

06-1490  
Property Tax/Locally Assessed  
Signed 08/28/2007

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,      Petitioner,  vs.  BOARD OF EQUALIZATION OF IRON COUNTY, UTAH,      Respondent.</p>	<p><b>ORDER</b></p> <p>Appeal No. 06-1490</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  
                          PETITIONER REPRESENTATIVE  
For Respondent:    RESPONDENT REPRESENTATIVE

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Iron County Board of Equalization. This matter was argued in an Initial Hearing on April 4, 2007 and on May 30, 2007. 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.

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

The subject property is 2.62 acres of vacant ground. It bears parcel no. ##### and is located in Iron County on ROAD next to ( X ). The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$, which is approximately \$\$\$\$\$ per acre. The County Board of Equalization sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$ per acre for a total of \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be reduced to \$\$\$\$\$.

County records indicate that 2.32 acres of the subject parcel were used for agriculture as of the lien date. The parties explained that the remaining .30 of an acre are

nonproductive because the property has an active sewer line running through it. Petitioner's documentation indicates that the subject is zoned I&M-1 for industrial and manufacturing use.

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 a photograph of the subject parcel, together with a two-page document titled "Summary and Conclusions" prepared by appraiser APPRAISER. This document indicated that it was an appraisal for four parcels, but did not include any comparable sales or other data to support its conclusions. It shows a signature date of May 24, 2005, but indicates an effective date of May 11, 2004. The four properties described in the document are 78.69 acres, 3.38 acres, 10.79 acres and 8.93 acres. None of these lot sizes match the 2.62 acres of the subject parcel, but Petitioner explained that the subject parcel was included in the 8.93-acre parcel valued at \$\$\$\$\$. A total of \$\$\$\$\$ for 8.93 acres computes to just over \$\$\$\$\$ per acre and, on this basis, Petitioner requests that the Commission adopt a value of \$\$\$\$\$ per acre for the 2.62-acre subject parcel.

The county presented information on the sales of 16 comparable properties with sale dates from January 2005 to April 2006. The county's comparable sales had lot sizes of .43 of an acre to 7 acres. The selling prices of these properties ranged from \$\$\$\$\$ per acre to \$\$\$\$\$ per acre. Two of these comparables were in flood areas. With these two comparable sales removed, the lowest per-acre selling price was \$\$\$\$\$. Petitioner criticized use of this comparable at \$\$\$\$\$ per acre. Petitioner, who had been the purchaser of the comparable, indicated that this was an overpayment for a small parcel that Petitioner needed to gain access to a larger parcel. If the parcel at \$\$\$\$\$ per acre is removed from consideration, the next two lowest comparable sales sold for \$\$\$\$\$ and \$\$\$\$\$ per acre. Most of the county comparables were over \$\$\$\$\$ per acre.

The Commission notes two problems with reliance on the Petitioner's document from APPRAISER. First, the document has an effective date of over a year and a half before the

lien date of January 1, 2006. Second, the document does not list any sales comparables or otherwise provide evidence to support a value. As such, it is not sufficient to sustain the Petitioner's burden of proof in this matter.

The county's comparable sales provide a sound evidentiary basis to support the county's requested valuation of \$\$\$\$\$ per acre for the subject parcel. The only comparable sales selling for less than \$\$\$\$\$ are two parcels in flood areas. On the basis of the evidence provided, the Commission finds sound evidentiary support for the county's request to value 2.32 acres of the subject at \$\$\$\$\$ per acre and the remaining unproductive ground, .30 of an acre, at \$\$\$\$\$ for a total value of \$\$\$\$\$.

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 Iron County Auditor is 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.

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Appeal No. 06-1490

Clinton Jensen  
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

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