

06-1280
Property Tax/Locally Assessed
Signed 08/27/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SAN JUAN COUNTY, UTAH,</p> <p>Respondent.</p>	<p>ORDER</p> <p>Appeal No. 06-1280</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2006</p> <p>Judge: M. Johnson</p>
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This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Marc B. Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER, appearing by phone
For Respondent: RESPONDENT REPRESENTATIVE 1, San Juan County Assessor
RESPONDENT REPRESENTATIVE 2, San Juan County
Clerk/Auditor

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the San Juan County Board of Equalization. This matter was argued in an Initial Hearing on April 27, 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, 2006. The subject property is located adjacent to the SUBDIVISION in CITY, Utah. The subject property consists of a 2/5 undivided

interest in 12.82 acres of common area for the 5-lot subdivision. Petitioner, who developed the subdivision, owns two of the lots.

. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The County Board of Equalization reduced the value of the property to \$\$\$\$\$ per acre for a total of \$\$\$\$\$. Petitioner requests that the value be reduced to \$\$\$\$\$ per acre. Respondent requests that the value set by the County Board of Equalization be sustained.

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

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 testified that the property was unusable, which was the reason it could not be developed as part of the subdivision. He stated that the land has not increased in value, and therefore should be valued at the prior year's assessment of \$\$\$\$ per acre. Petitioner also stated that he purchased the land for \$\$\$\$ per acre in 1999.

Respondent provided an appraisal, prepared by the assessor's office. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$ per acre. The appraisal compared three land sales in the immediate vicinity of the subject. One 5-acre parcel sold for \$\$\$\$ per acre, and two 0.58-acre lots sold for \$\$\$\$ per acre. The appraisal took into consideration the fact that the land was non-buildable and subject to occasional flooding.

Because both parties offered estimates of value, it is apparent that they both believe there is some value attributable to the common area separate and apart from the value of the subdivision lots.

Petitioner failed to provide any evidence of market value at \$\$\$\$ per acre. Testimony regarding the lack of utility for property is insufficient in and of itself to support a specific value. The assessor's appraisal was sufficient to support a value of \$\$\$\$ per acre.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006 is \$\$\$\$\$. The decision of the San Juan County Board of Equalization is sustained. It is so ordered.

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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.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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