

06-1467
Locally Assessed Property
Signed 03/12/2008

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF BOX ELDER COUNTY, UTAH,</p> <p>Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 06-1467</p> <p>Parcel Nos. #####-1 and #####-2</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2006</p> <p>Judge: Jensen</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:

R. Bruce Johnson, Commissioner
Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE 1
RESPONDENT REPRESENTATIVE 2
RESPONDENT REPRESENTATIVE 3

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on January 10, 2008.

Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the determinations of the Box Elder County Board of Equalization

Appeal No. 06-1467

regarding assessment of the subject property for the lien date January 1, 2006.

2. The subject property is on the (X) side (X) near the (X) limits for CITY in Box Elder County. It consists of a 33.18-acre parcel (parcel number #####-1) located just north of the south boundary of CITY and a contiguous 84.84-acre parcel (parcel number #####-2) located south of the CITY boundary.¹ Petitioner disputes three issues regarding the subject property. First, Petitioner disputes the county's valuation of the subject as being in excess of market price. Second, Petitioner raises an equalization argument with regard to one of the parcels contained in the subject property. Third, Petitioner disputes the county's designation of the property as having insufficient agricultural use to qualify for agricultural use assessment under Utah Code Ann. § 59-2-503. The Commission addresses these arguments separately.

Market Valuation

3. The board of equalization set the value for the 33.18-acre parcel at \$\$\$\$\$. The 33.18-acre parcel is located within CITY and is zoned R-1/2 where it fronts onto (X). The R-1/2 zoning allows for residential development with half-acre lots. CITY will allow up to eight lots in this area. The slope of the R-1/2 land where it fronts (X) could pose difficulties to full development of the land zoned R-1/2. The remainder of the 33.18-acre parcel is zoned MU-40. The parties generally agree that the MU-40 zoning makes future development difficult if not impossible.

4. Petitioner argued that the county has overvalued the 33.18-acre parcel because its MU-40 zoning allowed little, if any, development potential. Petitioner testified that a neighboring parcel of 38.08 acres with MU-40 zoning sold in 2006 for \$\$\$\$\$ or approximately \$\$\$\$\$ per acre.

5. The county agreed that it had overvalued the portion of the 33.18-acre parcel with MU-40 zoning. The county thus recommended lowering the value of the ground with the MU-40 zoning to \$\$\$\$\$ per

¹ These acreage figures vary by a few hundredths of an acre on various documents. The Commission adopts the lot sizes as shown on the county valuation documents for these properties for purposes of property valuation,

Appeal No. 06-1467

acre as of January 1, 2006. The parties agreed that the ground with the MU-40 zoning would be 29.2 acres (rounded) and that the market value of this ground would thus be \$\$\$\$\$.

6. For the remaining four acres of the 33.18-acre parcel with R-1/2 zoning, the county recommended no change from the value of \$\$\$\$\$ per acre as determined by the board of equalization. Neither party presented any evidence of the sales of comparable properties with R-1/2 zoning. Four acres at \$\$\$\$\$ per acre plus 29.2 acres at \$\$\$\$\$ per acre would make the county's recommended value a total of \$\$\$\$\$ for the 33.18-acre parcel.

7. Petitioner argued for a value of \$\$\$\$\$ for the 33.18-acre parcel. This would be less than \$\$\$\$\$ per acre. Petitioner presented no evidence of any property selling in the range of \$\$\$\$\$ per acre.

8. The board of equalization set the value for the 84.84-acre parcel at \$\$\$\$\$. The 84.84-acre parcel is located (X) of the boundary for CITY and is thus unaffected by CITY zoning. Neither party presented evidence regarding the zoning or development potential of the 84.84-acre parcel. Petitioner requested that the Commission lower the value to \$\$\$\$\$ but provided no evidence to show error in the \$\$\$\$\$ value or to suggest a different value. The county requested that the Commission sustain the value as determined by the board of equalization.

Equalization

9. Petitioner argued that the 33.18-acre parcel should be equalized with an adjoining 38.08-acre parcel with MU-40 zoning. As previously discussed under valuation, the 33.18-acre parcel has approximately 29.18 acres with MU-40 zoning and approximately four acres of R-1/2 zoning. The MU-40 zoning makes development difficult if not impossible and the R-1/2 zoning allows for subdivision into half-acre residential lots.

10. The county had assessed the neighboring parcel of 38.08 acres with MU-40 zoning at \$\$\$\$\$

but shall not bind the parties to these acreages for other purposes.

Appeal No. 06-1467

for the 2006 tax year. Petitioner did not present evidence of the assessed valuation of any properties other than the subject and the adjoining 38.08-acre parcel.

Agricultural Use Assessment Under Utah Code Ann. Section 59-2-503

11. The subject property of approximately 118 acres on the (X) side of (X) is directly across the street from approximately 21 acres on the west side of (X). Petitioner owns both the subject property on the (X) side of (X) and the additional property on the (X) side of (X) in the same name.

12. As of lien date of January 1, 2006, the county board of equalization found sufficient agricultural use of the property on the (X) side of (X) (the “west side property”) to qualify that property for agricultural use assessment under Utah Code Ann. § 59-2-503. It found insufficient agricultural use of the property on the east side of (X) (the “east side property”) to qualify that property for agricultural use assessment under Utah Code Ann. § 59-2-503. Petitioner’s appeal is from the county’s determination regarding the east side property.

13. The west side property was in active agricultural use as of January 1, 2006 and had been in agricultural use for many years. The east side property was not used for agriculture as of January 1, 2006 and had not been in agricultural use for at least ten years before 2006. The only use of the east side property has been for hiking and similar recreation. Petitioner indicated no plans to subdivide or otherwise develop the east side property and the county did not dispute this claim.

14. Petitioner claims agricultural use on the east side property beginning in December 2006. The county disputes this claim. Because this claimed agricultural use was after the January 1, 2006 lien date for the 2006 tax year, it cannot affect determinations regarding the 2006 tax year and the Commission makes no finding of fact regarding agricultural use of the east side property after January 1, 2006.

15. Petitioner argued that the east side property should be combined with the west side property as a single farm. Petitioner’s position is that the entire acreage is known as the (X) and that, since the west

side property has enough production to satisfy agricultural production requirements for the entire farm, he should receive agricultural use assessment under Utah Code Ann. § 59-2-503 for the entire farm. The Commission disagrees and finds that even though Petitioner owns the property on both the east and west sides of (X), the east side property did not meaningfully contribute to farm production. There is no evidence that it provided storage, staging, or actual production to support agricultural production on the farm as a whole. Accordingly, the east side property is a separate unit that must satisfy its own agricultural production requirements.

APPLICABLE LAW

1. 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 provided by law. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (Utah Code Ann. Sec. 59-2-103.)

2. “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. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value. (Utah Code Ann. 59-2-102(12).)

3. 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. 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).) Because Utah Code Ann. Sec. 59-2-1006 makes reference to the plural "comparable properties," a taxpayer making an equalization argument is required to present multiple comparable properties to make a valid equalization claim. While the number of comparable properties required may vary from case to case, a taxpayer presenting only one comparable property will not prevail on an equalization claim under any circumstance. *See Mountain Ranch Estates v. Tax Comm'n*, 2004 UT 86 ¶9.

4. Utah Code Ann. § 59-2-503 provides that property over five acres may qualify for agricultural use assessment if the property "is actively devoted to agricultural use" and "has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under" the Farmland Assessment Act.

CONCLUSIONS OF LAW

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).

2. In this matter Petitioner showed error in the value set by the county board of equalization for the 33.18-acre parcel making up part of the subject property. The Commission concludes that the evidence supports the county's proposal to value the 33.18-acre parcel at \$\$\$\$\$. There is no factual basis to support a value lower than \$\$\$\$\$ for the 33.18-acre parcel of the subject property.

3. Petitioner provided no legal basis to lower the valuation of the 84.84-acre parcel of the subject

property for either valuation or equalization.

4. Petitioner's evidence included the assessed value of only one comparable property and thus did not meet the legal requirement to adjust the value of the 33.18-acre parcel of the subject to equalize it to other properties under Utah Code Ann. § 59-2-1006.

5. The subject property, located on the east side of (X), does not meet the qualifications for agricultural use assessment under Utah Code Ann. § 59-2-503.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that, as of January 1, 2006, the market value of the 33.18-acre parcel (parcel number #####-1) portion of the subject property is \$\$\$\$ and that the market value of the 84.84-acre parcel (parcel number #####-2) the subject property is \$\$\$\$\$. There is no basis for agricultural use assessment of the subject property under Utah Code Ann. § 59-2-503 as of January 1, 2006. It is so ordered.

DATED this _____ day of _____, 2008.

Clinton Jensen
Administrative Law Judge

Appeal No. 06-1467

BY ORDER OF THE UTAH STATE TAX COMMISSION:

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2008.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. 59-1-601 and 63-46b-13 et. seq.