

06-1368
Property Tax/Locally Assessed
Signed 07/13/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-1368
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION)	
OF SALT LAKE COUNTY,)	Tax Year: 2006
STATE OF UTAH,)	
)	Judge: Robinson
Respondent.)	

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *pro se*
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

The parties participated in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on March 5, 2007. Petitioner is appealing the assessed value set for the subject property by the Salt Lake County Board of Equalization (BOE). The lien date at issue is January 1, 2006. The Board set a value of \$\$\$\$\$. Petitioner proposes a value of \$\$\$\$\$.

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(12).)

(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).)

(1) All tangible taxable property located within the state 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 provided by law.

(2) Subject to Subsections (3) and (4), beginning on January 1, 1995, the fair market value of residential property located within the state shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2.

(3) No more than one acre of land per residential unit may qualify for the residential exemption. (Utah Code Ann. Sec. 59-2-103 (1), (2), and (3))

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

The subject property is parcel no. #####. It is a residence located at ADDRESS 1, CITY 1, Utah. The Salt Lake County Assessor's Office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization adjusted the value to \$\$\$\$\$.

Petitioner appealed that decision to the Tax Commission. At the hearing, he offered six exhibits. Petitioner's Exhibit One is a copy of the Salt Lake County Board of Equalization Hearing Record for the subject property. Petitioner's Exhibit Two is a copy of the 2006 Original Tax Notice. Petitioner's Exhibit Three is a copy of the final decision from the Board of Equalization. Petitioner's Exhibit Four is information on a property listed for sale by (X). The address in the listing is ADDRESS 2, CITY 2, Utah. Petitioner's Exhibit Five is a copy of a classified advertisement in the March 3, 2007 COMPANY A regarding the property that is the subject of Exhibit Four. The advertisement lists the price at \$\$\$\$\$. Petitioner's Exhibit Six is a plat map including the subject property. Shown on the map is a storm drain easement on the subject property.

Petitioner stated his dispute was more with the increase in his taxes after the market value of his property was reduced. This issue is noted on his Exhibit Three. Hand written notes indicate a reduction in the property's value of \$\$\$\$\$. They also indicate property taxes increased by \$\$\$\$\$. Petitioner did not see how the value could go down while taxes went up.

This appears to be the result of .6 acres being reclassified as secondary property. The BOE was correct in making this change, as under 59-2-103, only one acre qualifies for the primary residential exemption. The .6 acre portion of the land is taxed at its full value, rather than receiving the 45% reduction given to a primary residence.

Petitioner noted the property that is the subject of his Exhibits Four and Five has been on the market for more than three years, but has not sold. This property is also listed in Respondent's appraisal as Comparable Number Eight.

The subject is approximately two acres in size. Because of a storm drain easement, .4 acres is residual land. One acre qualifies for the primary residential exemption, with .6 acres being secondary land. RESPONDENT REPRESENTATIVE characterized it as a mansion, according to standard appraisal terminology. It is six years old. It has a gross above grade living area of 10,300 square feet. It has a total of twenty five rooms, five bedrooms, and 7.25 bathrooms. It has a full basement, 6,483 square feet in size, fifty per cent of which is finished.

RESPONDENT REPRESENTATIVE prepared an appraisal of the subject property. It values the subject at \$\$\$\$\$. Respondent offered it in support of the Board of Equalization value, which was \$\$\$\$\$. Respondent did not seek an increase in value.

RESPONDENT REPRESENTATIVE used six comparables in his appraisal to arrive at a value. His comparables seven and eight were not used in his calculations because they are listings, not sales. Adjusted values of the six comparables ranged from \$\$\$\$\$ to \$\$\$\$\$. The median value was \$\$\$\$\$. The mean value was \$\$\$\$\$.

RESPONDENT REPRESENTATIVE noted that only nine homes with more than 10,000 total square feet sold from the first quarter of 2005 through the first quarter of 2006. Thus, RESPONDET REPRESENTATIVE went beyond immediate neighborhood boundaries for some of his comparables. RESPONDENT REPRESENTATIVE'S comparables four and five, both of which are on the same street as the subject, received significant size adjustments. Comparable four is directly across the street from the subject. Both comparables have approximately half the square feet that the subject has. The adjusted sale price of these comparables was \$\$\$\$\$ and \$\$\$\$\$, respectively.

RESPONDENT REPRESENTATIVE made no adjustment for time of sale. He said these properties do not follow market trends.

RESPONDENT REPRESENTATIVE also developed a cost approach. Using this method, the value of the subject was \$\$\$\$\$. Both RESPONDENT REPRESENTATIVE'S cost approach and sales comparison approach support the Board of Equalization value.

Petitioner has not met his burden of proof. His evidence establishes the BOE reduced the value of his property from \$\$\$\$\$ to \$\$\$\$\$. It establishes another property listed for three years with an asking price of \$\$\$\$\$ has not sold. This evidence does not support the value of \$\$\$\$\$ estimated by Petitioner.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the Board of Equalization value of \$\$\$\$\$. 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.

R. Spencer Robinson
Administrative Law Judge

Appeal No. 06-1368

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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