

06-0817
Property Tax/Locally Assessed
Signed 08/20/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION Appeal No. 06-0817 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2005 Judge: Robinson
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Presiding:
Commissioner R. Bruce Johnson
R. Spencer Robinson, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER, *pro se*
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on April 10, 2007. Based upon the evidence and testimony presented at the hearing, and information contained in public records, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the assessed value of the subject properties for the lien date January 1, 2005.
2. The property at issue is Parcel No. #####, located at ADDRESS 1, CITY, Utah.
3. For the January 1, 2005 lien date the County Assessor had valued the property at \$\$\$\$\$. The County Board of Equalization adjusted the value to \$\$\$\$\$.

4. The subject property consists of .36 acres of land improved with a three-year-old two-story stucco home with 3,080 square feet of above grade living space. It has a 1,673 square foot basement that is 35% finished. On the side of the street on which the subject property is located, the homes have walk-out basements.

5. Petitioner did not submit an appraisal, nor did she request a specific value that differed from that of the Board of Equalization value.¹ Rather, she argued the subject property was overvalued when compared to the assessed value of other properties in her neighborhood.

6. In support, Petitioner offered information on a number of properties near the subject. Her information is taken from Salt Lake County records.

7. Petitioner's first property is located at ADDRESS 2. The lot size is .33 acres. The home is a three-year-old, two-story stucco home with 3,185 square feet of above grade living space. It has 1,585 square feet of unfinished basement. It is on the opposite side of the street from the subject. Its assessed value for 2005 was \$\$\$\$\$.

8. Petitioner's second property is located at ADDRESS 3. It is on a curve on the opposite side of the street and east of the subject. The lot size is .51 acres. The home is a four-year-old, two-story stucco home with 3,065 square feet of above grade living space. It has 2,207 square feet of space in the basement, 1,300 square feet of which is finished. Its assessed value for 2005 was \$\$\$\$\$.

9. Petitioner's third property is ADDRESS 4. It is next door to the subject. The lot size is .32 acres. The home is a four-year-old rambler, with stucco finish. It has 2,106 square feet of above grade living space, and 2,221 of unfinished space in the basement. Its assessed value for 2005 was \$\$\$\$\$.

10. Petitioner's fourth property is ADDRESS 5, two doors from the subject on the same side of the street. The lot is .28 acres in size. The home is a four-year-old, two-story stucco home with 2,994 square feet of above grade living space, and 1,748 square feet of unfinished basement. Its assessed value in 2005 was

\$\$\$\$\$.

11. Petitioner's fifth property is ADDRESS 6. It is on the opposite side of the street from the subject. The lot size is .30 acres. The home is a three-year-old, two-story with a stucco exterior. It has 2,970 square feet of above grade living space. The basement is 2,128 square feet, 1,900 of which is finished. Its assessed value in 2005 was \$\$\$\$\$.

12. Petitioner's fifth property is also Respondent's comparable number two in the appraisal it submitted. According to the appraisal, this property sold on April 25, 2005, for \$\$\$\$\$. The assessed value is 26% less than the sale price. The assessed value in 2006 was \$\$\$\$\$. This is 12% less than the sales price.

13. Petitioner's sixth property is ADDRESS 7. It is on the same side of the street as the subject. The lot size is .37 acres. The home is a three-year-old, two-story with a stucco exterior. It has 2,591 square feet of above grade living space. The basement is 2,309 square feet, and unfinished. Its assessed value for 2005 was \$\$\$\$\$.

14. Petitioner's seventh property is ADDRESS 8. It is on the opposite side of the street from the subject. The lot is .39 acres. The home is a three-year-old, two-story stucco home. It has 3,170 square feet of above grade living space. The basement is unfinished, with 2,145 square feet. Its assessed value for 2005 was \$\$\$\$\$.

15. Petitioner's seventh property is also Respondent's comparable number five. According to Respondent's appraisal, it sold for \$\$\$\$\$ on August 19, 2004. The assessed value for 2005, \$\$\$\$\$, is more than the sales price. However, Respondent's appraisal notes it was on the market for one day. The same agent represented the seller and buyer. Respondent place little weight on the sale. The assessed value in 2006 was \$\$\$\$\$.

16. Petitioner's eighth property is ADDRESS 9. It is on the same side of the street as the subject. The lot is .48 acres. The home is a four-year-old, two-story stucco home. It has 2,796 square feet of above

grade living space. It has 1,381 square feet of unfinished basement. Its assessed value for 2005 was \$\$\$\$\$.

17. Petitioner's ninth property is ADDRESS 10. It is two doors down from the subject. The lot is .28 acres. The home is a four-year-old, two-story stucco home. It has 2,994 square feet of above grade living space. It has 1,748 square feet of unfinished basement. Its assessed value for 2005 was \$\$\$\$\$.

18. Petitioner's tenth property is ADDRESS 11, around the corner from the subject. The lot is .29 acres. The home is three-year-old, two-story stucco home. It has 2,967 square feet of above grade living space. It has 1,832 square feet of unfinished basement. Its assessed value for 2005 was \$\$\$\$\$.

19. Petitioner's tenth property is also Respondent's comparable number six. According to Respondent's appraisal, it sold for \$\$\$\$\$ on December 17 2004. The assessed value, \$\$\$\$\$, is six percent greater than the sale price. Other than Petitioner's seventh comparable, which appears to be an outlier and on which Respondent placed little weight (Respondent's comparable number five), this is the only one of Respondent's comparables cited by Petitioner that sold for less than the assessed value. Its assessed value in 2006 was \$\$\$\$\$.

20. Petitioner's eleventh property is ADDRESS 12. It is three doors down from the subject. The lot is .28 acres. The home is a four-year-old, two-story stucco home. It has 2,271 square feet of above grade living space. It has 1,430 square feet of basement, 900 of which is finished. Its assessed value for 2005 was \$\$\$\$\$.

21. Petitioner's eleventh property is also Respondent's comparable number one. According to Respondent's appraisal, it sold for \$\$\$\$\$ on March 3, 2004. The assessed value, \$\$\$\$\$, is seven percent less than the sale price. Its assessed value in 2006 was \$\$\$\$\$.

22. Petitioner's twelfth property is ADDRESS 13. It is on the opposite side of the street from the subject. The lot is .30 acres. The home is a three-year-old, two-story stucco home. It has 2,564 square feet of above grade living space. It has 1,889 square feet of basement, of which 1,744 is finished. Its assessed value

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for 2005 was \$\$\$\$\$.

23. Petitioner's twelfth property is also Respondent's comparable number four. According to Respondent's appraisal, it sold for \$\$\$\$\$ on May 27, 2005. The assessed value, \$\$\$\$\$, is thirteen percent less than the sales price. Its assessed value in 2006 was \$\$\$\$\$.

24. Petitioner's thirteenth property is ADDRESS 14. It is on the opposite side of the street from the subject. The lot is .30 acres. The home is a three-year-old, two-story stucco home. It has 3,278 square feet of above grade living space. It has 2,195 square feet of basement. Its assessed value for 2005 was \$\$\$\$\$.

25. Petitioner's thirteenth property is also Respondent's comparable number three. According to Respondent's appraisal, it sold for \$\$\$\$\$ on December 10, 2004. The assessed value, \$\$\$\$\$, is fourteen percent less than the sales price. Its assessed value in 2006 was \$\$\$\$\$.

26. The combined percentage of difference between the 2005 assessed values and sale prices of the properties cited by both Petitioner and Respondent show the 2005 assessed values average about 10% lower than sales prices. Adjusting the sales prices for time does not make a material difference. If Respondent's comparable number 5 is eliminated as an outlier, the sales prices are about 13% above the assessed values. The other properties cited by Petitioner, but not by Respondent, have values at least five percent lower than the assessed value of the subject. Evidence of the sales prices for those properties was not provided.

27. Adjusting the Board of Equalization value by 13 percent yields a value of about \$\$\$\$\$.

28. Respondent's appraisal focused on market value by using sales comparison. Respondent did not review the properties from the perspective of equalization. RESPONDENT REPRESENTATIVE said he could not draw parallels between assessed value and market value.

APPLICABLE LAW

1. 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. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (Utah Code Ann. Sec. 59-2-103.)

2. “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. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value. (Utah Code Ann. 59-2-102(12).)

3. (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).)

CONCLUSIONS OF LAW

1. To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the County's

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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).

2. In this matter Petitioner's equalization evidence is sufficient to show the County's original assessment contained an error. The evidence also provides a sound evidentiary basis for reducing the Board of Equalization's original valuation, based on equalization, by 13%.

DECISION AND ORDER

Based upon the evidence showing other similar properties were under assessed by an average of 13%, the Tax Commission finds that the value of the subject property, parcel no. #####, as of January 1, 2005, is \$\$\$\$\$. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order.

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

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. Sec. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Sec. 59-1-601 et seq. and 63-46b-13 et seq.

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¹ Petitioner requested a value of \$\$\$\$ in her appeal to the Salt Lake County Board of Equalization. She did not provide an estimate of value on the form she submitted in appealing to the State Tax Commission.