

06-1535
Property Tax/Locally Assessed
Signed 04/24/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No	06-1535
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally
BOARD OF EQUALIZATION	)		Assessed
OF IRON COUNTY,)		
STATE OF UTAH,	)	Tax Year:	2006
)		
Respondent.	)	Judge:	Jensen

Presiding:

Marc Johnson, Commissioner
Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE 1, Iron County Assessor
RESPONDENT REPRESENTATIVE 2, Chief Deputy Assessor

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 according to the provisions of Utah Code Ann. §59-1-502.5, 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).)

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. . . (Utah Code Ann. Sec. 59-2-1006(1).)

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

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. The subject property is parcel no. #####, identified as Lot 4, (X) of SUBDIVISION in Iron County, 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. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be reduced to \$\$\$\$\$.

The subject property consists of a .45-acre lot improved with a rustic cabin. The cabin was 38 years old and built of board and batten construction. It has 870 square feet above grade of which 210 square feet is a loft area. The cabin has no basement or garage. The County considered the cabin to be in average condition. The parties agree that the cabin is rustic and can best be described as a basic shelter. It has no bathroom and utilizes an outhouse. There is no power in the cabin. It has no running water but has dipping rights. The cabin has no insulation and has a stove as its source of heat. The cabin's foundation is cinderblock. The Petitioner indicated that water has deteriorated the cinderblock on one side of the cabin and that he has

attempted to repair the deteriorated area. The cabin also shows signs of repairs to the roof and porch from winter damage. The subject property and surrounding ground has had a history of bark beetle tree damage. The Petitioner testified that, against the applicable covenants for the subdivision, some local owners have parked trailers on their lots. He described 12 to 14 trailers at any given time and indicated many of the trailers are in poor repair and create an unpleasant view. The Petitioner has tried to have the trailers removed, but these efforts had not been successful as of either the lien date or the date of the hearing before the Commission. The Respondent's representative observed these conditions, and was willing to stipulate to their existence.

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 description of the factors such as age, condition, detracting to view, and lack of building amenities, which, the Petitioner indicates, lessen the value of the subject property.

Respondent provided an appraisal, prepared by RESPONDENT REPRESENTATIVE 2, a certified general appraiser. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser presented information on the sales of three comparable properties. One of the comparable sales was in a similar neighboring subdivision. The other two were in undeveloped subdivisions located outside of (X). Access to the properties outside (X) is by a dirt road that allows summer-only access. Like the subject, all comparables are in areas with a history of pine beetle damage. Like the subject, the comparable properties have cabins that are fairly old and in some disrepair, including foundation problems on one of the comparables. The appraiser made adjustments to compensate for differences between the subject and the comparables for variations in factors such as age, size, and water availability. After taking these factors into account, the comparables had adjusted values of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The appraiser completed a replacement cost

analysis that indicated a value of \$\$\$\$\$ on a replacement cost basis. The appraiser had no disagreement with the condition and area problems described by the Petitioner and indicated that these factors were present in the comparables and were thus reflected in the value in the appraisal.

Weighing the evidence presented, it appears that the Petitioner has accurately and fully described problems with the subject property, but has not presented any evidence to show an effect on the value of the subject. The county has presented evidence in the form of both a cost approach and a sales comparison approach. Given the functional problems as well as the physical deterioration in the subject property, the Commission places little weight on the reliability of the cost approach. The county's sales comparison approach is supported by comparable sales and takes into account the physical problems described by the Petitioner. The county's sales approach provides a range of \$\$\$\$\$ to \$\$\$\$\$ rather than settling on a specific value. In considering the comparable sales approach, it appears from the photographs that the county's comparable number 1 is the most similar to the subject in terms of design, construction, and appearance. It has condition problems that, with few exceptions, address the types of condition issues the Petitioner described in the subject property. This comparable has a better location than the subject, but the appraiser has made an adequate adjustment for this factor. County comparable number 1 also has no foundation and is thus inferior in this regard to even the deteriorating foundation on the subject, but the appraiser has also adequately adjusted for this difference. County comparables 2 and 3 have validity, but there is not sufficient evidence to find that these comparables fully account for the structural and deterioration issues present in the subject. Thus, the county's adjusted value of \$\$\$\$\$ for county comparable number 1 best establishes the value for the subject property as of January 1, 2006.

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. 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