

06-0907
Property Tax/Locally Assessed
Signed 04/24/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No	06-0907
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally Assessed
)		
BOARD OF EQUALIZATION OF)		
SALT LAKE COUNTY,	)	Tax Year:	2005
UTAH,)		
	)	Judge:	Jensen
Respondent.)		

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
PETITIONER REPRESENTATIVE
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 January 25, 2007.

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 near the (X) in CANYON in Salt Lake County. The County Assessor had set the value of the subject property, as of the lien date at \$\$\$\$\$. The County Board of Equalization sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be reduced to \$\$\$\$\$.

The subject property consists of a .25-acre lot improved with a cabin. The cabin was 53 years old and built of poor quality of construction. It has 1,342 square feet above grade and no basement. The County considered the cabin to be in fair condition. Winter access is by snowshoes unless the Petitioner was to spend enough to hire a snowplow to open the driveway. As of January 1, 2005, the cabin had an outhouse for toilet facilities. Generally, the Petitioner's use of the cabin has been from early June through October.

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 five comparable sales. Three of these sales were in the (X) area. These properties included a 1,188 square foot cabin that sold for \$\$\$\$\$, an 840 square foot cabin that sold for \$\$\$\$\$, and a 400 square foot cabin that sold for \$\$\$\$\$. The other two were on ground leased from the (X).

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 the sales of three comparable properties. The County's first comparable was in the (X) area, but had better winter access. The other two were in the (X) area. The cabins on the appraisal were between 720 square feet and 1,631 square feet. The appraiser made adjustments for differences in factors such as location, access, cabin access, and cabin size. After making these adjustments, the county appraiser valued the subject property at \$\$\$\$\$.

Weighing the evidence presented, the Commission agrees with the testimony of both parties that location and access are important determinants of value in the area of the subject property. The Commission notes that both parties agree that the County's comparable in the (X) has better winter access than the subject and is superior to the subject for that reason. The Commission further notes that the parties agree that properties in the (X) and (X) areas would generally sell for less than the same cabin in the (X) area. The Commission notes that the Petitioner's comparables are all in the (X) area and would thus all be inferior to the subject. The County's comparable properties include one cabin in a superior area and two in inferior areas when compared to the (X) area of the subject. Realizing that an identical comparable property is not available, the Commission finds the better appraisal practice to be interpolating between

comparables, some of which are better than the subject and some of which are not as good as the subject. This is preferred over extrapolating from comparables that are all inferior to the subject. On that basis, the Commission finds the County's evidence to be the preferred way to value the subject property. On that basis, the Commission accepts the County's \$\$\$\$ value.

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.

Clinton Jensen
Administrative Law Judge

Appeal No. 06-0907

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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