

06-1371
Property Tax/Locally Assessed
Signed 06/07/2007

BEFORE THE UTAH STATE TAX COMMISSION

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| <p>PETITIONER, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.</p> | <p>ORDER</p> <p>Appeal No. 06-1371</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2006</p> <p>Judge: Jensen</p> |
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Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE, from the 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 March 12, 2007.

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 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 parcel no. #####, located at ADDRESS in CITY 1, 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. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be reduced to \$\$\$\$\$.

The subject property consists of a .17-acre lot improved with a two-story style residence. The residence was 2 years old and built of stone and stucco construction. It has 2,608 square feet above grade and an unfinished basement of 1,317 square feet. There is also an attached two-car garage. The County considered the residence to be in good condition.

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 provided evidence of the sales of several properties, including detailed data and comparative market analysis for four properties. The four comparable sales had sale dates from December 2005 through May 2006. Petitioner's comparables were in the same neighborhood as the subject. Petitioner, aided by a realtor, made adjustments for factors such as time of sale, size, age, and amenities such as garage and basement finish. After making these adjustments, these comparable properties had adjusted selling prices between \$\$\$\$\$ and \$\$\$\$\$.

The county 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 relied on the sales of five comparable properties. These properties had sale dates between August 2005 and April 2006. The comparable properties were within the same neighborhood as the subject. The appraiser adjusted the selling prices of the comparable properties to account for the differences in the comparables compared to the subject. The appraiser's comparable properties had adjusted selling prices between \$\$\$\$\$ and \$\$\$\$\$. The appraiser explained that this was a neighborhood in which homes that were as close as on the same street had different selling prices on the basis of view. The homes with city views sold for a premium over those without views. As an example of this, he explained that his comparable property without a view had an adjusted selling price of \$\$\$\$\$. When this home was removed from consideration, the lowest valued comparable had an adjusted value of \$\$\$\$\$ and the other comparables had adjusted values between \$\$\$\$\$ and \$\$\$\$\$.

In response to questions at the hearing in this matter, Petitioner answered that he did pay a lot premium of \$\$\$\$\$ when he purchased his lot. The lot also had a topography that saved approximately \$\$\$\$\$ in excavation costs compared to other lots in the neighborhood.

Weighing the evidence before it, the Commission finds the county's comparables to be more persuasive. These comparables account for differences in view while Petitioner's approach did not address view. Additionally, the county's comparable sales were treated in an appraisal as opposed to a comparative market analysis. Petitioner's comparative market analysis, while helpful in providing comparable properties, was not an appraisal.

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 Salt Lake 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.

Clinton Jensen
Administrative Law Judge

Appeal No. 06-1371

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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