

06-1524
Property Tax/Locally Assessed
Signed 07/16/2007

BEFORE THE UTAH STATE TAX COMMISSION

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| PETITIONER 1 & PETITIONER 2, | ORDER |
| Petitioners, | Appeal No. 06-1524 |
| vs. | Parcel No. ##### |
| BOARD OF EQUALIZATION OF IRON COUNTY, UTAH, | Tax Type: Property Tax/Locally Assessed |
| Respondent. | 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, Iron County Assessor

STATEMENT OF THE CASE

Petitioners bring this appeal from the decision of the Iron County Board of Equalization ("BOE"). This matter was argued in an Initial Hearing on April 3, 2007.

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).

Utah Code Ann. §59-2-507(2) provides that “[a]ll structures which are located on land in agricultural use, the farmhouse and the land on which the farmhouse is located, and land used in connection with the farmhouse, shall be valued, assessed, and taxed using the same standards, methods, and procedures that apply to other taxable structures and other land in the county.

DISCUSSION

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. The subject property is parcel no. #####, located at ADDRESS, about five miles north of CITY, Utah. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. 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 an 80-acre lot improved with a residence that is 65% complete and has 1002 square feet. In a written attachment to the petition to the BOE, Petitioner stated that the “dwelling is an addition to existing metal barn; not a separate building.” There is also a metal outbuilding with 1,485 square feet. Neither the residence nor the outbuilding has public utilities such as water, electricity, or natural gas. Water comes from an on-site well powered by a diesel pump. Electricity is supplied through solar panels supplemented by a generator. The property consists of two 40-acre parcels, connected at the southwest corner of the north parcel and the northeast corner of the south parcel. The north forty acres consist entirely of sagebrush land. The property is zoned A-20, which permits residential construction on a minimum 20-acre parcel. Access to the property is from a gravel frontage road off of HIGHWAY 1.

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 general discussion regarding a nearby dairy and feedlot operation that causes odor problems and that Petitioners are concerned may cause water contamination. Petitioner has no test results showing contamination in his well. Petitioner concedes that the nearby dairy and feedlot would be in violation of the law if shown to

be contaminating ground water supplies. Petitioner also submitted that the cost to bring electricity to the subject would be \$\$\$\$\$ for one proposal and \$\$\$\$\$ for another. Petitioner represented that this was a verbal estimate by telephone from COMPANY A, based on a drawing made by PETTIONER 1. Petitioner submitted post-hearing evidence of an undated listing for a 40-acre at \$\$\$\$\$ per acre along with a closing statement showing that the property sold for \$\$\$\$\$ in December 2005. The property is located within the city limits of CITY 2 Utah. Although the closing statement showed that 40.58-acres were sold and neither document specifically identified the same location, a review of street and topographical maps obtained from the Property Tax Division corroborated that these were for the same property. The assessor did dispute that the documents were for the same property. The property is zoned R-3 and is located on HIGHWAY 2. The listing indicated that the property included eight acres of flat land and the availability of a proposed subdivision plat covering the hill portion of the property.

The county provided the following breakdown of its valuation of the subject:

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| Home – 1,002 square feet at \$\$\$\$\$ per square foot | \$\$\$\$\$ |
| Outbuilding – 1,485 square feet at \$\$\$\$\$ per square foot | \$\$\$\$\$ |
| Smaller sheds on property – no assessment | \$\$\$\$\$ |
| Irrigated land – 18 acres at \$\$\$\$\$ per acre | \$\$\$\$\$ |
| Graze land – 61 acres at \$\$\$\$\$ per acre | \$\$\$\$\$ |
| Homesite land – 1 acre at \$\$\$\$\$ | <u>\$\$\$\$\$</u> |
| Total assessed value | \$\$\$\$\$ |

The county also provided evidence of comparable sales showing that dry sage brush property was selling between \$\$\$\$\$ and \$\$\$\$\$ per acre with an average selling price of \$\$\$\$\$ per acre; irrigated land had sold in comparable sales for amounts of \$\$\$\$\$ and \$\$\$\$\$ per acre with an average selling price of \$\$\$\$\$ per acre. All of the county's comparable sales had sales dates in 2005. Although the county's representative indicated that values in the county were trending upward in 2005, the county took the more conservative approach of not making an upward time adjustment when comparing the comparable sales to the subject. Some of the comparable sales were nearly as close to the dairy and feedlot operation and did not show a particular pattern of

diminished values nearer the dairy and feedlot. As for building values, the county's appraiser indicated that she selected conservative figures from her experience as a real estate appraiser.

In considering the value of the property, there are three underlying issues to be addressed: 1) the value of the agricultural land, 2) the value of the homesite, and 3) the value of the improvements.

The only evidence of market value for the land presented in this proceeding is sales of vacant land. Of these sales the ones with closest proximity to the subject were the \$\$\$\$\$ per acre sale for 160 acres of irrigated land, two dry land sales of \$\$\$\$\$ and \$\$\$\$\$ per acre, both for 160 acres, and two five acre parcels that sold for \$\$\$\$\$ and \$\$\$\$\$ per acre. This information corroborates the assessed values.

The second valuation issue is the value of the homesite. The assessor valued one acre of land at \$\$\$\$\$. Homesites with electricity in the general area are assessed at \$\$\$\$\$. Petitioner challenged the assessments on the basis primarily of the cost to bring in electricity, the poor access, and the CITY 2 city listing at \$\$\$\$\$ per acre with a subsequent sale at \$\$\$\$\$. Respondent provided no evidence to support the additional \$\$\$\$\$ homesite value. Nor was any evidence presented to demonstrate homesite values and assessments, if any, in the immediate or general neighborhood. Presumably, however, under a mass appraisal system, the rationale for adding a homesite value to agricultural land is that residential use adds value to otherwise vacant land. The presumption of correctness lies with the Respondent, and it is incumbent for Petitioner to challenge this. The Commission finds that Petitioner has brought the value into question due to the lack of utilities and the poor access. Furthermore, the sale at \$\$\$\$\$ for residential property within city limits raises questions as to the homesite value. However, Petitioner failed to establish a direct comparison between the homesite and the listing price.

Although the lack of utilities and the un rebutted estimate of the cost to provide electricity to the home, as well as the fact that absolutely no evidence exists to indicate a value above \$\$\$\$\$

per acre, raise questions as to the value of the homesite, Petitioner failed to translate this into an effective estimate of value. In particular, and most conclusively, the value of the homesite must be considered in its entirety. The property is zoned A-20 and therefore requires a valuation for a minimum 20-acre parcel. At most, the assessment for a portion of the subject property that size would be \$\$\$\$\$ or \$\$\$\$\$ per acre (18 acres of irrigated land at \$\$\$\$\$, \$\$\$\$\$ for one acre of sagebrush land, and one acre for the homesite at \$\$\$\$\$). This is slightly more than one-half of the selling price of the residential acreage in CITY 2. The assessor is entitled by law to allocate some portion of value to a homesite as long as the value is reasonable, equitable, and the total land value does not exceed fair market value. In this case, the assessor has designated one acre for the homesite. Petitioner has not demonstrated that the actual homesite is less than one acre. Nor has Petitioner demonstrated that the market value for a 20-acre parcel of land that includes a residence would be less than the average maximum assessment of \$\$\$\$\$ per acre. Petitioner has not demonstrated that the fair market value of a one acre site, in the same stage of development as the subject property, and suitable for residential use, is less than \$\$\$\$\$.

Finally, Petitioner failed to establish that the market would recognize a different value for the home and other buildings. The arguments for a reduction in value were based on the quality and condition of the improvements, but Petitioner presented no evidence of market value. Respondent presented sufficient evidence in the form of a cost approach to support the value of the improvements.

Considering the evidence submitted, Petitioners have not sustained their burden of proof in demonstrating error in the value as determined by the Board of Equalization or by providing a sound evidentiary basis to reduce 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.

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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

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