

06-1565
Property Tax/Locally Assessed
Signed 06/12/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
	)	ORDER	
Petitioner,)		
	)	Appeal No.	06-1565
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:

Marc B. Johnson, Commissioner
Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
 PETITIONER REPRESENTATIVE 1
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, Washington County, Utah. The Washington County Board of Equalization (“County BOE”) sustained the \$\$\$\$ value at which the subject was assessed for the 2006 tax year. The Petitioner asks the Commission to lower the subject’s fair market value to approximately \$\$\$\$\$, 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. . . .

. . . .

(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.

. . . .

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 1.71-acre lot and a one-story, rambler-style home that was built around 2001. The home, which is located in the SUBDIVISION of CITY, contains 4,768 square feet of living space, five bedrooms, six baths, a three-car attached garage and a large detached garage that will accommodate at least two motor homes.

Petitioner's Arguments. The Petitioner requests that the Commission reduce the value of the subject property to approximately \$\$\$\$\$, asserting that economic conditions in the United States and, in particular, the West do not justify the County increasing the subject's value and the amount of taxes assessed on the property. The Petitioner specifically notes that statistics show sales of homes to be at the lowest level since 1993. Given the increasing inventory of homes for sale, a slowing economy, and increasing interest rates, the Petitioner argues that the subject property's fair market value should be reduced below its current assessed value. The Petitioner's information, however, does not establish that the current value is incorrect.

The Petitioner also questioned the tax rate setting process in Utah and its effect on the amount of taxes imposed on the subject property. The tax rate applied to the subject's assessed value, however, is not an issue that is appealable to the Tax Commission under Section 59-2-1006. As discussed among the parties at the hearing, the Petitioner is afforded an opportunity to address the tax rate that a taxing entity sets at the entity's annual budget hearing.

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.

Appeal No. 06-1565

RESPONDENT REPRESENTATIVE 1 explains, however, that the County is not submitting the appraisal 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.

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. Accordingly, the Commission 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 \$\$\$\$\$, as 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

Appeal No. 06-1565

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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