REPRESENTATIVE also used the cost approach. Using Marshal and Swift, he determined the value was \$\$\$\$\$. He said the sales comparison approach was more reliable. The cost approach supports RESPONDENT REPRESENTATIVE' value.

Petitioner's evidence, standing alone, is sufficient to show a substantial error or impropriety in the assessment, and provide a sound evidentiary basis upon which the Commission

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could adopt a lower valuation. Absent any other evidence, the Commission could use Petitioner's evidence in setting a value. However, there is other evidence.

The Respondent's appraisal compares the subject with properties located in the canyon, within one-half mile of the subject. Petitioner's comparables are not located in the canyon. Eight are located in a residential subdivision approximately three miles from the subject, a different neighborhood from the subject's canyon location. The Comparative Market Analysis makes no adjustment for location.

Respondent's appraisal takes into account the differences, based on location, pointed out by Petitioner. The appraisal makes other adjustments. The comparables bracket the subject property in terms of size, age, and other factors.

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property 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 \_\_\_\_\_, 2007.

\_\_\_\_\_  
R. Spencer Robinson  
Administrative Law Judge

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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

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