

06-1523
Property Tax/Locally Assessed
Signed 08/06/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,

Petitioners,

vs.

BOARD OF EQUALIZATION OF
IRON COUNTY, STATE OF UTAH,

Respondent.

ORDER

Appeal No. 06-1523

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2006

Judge: Jensen

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:

Marc B. Johnson, Commissioner

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioners: PETITIONER 1

For Respondent: RESPONDENT REPRESENTATIVE 1, Iron County Assessor
RESPONDENT REPRESENTATIVE 2, from the Iron County
Assessor's Office

STATEMENT OF THE CASE

Petitioners bring this appeal from the decision of the Iron County Board of Equalization. This matter was argued in an Initial Hearing on April 4, 2007. Petitioners are 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 a 20-acre lot bearing parcel no. ##### in Iron County, Utah. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$ per acre for a total of \$\$\$\$\$. The County Board of Equalization sustained the value. Petitioners request

that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property consists of a 20-acre parcel located approximately 7 miles north of CITY 1 and 6 miles west of CITY 2. As of January 1, 2006, the subject was vacant. The subject is zoned A-20, has no electrical service, school bus service, garbage pick-up, snow removal, or mail delivery and receives its water from a private water system. Access is via a gravel road leading to a paved county road. The subject is generally hilly with cedar and juniper trees. The subject is bordered on three sides by BLM ground and on the fourth side by SUBDIVISION, a subdivision platted in the 1960s and never fully developed.

Petitioners have 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 Petitioners provided a discussion of some of the problems with the subject property that would detract from its value. Petitioners also argued that their valuation increased from 2005 to 2006 more than the expected rate of appreciation for the subject.

Respondent provided evidence of four comparable sales with sale dates from March 2005 to November 2005. All had the same zoning as the subject. Three were just over 20 acres and one was approximately 60 acres. The per-acre selling price of the comparables was between \$\$\$\$\$ and \$\$\$\$\$. Two of the parcels were in the same subdivision as the subject and had the same deductions to value as described by Petitioners. These properties sold for just over \$\$\$\$\$ per acre.

Reviewing the evidence presented, the Petitioners have not borne the burden of proof to show any error in the value of \$\$\$\$\$ per acre for a total of \$\$\$\$\$. The comparable sales support the \$\$\$\$\$ value.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006 is \$\$\$\$\$. 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

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