

06-1281  
Property Tax/Locally Assessed  
Signed 08/27/2007

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER 1 &amp; PETITIONER 2,  Petitioners,  vs.  BOARD OF EQUALIZATION OF SAN JUAN COUNTY, UTAH,  Respondent.</p>	<p><b>ORDER</b></p> <p>Appeal No. 06-1281</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed 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 Petitioners: PETITIONER 1  
PETITIONER 2

For Respondent: RESPONDENT REPRESENTATIVE 1, San Juan County Assessor  
RESPONDENT REPRESENTATIVE 2, Chief Deputy  
RESPONDENT REPRESENTATIVE 3, San Juan County  
Clerk/Auditor

STATEMENT OF THE CASE

Petitioners bring 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. The lien date at issue in this matter is January 1, 2006. The subject property is located on the outskirts of 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 the value. Petitioners request that the value be reduced to \$\$\$\$\$, which was the 2005 assessment. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property consists of a 17.21 acre lot improved with a shed, which was no longer on the property as of September, 2005, and a salvage commercial building.

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

Petitioners are appealing the market value of the subject property as set by Respondent for property tax purposes. Petitioners have 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 Petitioners acknowledged that the land had increased in value from last year, but not by the amount on the assessment. They also testified that the commercial building has no roof and only three walls, and needs to be torn down. They do not believe it is worth the \$\$\$\$\$ on the assessment. Petitioners receive rent for the property from an individual who parks and lives in a truck with a camper shell, for part of the year. That person is currently in STATE. There was no evidence that the property is used as a primary residence.

The assessor valued the land at \$\$\$\$\$ for a 1-acre building lot and the balance of 17.21 acres at \$\$\$\$\$ or slightly under \$\$\$\$\$ per acre. He testified that most of the land is not useable, but that some of the \$\$\$\$\$ per acre includes land that is useable and has potential commercial use in the future. 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 \$\$\$\$\$ for the land in support of the. The appraisal compared three land sales, all with 1/2 mile or so of the subject. The comparable sales ranged from 1/2 to 5 acres, with selling prices from \$\$\$\$\$ to \$\$\$\$\$ per acre. The comparables were intended to recognize the value of smaller parcels and larger parcels with limited use. The appraisal did not include a building value, but the assessor requested that the values for the shed and salvage commercial building remain at \$\$\$\$\$ and \$\$\$\$\$ respectively.

Petitioner provided no evidence of fair market value, and the assessor's land appraisal was sufficient to support the assessed value. However, Petitioner's testimony relating to the

condition of the salvage commercial building is persuasive that the assessment of \$\$\$\$\$ is excessive. The Commission believes \$\$\$\$\$ is appropriate.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006 is \$\$\$\$\$, with the commercial building being reduced to \$\$\$\$\$ from \$\$\$\$\$. The San Juan County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

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