

06-1403
Property Tax/Locally Assessed
Signed 06/12/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-1403
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	Residential
DAVIS COUNTY,)	Tax Year: 2006
UTAH,)	
)	Judge: Phan
Respondent.)	

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE 1, Davis County Assessor
 RESPONDENT REPRESENTATIVE 2, Appraiser

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on April 23, 2007. Petitioner is appealing the assessed value as established for the subject property by the Davis County Board of Equalization. The lien date at issue is January 1, 2006.

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. . . (Utah Code Ann. Sec. 59-2-1006(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).

DISCUSSION

The subject property is parcel no. ##### and is located at ADDRESS, CITY, Utah. The County Assessor's Office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. The County Board of Equalization denied adjustment to the value.

The subject property consists of .61-acres of land improved with a rambler style residence. The residence is 12 years old and of average design and style. The residence has 1,882 square feet above grade and 2,477 square feet in the basement. Thus, the total size of the residence is 4,359 square feet. The basement is 75% finished. The basement is above ground off the rear elevation with daylight windows and doors out the rear and side of the basement. The property has an attached two-car garage. The large lot is sloped and backs onto the Layton landfill and burn plant.

Petitioner had the subject property appraised in June of 2005 and the appraiser had indicated it was in good condition with an effective age of 8 years. In the appraisal it stated

that the appraiser had inspected the interior and exterior of the residence. Petitioner disputed this statement and argued that the condition was not good. Based on this it was her position that despite that the appraiser had valued the property at \$\$\$\$\$, the property was not worth that much. It was her contention that the appraiser did not view the interior of the property and must not have fully viewed the exterior. She provided numerous photographs of the basement interior and exterior of the property showing various issues with the condition. On the exterior, wood trim needed to be painted, there were cracks and holes in the stucco. There were problems with the basement finish with places where the sheet rock had been cut and not fully patched, where doorframes were not fully installed and a bathroom where they tore out some of the molding. In addition she indicated that there were issues with decks off the back being unstable. Based on the condition she argued the residence should not be valued more than the \$\$\$\$\$ that she had paid for it in October 2003.

Petitioner also provided a number of comparable sales and argued that the homes in her area did not sell in a range from \$\$\$\$\$ to \$\$\$\$\$. Her comparables had sold more in the \$\$\$\$\$ to \$\$\$\$\$ range. However, the comparables that she provided were all much smaller than the subject in both lot size and the size of the residence. The sales information that Petitioner provided was not the full Multiple Listing Service report, but instead a condensed report that provided only total square feet, not a break out between above and below grade. While the subject had 4,359 in total square feet, the comparables were much smaller ranging from 2,449 to 3,330 total square feet. Additionally the subject lot was .61 of an acre and the comparables provided by Petitioner were all much smaller lots, around .25 of an acre in size. For these reasons the comparables were quite dissimilar to the subject property.

Respondent's representatives indicated that they had been willing to accept the appraisal value of \$\$\$\$\$. They point out that the appraisal considered comparables near the

landfill and burn plant and also properties with larger lots. They point out that the photographs are of the current condition. The lien date at issue was January 1, 2006.

Upon review of the evidence in this matter, it is the Commission's conclusion that the best-supported value for this property was the \$\$\$\$\$. Petitioner has the burden of proof both to establish error on the part of the value set by the County Board and to provide a sound evidentiary basis to support a new value. Petitioner has not provided a basis to support a value lower than \$\$\$\$\$. Petitioner argues that the value should be lowered to the price she paid for the property in October 2003, which was \$\$\$\$\$. However, the market has appreciated broadly and substantially over the period from the end of 2003 through to January 1, 2006. The properties that Petitioner submitted as comparables were significantly smaller than the subject. From the photographs it is apparent there are some issues with the condition. However, some of these items appear to be normal wear and tear, like the fact that the wood trim around the exterior doorways needs to be painted. Some of the problems with the exterior do appear to go beyond normal wear and tear for a home of that age, like the holes in the stucco around the windows. However, the condition should have been considered by the appraiser. The appraiser appears to be a State Certified Appraiser and he would have uniform guidelines that he was required to follow. Additionally, even if the appraiser did not take into account sufficiently the condition at the time of the appraisal, market values were tending to increase between June 2005 and January 1, 2006, which may have offset some of the effect of the overstated condition, if in fact it was in error when the appraisal was performed.

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 County Auditor is hereby ordered to adjust its records in accordance with this decision.

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.

Jane Phan
Administrative Law Judge

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