

06-1559
Property Tax/Locally Assessed
Signed 06/12/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
	)	ORDER	
Petitioner,)		
	)	Appeal No.	06-1559
v.)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF WASHINGTON COUNTY,	)	Tax Year:	2006
STATE OF UTAH,)		
	)	Judge:	Chapman
Respondent.)		

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:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER,
For Respondent: RESPONDENT REPRESENTATIVE 1, from the Washington County Assessor's Office
RESPONDENT REPRESENTATIVE 2, from the Washington County Assessor's Office
RESPONDENT REPRESENTATIVE 3, from the Washington County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on May 30, 2007.

At issue is the fair market value of the subject property as of January 1, 2006. The subject property is a single-family residence located at ADDRESS in CITY, Utah. The Washington County Board of

Equalization (“County BOE”) sustained the \$\$\$\$ value at which the subject property was assessed for the 2006 tax year. The Petitioners believe that that portion of the subject’s assessment relating to the value of its land is not equalized with the assessment of vacant lots in other phases of the subject’s subdivision. The Petitioner requests the Commission to reduce the subject’s land value for purposes of fairness and equity, while the County asks the Commission to sustain the value established by the County BOE.

APPLICABLE LAW

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.”

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.”

UCA §59-2-1006 provides that a person may appeal a decision of a county board of equalization to the Tax Commission, pertinent parts as follows:

- (1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property . . . may appeal that decision to the commission. . . .
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- (3) In reviewing the county board's decision, the Commission may:
 - (a) admit additional evidence;
 - (b) issue orders that it considers to be just and proper; and
 - (c) make any correction or change in the assessment or order of the county board of equalization.
- (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.

....

For the Commission to change a value established by a county board, the party requesting the change must: 1) demonstrate that the County's assessment contained error; and 2) provide the Commission with a sound evidentiary basis for changing the County's assessment to the amount that the party proposes. *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).

DISCUSSION

The subject property consists of a 0.94-acre lot and a one-story, rambler-style home that was built around 1999. The home, which is located in Phase 4 of the SUBDIVISION in CITY, contains 3,199 square feet of living space, three bedrooms, three baths, and a two-car garage.

Petitioner's Information. The Petitioner proffered five comparable sales of homes in the SUBDIVISION that sold at prices ranging from \$\$\$\$\$ to \$\$\$\$\$. Although two of the homes sold in 2004 and the other three sold in 2005, none of the comparables are in the subject's same phase of the subdivision. The largest of the five comparables homes is 2,401 square feet in size, approximately 25% smaller than the subject home. Furthermore, the largest of the comparables' lots is 0.67 acres, approximately 29% smaller than the subject lot. The subject property is superior to all five comparable in the size of its living area and lot. From this information, it is reasonable to assume that the subject's value would be higher than \$\$\$\$\$.

The Petitioner states, however, that he is not contesting the fair market value of the subject property. Instead, he contends that the subject's current value, in particular the value of its lot, is not equalized with the value of other properties in the same subdivision. The subject's lot is currently assessed at \$\$\$\$\$ and its improvements at \$\$\$\$\$, for a total value of \$\$\$\$\$. The Petitioner proffers evidence showing that lots in Phase 7 and Phase 10 of the SUBDIVISION were assessed at \$\$\$\$\$ and \$\$\$\$\$, respectively, for the 2006 tax year, even though the lots were listed for sale during 2006 for prices that ranged between \$\$\$\$\$ and \$\$\$\$\$.

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To equalize the subject's lot value, the Petitioner asks the Commission to reduce the subject's total value to \$\$\$\$\$, a reduction of \$\$\$\$\$.

However, the subject is 0.94 acres in size and is located in Phase 4 of the subdivision, where lots range from 0.79 acres to 0.94 acres, with an average lot size of 0.85 acres. The lots in Phase 7 range from 0.33 acres to 0.69 acres, with an average size of 0.46 acres, while the lots in Phase 10 range from 0.31 acres to 0.55 acres, with an average size of 0.41 acres. In addition, the testimony proffered at the Initial Hearing established that lots in Phase 4, including the subject property's lot, have views that are superior to lots in Phases 7 and 10. Furthermore, lots in Phase 10 are adjacent to older homes in CITY, a factor that does not affect the lots in Phase 4. Lastly, the lots in Phase 4, including the subject property, are improved with homes, while the lots proffered as evidence by the Petitioner are unimproved.

From this information, it is apparent that the lots in the subject's phase of the subdivision are superior to the lots in Phases 7 and 10 in size, location, view, and stage of development. Furthermore, the Petitioner has not shown that any *improved* lots in his subdivision, which would be most comparable to his own property, were underassessed for the 2006 tax year. For these reasons, the Commission finds that the Petitioner has not shown that the subject's lot is assessed at a value that is inequitable to the assessment of similar, *comparable* properties. Accordingly, the Commission finds that the Petitioner has failed to demonstrate that the subject property's value should be reduced pursuant to Section 59-2-106(4).

County's Information. The County submits an appraisal prepared by RESPONDENT REPRESENTATIVE 1, in which he estimates the value of the subject property to be \$\$\$\$\$ as of the lien date. RESPONDENT REPRESENTATIVE 1 explains, however, that the County is not submitting the appraisal in order to request an increase in the subject's value. Instead, the County proffers the appraisal only to support the value established by the County BOE.

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Based on the information provided at the Initial Hearing, the Commission finds that the Petitioner has not shown that the value established by the County BOE is incorrect or inequitable. Accordingly, the Commission sustains the County's value and denies the Petitioner's appeal.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be sustained at the \$\$\$\$ value established by the County BOE. Accordingly, the Petitioner's appeal is denied. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files 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.

Kerry R. Chapman
Administrative Law Judge

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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 _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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