

06-1537  
Property Tax/Locally Assessed  
Signed 09/13/2007

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2,

Petitioner,

vs.

BOARD OF EQUALIZATION OF IRON  
COUNTY, UTAH,

Respondent.

**ORDER**

Appeal No. 06-1537

Parcel Nos. #####-1  
#####-2

Tax Type: Property Tax/Locally Assessed

Tax Year: 2006

Judge: Jensen

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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:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER 1

For Respondent: RESPONDENT REPRESENTATIVE, Iron County 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 on June 25, 2007. 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.

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 includes two parcels: Parcel no. #####-1, located at ADDRESS 1 in Iron County (the “ADDRESS 1 Property”), and Parcel No. #####-2, located near the intersection of ADDRESS 2 in Iron County (the “ADDRESS 2 Property”).

ADDRESS 1 Property

The County Assessor had set the value of the ADDRESS 1 Property, as of the lien date, at \$\$\$\$\$. The County Board of Equalization sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent agreed that the Board of Equalization value was too high, and recommended lowering the value for one half of the parcel.

The ADDRESS 1 Property consists of a 2.95-acre lot intersected by ADDRESS 1. A 1.309-acre portion of the ADDRESS 1 property east of ADDRESS 1 is steep and intersected by three ravines. The parties agree that it is unusable in its current state. West of ADDRESS 1 are

1.361 acres that are level enough to allow for development. The remaining area is under ADDRESS 1 and is thus unusable.

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. For the ADDRESS 1 Property, Petitioner presented evidence of the ravines and other problems with the property. Petitioner did not present comparable sales specific to the ADDRESS 1 Property, but relied on comparable sales that he presented on the ADDRESS 2 Property.

The county provided evidence of comparable sales for the ADDRESS 1 Property. The county presented sales of five comparable sales with sale dates from May 2005 to March 2006. The parcel sizes of these comparables were from 2.57 acres to 80 acres. The selling price per acre was from \$\$\$\$\$ to \$\$\$\$\$, although the comparable with the \$\$\$\$\$ per acre selling price was 80 acres. The county's representative indicated that larger parcels generally sell for less per acre and that the 80 acre parcel was thus the least like the subject. The county's representative testified that information regarding the 2.57-acre parcel came from a trust deed and thus might or might not reflect the actual selling price. Removing these two parcels from consideration leaves per acre selling prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The county submitted a map indicating that all of its comparables are close to the ADDRESS 1 Property.

For the ADDRESS 1 Property, the parties agree that parts of the parcel are overvalued because they are unusable. This shows error in valuation, because the Board of Equalization valued the entire parcel at the same \$\$\$\$\$ per acre. At hearing, Petitioner suggested a valuation of \$\$\$\$\$ per acre for the east portion of the ADDRESS 1 Property and the county provided no evidence or argument to the contrary. The county likewise agreed that the .296 of an acre under ADDRESS 1 had no value and should carry a nominal value of \$\$\$\$\$. On that basis, the Commission concludes that there is a sound evidentiary basis to value 1.309 acres of the property at \$\$\$\$\$ and .296 of an acre at \$\$\$\$\$. For valuation of the west portion of the ADDRESS 1 Property, the county has submitted comparable sales that are more like the subject than Petitioner's comparable sales. The county's comparable sales adequately support the value of \$\$\$\$\$ per acre for the remaining 1.361 acres of the west portion of the ADDRESS 1 Property. Accordingly, the Commission sustains the value of the west portion of the ADDRESS 1 Property at \$\$\$\$\$ per acre as originally determined by the Board of Equalization. This makes the value of

the west portion of the ADDRESS 1 Property \$\$\$\$ and lowers the value of the total parcel to \$\$\$\$.<sup>1</sup>

ADDRESS 2 Property

The County Assessor had set the value of the ADDRESS 2 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 sustained.

Although the ADDRESS 2 property is located on HIGHWAY, it has no highway frontage. Access is otherwise good because the property is bounded on all sides by roads. County officials have approved the area of this property for commercial development including a shopping center south of the property, but no commercial development had been completed as of the lien date.

For the ADDRESS 2 Property, Petitioner provided evidence of the sales of two comparable properties. These properties were a May 2005 sale of 73.5 acres for \$\$\$\$ per acre and a February 2006 sale of 157.05 acres for \$\$\$\$ per acre. These were sales from a family partnership to another entity for land development. The Petitioner provided a legal description for one of these comparables, but did not provide a physical location for either of them.

For the ADDRESS 2 Property, the county provided evidence of the sales of four comparable properties with sale dates from September 2005 to March 2006. The parcel sizes ranged from 16.67 acres to 120 acres. The smallest parcel had the lowest per-acre price at \$\$\$\$ per acre, but the county's representative explained that this parcel had an irregular shape and had problems with a power substation and power lines. The remaining county comparables had per-acre selling prices from \$\$\$\$ to \$\$\$\$ per acre. The county provided a map showing that all four of the county comparables are close to the subject.

The Commission considers the evidence in light of the Petitioner's burden of proof to show error in the value as determined by the board of equalization and to provide a sound evidentiary basis for reducing the value of the subject.

For the ADDRESS 2 Property, Petitioner bears the burden of showing error in the value as determined by the county board of equalization. To meet that burden of proof, Petitioner

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<sup>1</sup> There is a discrepancy of .02 of an acre between the total of the three portions of the ADDRESS 1 Property as described by the parties and the 2.95-acre total on county records. The Commission finds this difference inconsequential and finds the value of the total parcel to be \$\$\$\$\$, but will not order a change in the 2.95-acre reference in county records.

presented two comparable sales. The Petitioner did not provide the location of the comparable sales. From the evidence presented, the Commission does not have a description of the physical location of Petitioner's comparables and thus lacks the evidence needed to make a finding that these are comparables that are more like the subject than those presented by the county. Because Utah statutes place the burden of proof on the Petitioner for these questions, this lack of evidence prevents the Commission from disturbing the value of the ADDRESS 2 Property as determined by the Board of Equalization.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the ADDRESS 1 Property, Parcel no. #####-1, located at ADDRESS 1 in Iron County, is \$\$\$\$ as of January 1, 2006. The Commission finds the value of the ADDRESS 2 Property, Parcel No. #####-2, located near the intersection of ADDRESS 2 in Iron County, is \$\$\$\$ as of January 1, 2006. 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.

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Clinton Jensen  
Administrative Law Judge

Appeal No. 06-1537

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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