

06-1525
Locally Assessed Property
Signed 02/21/2008

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 & PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF IRON COUNTY, STATE OF UTAH, Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 06-1525</p> <p>Parcel Nos. #####-1 #####-2</p> <p>Tax Type: Property Tax/Locally Assessed Tax Year: 2006</p> <p>Judge: Chapman</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:

Pam Hendrickson, Commission Chair
Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2
PETITIONER 1
For Respondent: RESPONDENT REPRESENTATIVE 1, from Iron County Assessor's Office
RESPONDENT REPRESENTATIVE 2, from iron County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on February 11, 2008. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The tax at issue is property tax.
2. The lien date at issue is January 1, 2006.
3. There are two adjacent properties at issue. One is identified as Parcel No. #####-1 (hereinafter referred to as “Subject Parcel 1”) and is 5.04 acres in size. The second parcel is identified as Parcel No. #####-2 (hereinafter referred to as “Subject Parcel 2”) and is 5.05 acres in size.
4. Both of the subject properties consist of vacant land and are located on STREET in CITY 1, Iron County, Utah.
5. Both of the subject properties are zoned R-R-1, which allows the Petitioners, as of the lien date, to subdivide each parcel into one-acre residential lots. The Petitioners petitioned CITY 1 to allow them to subdivide the properties into half-acre lots (as would be allowed under R-1-18 zoning), but their petition was denied.
6. The subject properties do not have water or utilities. Furthermore, large power lines cross over a portion of Subject Parcel 2, but do not cross over Subject Parcel 1.
7. For the 2006 tax year, Subject Parcel 1 was originally assessed at \$\$\$\$\$, which the Iron County Board of Equalization (“County BOE”) reduced to \$\$\$\$\$ (approximately \$\$\$\$\$ per acre).
8. For the 2006 tax year, Subject Parcel 2 was originally assessed at \$\$\$\$\$, which the County BOE reduced to \$\$\$\$\$ (approximately \$\$\$\$\$ per acre). The County testified that the difference in value per acre between the two subject properties was due to the power lines that crossed Subject Parcel 2.
9. The County asked the Commission to sustain the values established by the County BOE for both subject properties. At the Formal Hearing, the Petitioners asked the Commission to reduce the values of both properties, but did not indicate a specific fair market value for either of the subject properties.
10. The Petitioners submitted five comparable sales as evidence, as follows:

a. Petitioners' Comparable #1 (Exhibit P-1) shows the sale of a 14.90-acre parcel of land that sold in December 2005 for \$\$\$\$\$, which equates to approximately \$\$\$\$\$ per acre. This property is commercially zoned and is located in CITY 2, Utah. The County states that this property sold without water and that commercial property in CITY 2 does not have a significant amount of development potential.

b. Petitioners' Comparable #2 (Exhibit P-2) shows the sale of a 10.00-acre parcel of land that sold in May 2006 for \$\$\$\$\$, which equates to \$\$\$\$\$ per acre. This property is agriculturally zoned (A-20) and is located on a gravel road approximately 10 miles (X) of CITY 1. Because this property is zoned A-20, only one residence may be built on the parcel.

c. Petitioners' Comparable #3 (Exhibit P-3) shows the sale of a 6.61-acre parcel of land that sold in February 2006 for \$\$\$\$\$, which equates to approximately \$\$\$\$\$ per acre. The property is zoned R-1-18, which allowed the parcel to be subdivided into half-acre lots. The purchaser, however, chose to use the parcel as a single building lot. The comparable is located on a hill in the northern part of CITY 1 and offers views of the surrounding area. Although the comparable sold without utilities, it is not known with certainty whether it had water at the time of sale.

d. Petitioners' Comparable #4 (Exhibit P-4) shows the sale of a 10.50-acre parcel of land that sold in November 2005 for \$\$\$\$\$, which equates to \$\$\$\$\$ per acre. This property is agriculturally zoned (A-20) and is located in nearby CITY 3, Utah. Exhibit P-4 indicates that this comparable had city water and utilities at the time of sale. The Petitioners testified that the comparable, like Subject Parcel 2, has large power lines that cross the property and make approximately one-third of the comparable unusable.

e. Petitioners' Comparable #5 (Exhibit P-5) shows the sale of a 16.67-acre parcel of land that sold in November 2005 for \$\$\$\$\$, which equates to approximately \$\$\$\$\$ per acre. This property, which is located across the street from the subject properties, is commercially zoned and was sold with access to water

and utilities. The County states that the irregular shape of this parcel may make it difficult to use portions of the property. Furthermore, the County states that the power lines that affect Subject Parcel 2 also affect this comparable. In addition, the County testified that commercial property is not necessarily worth more than residential land in CITY 1.

11. The Petitioners argue that both subject properties have values that are less than the \$\$\$\$ per acre price at which the Petitioners' Comparable #5 sold. The Petitioners make this argument on the basis that the comparable is located across the street from the subject properties and because this comparable, unlike the subject properties, had water and utilities.

12. The County submitted five comparables for consideration, as listed on Exhibit R-2 as follows:

a. County's Comparable #1 is the sale of 81.94 acres of land in September 2005 for \$\$\$\$\$, which equates to approximately \$\$\$\$\$ per acre. This property, which is zoned R-1-18 and is located in CITY 1, sold with water rights. Although the property has been subdivided into half-acre lots, the County claimed that no lots have sold, in part, because any purchaser will have to show that any prairie dogs on the lot have been removed prior to a building permit being issued.

b. County's Comparable #2 is the sale of 30.00 acres of land in November 2005 for \$\$\$\$\$, which equates to approximately \$\$\$\$\$ per acre. This comparable is also located in CITY 1 and abuts the northern boundary of the subject properties. The comparable is zoned R-1-18 and has been subdivided into half-acre lots. The County stated that this property is crossed by transmission lines.

c. County's Comparable #3 is the same sale as the Petitioners' Comparable #3, as described earlier.

d. County's Comparable #4 is the sale of 1.66 acres of land in November 2005 for \$\$\$\$\$, which equates to approximately \$\$\$\$\$ per acre. Although the County stated at the hearing that this property is zoned R-1-18, the information on Exhibit R-2 shows to be zoned R-1-1. The County also stated that this comparable was entirely fenced when it sold and was purchased for the purpose of building a single residence. Water and utilities were available at the street when this comparable was purchased.

e. County's Comparable #5 is the sale of 1.00 acre of land in August 2005 for \$\$\$\$\$. This comparable is located nearby on the same road as the subject properties. Like the subject properties, this parcel is also zoned R-1-1. The seller originally owned a 5-acre parcel, like each of the subject properties, and subdivided the 5-acre parcel into a 4-acre lot and the 1-acre comparable sale.

13. From comparable sales, the County explained that it determined, for purposes of its land guide, that 5-acre lots that are zoned R-1-1 and do not have water rights or utilities have a fair market value of \$\$\$\$\$ per acre. The County applied this valuation rate to Subject Parcel 1.

14. The County also determined that Subject Parcel 2 had a lower value than Subject Parcel 1 because of the power lines that cross Subject Parcel 2. The County explained that it applied an adjustment of 25% to account for the power lines, arriving at a value of \$\$\$\$\$ per acre for Subject Parcel 2.

APPLICABLE LAW

1. Utah Code Ann. §59-2-103(1) provides that “[a]ll 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.”

2. For property tax purposes, “fair market value” is defined in UCA §59-2-102(12) to mean:

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. . . .

3. 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 must: 1) demonstrate that the value established by the county board of equalization contains error; and 2) provide the Commission with a sound evidentiary basis for changing the value established by the county board of equalization to the amount proposed by the party. *See 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).

CONCLUSIONS OF LAW

1. The Petitioners argue that the County is attempting to value the subject properties as if they will be subdivided and sold as one-acre lots. Pursuant to the definition of “fair market value” in Section 59-2-102(12), the Commission finds that the subject properties’ current zoning of R-1-1 requires the subject property to be assessed at values that reflect the Petitioners’ ability to subdivide the parcels into one-acre lots.

2. The Commission finds that the information provided by the Petitioners is insufficient to show whether the values established by the County BOE are correct. Most of the Petitioners’ comparables are located far away from the subject properties and offer little help in estimating values for the subject properties. Petitioners’ Comparable #5, however, is a 16.67-acre parcel of commercially zoned land that is located across the street from the subject properties and sold for approximately \$\$\$\$ per acre. Nevertheless, the Commission is not convinced that this comparable is worth more per acre than the subject properties, especially as there is no evidence to show that larger parcels of commercial land with water and utilities sell for

more per acre than smaller parcels of R-1-1 residential land without water rights and utilities. For these reasons and upon considering the County's comparables, as well, the Commission finds that the Petitioners have not met their burden of proof to show that the County's assessed values are incorrect.

3. The Commission also finds that the County's comparables do not show that the values of the subject properties are incorrect. The County's comparables are, for the most part, closer to the subject parcels in location and, thus, more persuasive than the Petitioners' comparables. Two of the County's comparables indicate that once the subject properties are subdivided into smaller lots and have water and utilities, they will have a value in excess of \$\$\$\$\$ per acre. However, these comparables are, at present, too dissimilar to the subject properties to be useful. The County's remaining comparables show values that range between \$\$\$\$\$ and \$\$\$\$\$ per acre. The residential comparable, that sold for \$\$\$\$\$ per acre, is adjacent to the subject properties. Although this comparable has a presumably more valuable R-1-18 zoning, it is also a much larger parcel, which often reduces the value per acre. Without adjustments to the comparables by a certified appraiser, it is difficult to estimate a value for each of the subject properties based on the evidence submitted at the Formal Hearing. Nevertheless, the Commission finds that the evidence shows a range of values for the subject properties between \$\$\$\$\$ and \$\$\$\$\$ per acre. Because the current assessed values of \$\$\$\$\$ per acre for Subject Parcel 1 and \$\$\$\$\$ per acre for Subject Parcel 2 fall within this range, the Commission sustains the values established by the County BOE for both of the subject properties.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the \$\$\$\$\$ value that the County BOE established for Subject Parcel 1 (Parcel No. #####-1) and sustains the \$\$\$\$\$ value that the County BOE established for Subject Parcel 2 (Parcel No. #####-2). Accordingly, the Petitioners' appeal is denied. It is so ordered.

Appeal No. 06-1525

DATED this _____ day of _____, 2008.

Kerry R. Chapman
Administrative Law Judge

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 et seq. and §63-46b-13 et seq.

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