

06-1443
Property Tax/Locally Assessed
Signed 08/27/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-1443
)	Parcel Nos. #####-1
v.)	#####-2
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	Recreational
GARFIELD COUNTY, UTAH)	Tax Year: 2006
)	
Respondent.)	Judge: M. Johnson

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 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 order, specifying the commercial information that the taxpayer wants protected.

Presiding:

Marc B. Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER, appearing by phone
For Respondent: RESPONDENT REPRESENTATIVE, Garfield County Assessor,
 appearing by phone

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Garfield County Board of Equalization (“BOE”). This matter was argued in a telephonic Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on April 11, 2007. Petitioner is appealing the assessed value as established for the subject property by the Garfield County Board of Equalization. The lien date at issue is January 1, 2006.

The subject property consists of two parcels, parcel nos. #####-1 and #####-2. The Garfield County Assessor's Office had originally set the value of the subject property, as of the lien date at \$\$\$\$ for each parcel. The Garfield County Board of Equalization reduced the value to \$\$\$\$ for each parcel.

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).)

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 lots are each .52 of an acre in size and are located in the DEVELOPMENT in Garfield County. The lots are undeveloped, on the side of a hill and have no water. They are located adjacent to each other. It would be possible to build a cabin on the subject lots in the future. However, this would require more preparation and costs due to site preparation and the lack of water.

Petitioner argued that the lots were overvalued, pointing to the fact that he had purchased one of the lots for \$\$\$\$\$ in October 2004. He had purchased them to serve as a buffer for an existing cabin. However, Petitioner's primary concern was with the excessive increase from the \$\$\$\$\$ assessment in 2005. He did not look into current market values. Petitioner did acknowledge that the lots could be developed in the future.

Respondent testified that the values were increased as part of an area-wide valuation increase for the (X) that resulted from a Sales Ratio Study and direction from the Property Tax Division of the Tax Commission. This order was included with the BOE record. Enclosed with the record and order were list of sales in the area. Sales, of lots in the immediate area, according to similar parcel numbers, and for lots of similar size, ranged from a low of \$\$\$\$\$ to \$\$\$\$\$ during 2004. In 2005 three lots sold for \$\$\$\$\$.

Based on these sales, the Commission finds that Petitioner's purchase price is not sufficient to support a reduction in value.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the decision of the Garfield County Board of Equalization is hereby sustained. The value of the subject property as of January 1, 2006, is \$\$\$\$\$ for each parcel.

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.

Marc B. Johnson
Commissioner

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

D'Arcy Dixon Pignanelli
Commissioner
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