

06-0911
Locally Assessed Property
Signed 12/28/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	06-0911
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally
	)		Assessed
BOARD OF EQUALIZATION OF)		
OF SALT LAKE COUNTY,	)	Tax Year:	2005
STATE OF UTAH,)		
	)	Judge:	Jensen
Respondent.)		

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, 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 December 12, 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 1 in CITY, Utah. The County Assessor had set the value of the subject property, as of the lien date at \$\$\$\$\$. The County Board of Equalization sustained that value. 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 .80-acre lot improved with a rustic cabin. The cabin was 44 years old and built of poor quality of construction. It has approximately 755 square feet above grade. This is comprised of 565 square feet on the main floor plus a sleeping loft that the parties agree is between 180 and 200 square feet. The difficulty in measurement comes from an odd building shape that could either be described as a kite-shaped quadrilateral or a triangle with an additional angle bending slightly outward on one of the three sides. This shape leads to a design problem that the county describes as "poor" under its appraisal blank for functional utility. There is also a basement area of 180 square feet that hangs from the structure above and has the soil excavated below it. The County considered the cabin to be in fair condition while the

Petitioner considers its condition poor. The cabin sits on vertical timbers that are placed on concrete footings. Where the vertical timbers meet the floor joists, the joists show signs of sagging over the vertical timbers. The outside of the cabin is vertical cedar siding. Most of the siding dates back to the cabin's construction in 1961 and shows woodpecker damage although the owners have replaced severely damaged pieces as they have deteriorated over the years. The cabin has limited insulation in the walls and has no ceiling insulation.

It is possible to drive to the cabin in the summer months, but access in winter months requires a snow cat, skis, or snowshoes. The cabin's sources of heat are a fireplace on the main floor and a wood burning stove in the basement. There is no natural gas available to the cabin. The cabin at one time had a propane tank, but the Petitioner removed the tank out of concern for safety following a propane explosion at the (X) in CITY. Water is available at the cabin in the summer months and continues to run most winters unless the pipes in the community water system freeze. The roof decking and ceiling are two sides of the same lumber, which is visible on the inside between exposed beams. The interior finish appears from photographs to be in reasonably good condition and has a knotty pine appearance that would be expected in a rustic cabin. County records show a deck attached to the cabin that adds approximately 193 square feet to the cabin's footprint.

The parties agree that the value of the subject property is determined not so much by the value of vacant land or the cabin as individual items, but comes from the cabin being built before it became legally difficult if not impossible to gain approval to build a new cabin in the CITY area. As such, the cabin is one of a fairly small number of properties that the CITY and similar government agencies have to allow to stand or to be remodeled as necessary. The parties also agree that this "grandfather" status has strict limits. Any new or remodeled structure cannot exceed the footprint of the existing building. Decks are included in the footprint for this purpose. A remodeled structure can have up to three stories, but even an enlarged structure cannot add to

the number of bathrooms, kitchens, or bedrooms that the cabin had when it received its grandfather status.

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 relies to some extent on the comparable sales information provided by the county, but disagrees with which comparable sales were included and how the values were adjusted to compensate for time and size differences. The Petitioner considers the strongest comparable the property at ADDRESS 2, listed as county comparable number 5. This property sold in March 2000 for \$\$\$\$\$ but included \$\$\$\$\$ in personal property for a net selling price of \$\$\$\$\$. Although county comparable 5 was closest in size to the subject property, it was still larger with 1008 square feet on the main floor. Comparable 5 has no basement. The Petitioner calculated that the selling price of comparable 5 at \$\$\$\$\$ per square foot. Applying that cost to his square footage, the Petitioner calculated a value for the subject property of \$\$\$\$\$ if he were to multiply \$\$\$\$\$ per square foot by the above-grade square footage of the subject property. Multiplying the same \$\$\$\$\$ per square foot price by the total square footage of the subject property, including its basement, yielded a value of \$\$\$\$\$. The Petitioner argued against making a time adjustment for this sale because in his experience, property values in the area peaked in the mid to late 1990s and have remained flat or even declined since that time. As support for this theory, he points to the county's comparable number 6, which sold in November 1999 for \$\$\$\$\$, after adjustment for personal property, and then resold in December 2003 for between \$\$\$\$\$ and \$\$\$\$\$¹, after adjusting for personal property.

¹ The Petitioner's materials indicated a selling price of \$\$\$\$\$ for this property, but the county's board of equalization records indicate a \$\$\$\$\$ price for the December 2003 sale.

The Petitioner also agrees that, with proper adjustment, the county's comparables 1, 2, 4, and 5 are valid. The Petitioner has divided the total selling price of these comparable sales by the square feet in the cabin to gain a price per square foot, which he then multiplied by the square footage in his cabin. Using this approach, the Petitioner arrived at a predicted value for his cabin between \$\$\$\$\$ and \$\$\$\$\$, depending on the comparable and whether he multiplied the cost per square foot by his total square footage or by the above-grade square footage.

The Petitioner did not agree that county comparables 3 or 6 were valid comparable properties. County comparable number 3 was a listing, not a sale. Further, the Petitioner argued that it is an overpriced listing, because it has been on the market for a long time with no sale. With regard to county comparable number 6, it was not that the sale itself was not valid. Rather, there was no need to use a November 1998 sale because the same property re-sold in December 2003, much closer to the lien date of January 1, 2005. The Petitioner maintains that the sale closer to the lien date is preferable and that it was an arms length transaction between a willing buyer and a willing seller. The property was listed through a realtor. Although the time between the listing date and sale date may have been short, the seller had previously had a sign on the property for a time that the Petitioner remembers to be approaching a full year. The Petitioner argues that this, plus the realtor listing, is reasonable market exposure given the visibility of the sign by the target market of those who (X) at CITY.

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 provided information regarding six comparable properties. Five of these properties had sold between November 1998 and August 2006. The appraiser made adjustments for various features of the comparable properties such as size and selling date of the properties. The appraiser made time adjustments, but indicated that there was insufficient data on sales in the (X) to accurately predict changes in value over time.

Rather, he used figures from elsewhere on the assumption that the Salt Lake County and CITY markets, at least to some extent, drive (X) prices. This yielded adjusted values between \$\$\$\$ and \$\$\$\$\$. However, comparable 6, which had the highest adjusted value, was a November 1998 sale of a property that re-sold in December 2003 for less money. County comparable number 3 was a listing only. The county's appraiser confirmed that this property had not sold.

Reviewing the evidence before it, the Commission cannot fully accept the methodology proposed by either party. The county's appraisal is partly made on the basis of a listing that has not sold. While an unsold listing may, under some circumstances, set a ceiling on value on the basis that a buyer is willing to sell for a given price, it cannot support a value. This is particularly when the asking price per square foot for that listing is two to three times the price per square foot of all of the county's sold comparable properties. Further, the county's adjustment of \$\$\$\$ per square foot for differences in size seems to understate the impact of size in a market with limitations on future building additions.

On the other hand, the Petitioner's approach can result in a value as low as \$\$\$\$\$. Such a value is clearly out of step with sales of comparable properties. This method does not adequately address the value of an existing cabin in an area in which it is unlikely that the CITY will allow new cabins. Thus, although the Petitioner's methodology has served to point out some of the weaknesses in the county's appraisal of \$\$\$\$\$, it is not sufficient to overcome the burden of proof necessary to show error in the value as established 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 \$\$\$\$.

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

Appeal No. 06-0911

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 _____, 2006.

Clinton Jensen
Administrative Law Judge

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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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