

06-1527
Property Tax/Locally Assessed Residential
Signed 05/30/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)	INITIAL HEARING ORDER
)	
Petitioners,)	Appeal No. 06-1527
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	Residential
SALT LAKE COUNTY,)	Tax Year: 2006
UTAH,)	
)	Judge: Phan
Respondent.)	

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on March 12, 2007. Petitioner is appealing the assessed value as established for the subject property by Salt Lake County Board of Equalization. The lien date at issue 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(12).)

(1) 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. . . . (4) 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).)

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).

DISCUSSION

The subject property is parcel no. ##### and is located at ADDRESS 1, CITY 1, Utah. The Salt Lake County Assessor’s Office had originally set the value of the subject property, as of the lien date January 1, 2006, at \$\$\$\$\$. The Salt Lake County Board of Equalization sustained the value.

The subject property consists of .28-acres of land improved with a two-story/split level style residence. The original portion of the residence is 49 years old. An addition was added to the residence in 2001. The county rated the quality of construction as good. It is a brick

and frame construction and was considered by the County to be in good condition on the lien date. With the addition the residence has above grade square feet of 2,627 and a basement of 696 square feet, which is 90% finished. There is also a detached two-car garage. The property is located in an east side neighborhood that was experiencing a strong market demand around the lien date. The Commission would note from the photographs provided of the subject that the addition does not appear to integrate well with the original structure from a “curb appeal” perspective. According to Respondent, the subject property is a neighborhood where some of the older residences are being purchased, torn down and new home residences are being built on the lots.

Petitioner argues at the hearing that the value should be reduced to \$\$\$\$\$. Petitioner provided twelve comparables. They sold in a range from \$\$\$\$\$ to \$\$\$\$\$. Four of these comparables were south of STREET which according to information from Respondent is a different neighborhood from the subject. Eleven of the sales submitted by Petitioner were not similar as far as size. The subject residence had above grade square feet of 2,627. Nine¹ of the comparables had less than 1500 above grade square feet and for this reason alone are not good comparables for the subject.

Of the remaining three comparables only one had more than 2,000 above grade square feet. It was located at ADDRESS 2 and had 2,696 above grade square feet. It had been listed for sale on March 15, 2006 for \$\$\$\$\$ and went under contract on March 18, 2006, selling for \$\$\$\$\$. The information provided on the Multiple Listing Service (“MLS”) report indicated that it was being sold in an “AS-IS” condition. SEC 10.2 of REPC will not apply.” The MLS listing also stated “SELLER MUST RELOCATE-PRICED TO SELL QUICK.” From the MLS report it appears that there had been remodeling on this residence but that it was not finished at the time of the sale. These factors make it difficult to rely on this sale as a market sale. It appears

there was duress. Also the Commission does not know how much of the interior needed to be finished at the time of the sale.

The comparables submitted by Petitioner indicated that the market for property sales in the general area was very strong around the lien date, with most properties going under contract for the full listing price in less than 30 days. They also tend to indicate that Petitioner's residence is overbuilt for the neighborhood.

Respondent submitted an appraisal in this matter prepared by RESPONDENT REPRESENTATIVE, Licensed Appraiser. He concluded that the value of the subject property based on the appraisal was \$\$\$\$\$. He indicated that he looked for comparables that had additions that were near the subject property. His comparables had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. His comparables were several blocks away from the subject as well, also supporting that the subject was overbuilt for its neighborhood. Three of the comparables were smaller than the subject considering above grade square foot. RESPONDENT REPRESENTATIVE made appraisal adjustments for the differences. The fourth comparable was a larger property with 3,047 above grade square feet. It had sold for \$\$\$\$\$ in early 2005. Because the date of sale preceded the lien date in an appreciating market, RESPONDENT REPRESENTATIVE made a \$\$\$\$\$ adjustment for the date of sale.

RESPONDENT REPRESENTATIVE made no adjustment in the appraisal for the fact that the subject was an over-improvement for the area, or that there may be some obsolescence with the way the addition integrates with the original structure.

The Utah law requires that homes be valued at their fair market value as of the lien date each year. The issue before the Commission is what was the fair market value of the property on January 1, 2006. In making its determination on this point the Commission considers the evidence presented and the parties' respective burdens of proof. Petitioner has the burden of

¹ The Comparable at ADDRESS 3 indicated 1,865 above grade square feet, but then explained that 650 of

proof to show error in the value set by the County Board of Equalization, as well as to support a new lower value. He provides a number of sales, which are substantially not comparable to the subject or indicate a non-market sale.

The value set by the County Board has the presumption of correctness. Respondent also has the burden of proof to show that the value should be raised above that set by the County Board of Equalization. Respondent presents an appraisal but gives the square footage in the addition the same adjustment as would be given as if it were part of the original house and makes no adjustment for the fact that the residence may still be an over-improvement. As more of the residences in the neighborhoods are rebuilt or improved with additions, the subject may become more typical for future years.

Upon review of the evidence, the Commission concludes that neither party has supported their positions. The totality of the evidence supports the value set by the County Board of Equalization.

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

that was in a separate guest house used as a rental.

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2007.

Jane Phan
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