

06-1669
Property Tax/Locally Assessed
Signed 08/16/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,

Petitioners,

vs.

BOARD OF EQUALIZATION OF SALT
LAKE COUNTY, UTAH,

Respondent.

ORDER

Appeal No. 06-1669

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2006

Judge: Phan

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 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 order, specifying the commercial information that the taxpayer wants protected.

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 May 31, 2007. Petitioner is appealing the assessed value as established for the subject property by the 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, Utah. The Salt Lake County Assessor’s Office had originally set the value of the subject

property, as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization sustained the value.

The subject property consists of .19-acres of land improved with a two-story residence. The original portion of the residence was eighty years old. There has been a more recent addition and extensive interior remodeling. Respondent considers the property to be of good quality of construction and in very good condition. There are 3,155 above grade square feet and a basement of 940 square feet, which is fully finished. There is also a newly constructed attached garage with living space above the garage. The property is located approximately one block south of the (X) in an area commonly referred to as (X).

At the hearing Petitioner requested that the assessed value for tax year 2006 not be raised more than 15% from the County's assessed value for the 2005 year. He indicates that for 2005 the value for this property had been set at \$\$\$\$\$. The County had increased the value by 36% from the 2005 value to the 2006 value. It was his position that values had not increased that much over the one-year period and a value around \$\$\$\$\$ would be more reasonable.

This is a common argument raised during appeal hearings. The Commission is required by law to place the value at fair market as of the lien date at issue, regardless of what percentage increase or decrease from the prior year results from that change. See Utah Code Sec. 59-2-103(1). The Commission notes that a large percentage increase from one year to next is not necessarily indicative that the property is overvalued. It may indicate that it had been undervalued in the prior year. Also values do not necessarily increase uniformly even within a neighborhood.

In addition to the argument regarding a percentage increase, Petitioner submitted three comparable sales. One was located at ADDRESS 2 and had sold for \$\$\$\$\$. It was a two story Victorian, which was twenty-years older than the subject. It was similar in size and according to the Multiple Listing Printout that Petitioner provided it was a "Stunning totally

remodeled brick Victorian” and it appears to be a good comparable for the subject. Petitioner also provided a sale at ADDRESS 3, which had sold for \$\$\$\$\$. This comparable is located very near the subject, but on a wider and more trafficked street. Additionally this comparable was a duplex property, and although it appears to have been completely renovated, it is not a good comparable for the subject because it is not a single-family residence. Petitioner’s third comparable property, although part of (X) was located in a different area that was both west and north of the subject, at ADDRESS 4. It had sold for \$\$\$\$\$.

Respondent submitted an appraisal that had been prepared by RESPONDENT REPRESENTATIVE, Licensed Appraiser. It was RESPONDENT REPRESENTATIVE’S conclusion that the value of the subject property as of the lien date at issue was \$\$\$\$\$. This is a small reduction from the value set by the County Board of Equalization. In his appraisal RESPONDENT REPRESENTATIVE considered five comparables. They were all located in the area commonly referred to as “(X)”. Although this area is a different neighborhood from the subject, it is fairly comparable to the subject. RESPONDENT REPRESENTATIVE indicated he was unable to find comparable sales in the (X) area.

One of RESPONDENT REPRESENTATIVE’S comparables was the same property that Petitioner had submitted at ADDRESS 2. After making appraisal adjustments for the differences it was RESPONDENT REPRESENTATIVE’S conclusion that this ADDRESS 2 comparable indicated a value for the subject of \$\$\$\$\$.

Considering all five of RESPONDENT REPRESENTATIVE’S comparables, they had sold for prices in a range from \$\$\$\$\$ to \$\$\$\$\$. After making appraisal adjustments for the differences his range of indicated values for the subject was from \$\$\$\$\$ to \$\$\$\$\$. However, the lowest comparable appeared to be an outlier and the range did strongly support RESPONDENT REPRESENTATIVE’S value.

One large adjustment in the appraisal was for the garage. The subject property had a new, large, three-car garage that was attached to the residence and was accessible from a back street. Three of the comparables did not have a garage and RESPONDENT REPRESENTATIVE made a \$\$\$\$ adjustment for the lack of garage. The other two properties had garages of varying sizes and required a lesser adjustment. For homes that are this large and in this area, the convenience of having an attached garage the size of the subject's may reasonably warrant this adjustment.

Petitioner did disagree with RESPONDENT REPRESENTATIVE'S condition adjustment regarding the ADDRESS 2 comparable that they both had submitted. He thought the home was superior as far as grade and condition. RESPONDENT REPRESENTATIVE had found the ADDRESS 2 comparable to be of equal grade, but lesser condition. It was twenty years older than the subject. This is subjective determination and one that appraisers must make in the regular course of appraisal. Although the Commission recognizes that Petitioner may have some expertise as far as grade there is insufficient support for a further adjustment. Additionally, RESPONDENT REPRESENTATIVE'S appraisal conclusion is somewhat lower than the value indicated from this comparable.

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 County Auditor is hereby ordered to adjust its records in accordance with this decision.

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.

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