

06-0903
Property Tax/Locally Assessed
Signed 09/07/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2,	ORDER
Petitioner,	Appeal No. 06-0903
vs.	Parcel No. #####
BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,	Tax Type: Property Tax/Locally Assessed
Respondent.	Tax Year: 2005
	Judge: Jensen

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1

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 July 16, 2007. 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.

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).)

Utah Code Ann. §59-2-1006(1) provides that “[a]ny 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”

Any party requesting a value different from the value established by the county board of equalization has the burden to establish that the market value of the subject property is other than the value determined by the county board of equalization.

To prevail, a party requesting a value that is different from that determined by the county board of equalization must (1) demonstrate that the value established by the county board of equalization contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the county board of equalization to the amount proposed by the party. *Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

DISCUSSION

The subject property is parcel no. #####, located at ADDRESS in Salt Lake County, 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 between \$\$\$\$\$ and \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be increased to \$\$\$\$\$.

The subject property consists of a 2.65-acre lot improved with a two-story style residence. The residence was 5 years old and built of good quality of construction. It has 3,201 square feet above grade and a basement of 1,010 square feet of which 808 are finished. There is also a built in two-car garage. The County considered the residence to be in very good condition. The exterior construction is log and stone. Although it is in an area predominated by recreational cabins, the subject property is a year round residence.

In seeking a value lower than that set by the Board of Equalization, Petitioner has the burden of proof 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 sales of seven comparable properties with sale dates from July 2004 to August 2005. Petitioner’s comparable sales have lot sizes from .10 of an acre to .83 of an acre. Petitioner provides square footage sizes for the buildings on the comparable properties but does not indicate whether these square footages are for above grade and basement, above grade only, or some other measurement. The square footages provided are from 1200 square feet to 2750 square feet. The ages of the buildings on Petitioner’s comparables were between 14 and 33 years as of January 1, 2005. Petitioner indicates that an employee of Salt Lake County put these

comparable properties through a computer program to convert them to comparable values based on the characteristics of the subject property. Petitioner did not provide detail on what the computer program did, but indicated that the range of the converted sales prices of the comparable sales was from \$\$\$\$\$ to \$\$\$\$\$. Petitioner then submitted information for snow removal costs for the subject property of approximately \$\$\$\$\$ per year and proposed a deduction of \$\$\$\$\$ from the comparable properties for the cost of 30 years of snow removal discounted to present value using a 5.5% discount rate.

The county is also seeking a value different from that determined by the Board of Equalization and thus bears the burden of proof 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. The county submitted 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 the sales of four comparable properties with sale dates from September 2004 to February 2006. The county's comparable sales have lot sizes from .23 of an acre to 2.63 acres. The county's comparable sales had above grade areas of 2,025 square feet to 2,980 square feet and basements from 731 square feet to 2015 square feet. The ages of the buildings on three of the county's comparables were between 5 and 8 years as of January 1, 2005 and one was 35 years old as of January 1, 2005. The county's appraiser made adjustments to the comparables to compensate for differences between the comparable properties and the subject for factors such as desirability of location, time of sale, design, condition, and personal property included in the sale. The county's appraisal form explained the basis for many of these changes and the county's appraiser was available at hearing for cross-examination regarding the adjustments to value. After taking the county's adjustments into account, the county's comparable sales had adjusted selling prices from \$\$\$\$\$ to \$\$\$\$\$.

At hearing, the parties commented on each other's comparable sales. Petitioner disputed the mileage between the subject and county comparable number one. Petitioner described several features of county comparable number two, including a location bordering a national forest, custom woodwork and other interior features, custom landscaping, and personal property included in the sale. The county's appraiser presented photographs in support of an argument that Petitioner's comparable sales were dissimilar to the subject property.

Reviewing the evidence presented, the Commission first notes that both of the parties have the burden of showing error in the value as determined by the Salt Lake County Board of Equalization. Petitioner's comparable sales do not show error in the Board of Equalization value.

The lot and building sizes of Petitioner's comparable sales are enough smaller than the subject to rule out meaningful value comparisons. The county's photographs of Petitioner's comparables show substantial differences between the style and construction of the subject and these comparables. Petitioner's comparables are considerably older than the subject. Although Petitioner has presented evidence of his snow removal costs, he has not provided evidence that a typical buyer in this marketplace would discount a property for snow removal.

The county's comparable properties are more similar to the subject in size, age, and construction. As such, they would be more likely to allow the county to sustain its burden of proof of showing error in the Board of Equalization value. But the county's comparables required large adjustments to value, including a \$\$\$\$ time adjustment. These concerns are great enough that the Commission is unwilling to find error in the Board of Equalization value and make the substantial increase from the Board of Equalization value of \$\$\$\$ to the \$\$\$\$ value as proposed by the county.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2005 is \$\$\$\$.

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.

Clinton Jensen
Administrative Law Judge

Appeal No. 06-0903

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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