

06-0973
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2005
SIGNED: 01-14-2008
COMMISSIONERS: P. HENDRICKSON, R. JOHNSON, D. DIXON
ABSENT: M. JOHNSON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

SALT LAKE COUNTY ASSESSOR,

Petitioner,

vs.

BOARD OF EQUALIZATION OF SALT LAKE
COUNTY, UTAH, ex rel EX REL PARTY,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND FINAL DECISION**

Appeal No. 06-0973

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2005

Judge: Phan

Presiding:

Pam Hendrickson, Commission Chair

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP. 1, Appeals Manager, Salt Lake County

PETITIONER REP. 2, Licensed Appraiser, Salt Lake County

For Respondent: No One Appeared

For ex rel Party: No One Appeared

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on December 12, 2007. Although notified of the date, time and location of the hearing, neither Respondent nor the ex rel Party appeared. Petitioner requested that the Formal Hearing proceed as scheduled so Petitioner could present its evidence regarding the value of the subject property, as it was Petitioner's request that the value for the property be raised above that set by the County Board of Equalization. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the assessed value established by the County Board of Equalization for the subject property for the lien date January 1, 2005.

2. The property at issue is Parcel No. #####, located at ADDRESS, Salt Lake City, Utah.

3. For the January 1, 2005 lien date the County Assessor had originally valued the property at \$\$\$\$\$. The County Board of Equalization reduced the value to \$\$\$\$\$. The County Assessor then filed an appeal of the Board of Equalization's value asserting that it had been lowered below its fair market value.

4. The property consists of .22-acres of land improved with a two-story residence. The original residence was built in 1939. However, it was substantially remodeled and additions were added to the original portion of the building in 1985. As of the lien date there were 4,579 square feet above grade and a basement of 2,334 square feet that was 50% finished. It was Petitioner's position that the residence was in good condition on the lien date. The ex rel Party did not let Petitioner's representative inside the residence to inspect the interior, and Petitioner's representative was not given full access to the exterior of the residence. Therefore, Petitioner's description of the improvements was based on the County record and the limited observations from the exterior. There was an old detached one-car garage that was not in as good of condition as the residence and Petitioner's representative acknowledged that it would have added little value. As of the lien date there were significant problems with the wood shake roof that required it to be replaced. Subsequent to the lien date, the ex rel Party had replaced the roof in its entirety.

5. The subject property is located in a desirable neighborhood of (X) residences commonly referred to as the AREA. The typical size of a residence constructed in this neighborhood was between 1500 to 1800 square feet above grade. However, there were other larger residences in the neighborhood and other

residences, like the subject, where substantial additions had added size or the original home had been rebuilt much larger. Based on this, Petitioner considered the subject at 4,579 square feet above grade to be slightly overbuilt for the neighborhood as far as that would be reflected in values, but not significantly overbuilt.

6. Petitioner submitted an appraisal in this matter that had been prepared by PETITIONER REP. 2, Licensed Appraiser and employee of Salt Lake County. It was PETITIONER REP. 2's conclusion that the value of the subject property as of the lien date at issue was \$\$\$\$\$. This value was lower than the value originally set by the County Assessor and higher than the value established by the County Board of Equalization. In his appraisal PETITIONER REP. 2 relied primarily on the comparable sales approach. For comparables PETITIONER REP. 2 looked for older homes that had been remodeled and had additions, or newer construction in older established neighborhoods. PETITIONER REP. 2 found comparables in the AREA as well as considered comparables in the AREA 2 and other areas. He relied on nine comparables in the appraisal. These properties had sold in a range from \$\$\$\$\$ to \$\$\$\$\$. Some of these properties were as large, or larger than the subject. In making appraisal adjustments for the differences between the comparables and the subject property, he considered the poor quality and condition of the subject garage as well as made a \$\$\$\$\$ adjustment for the defective roof on the subject property.

7. Neither Respondent nor the ex rel party appeared at the hearing to offer any evidence on the record. Therefore, there was nothing in the record that refuted PETITIONER REP. 2's appraisal assumptions or conclusions.

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. (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 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). In this case it is the County Assessor who is the Petitioner and must meet this burden to establish the higher value requested for this property.

2. In this matter, neither Respondent nor the ex rel Party attended the hearing and submitted no evidence into the hearing record regarding the value of this property. Petitioner has submitted an appraisal in which the unique features of the property were given some consideration. The Commission finds the appraisal to be reasonable and in light of the fact that no evidence was submitted during the hearing to refute the appraisal, the weight of the evidence submitted at the hearing in this matter supports Petitioner's requested increase in value.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property 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 _____, 2008.

Jane Phan
Administrative Law Judge

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 _____, 2008.

Appeal No. 06-0973

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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