

06-1684
Property Tax / Locally Assessed
Signed 07/23/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,	ORDER
Petitioners,	Appeal No. 06-1684
v.	Parcel No. #####
BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,	Tax Type: Property Tax / Locally Assessed Tax Year: 2006
Respondent.	Judge: Chapman

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 Petitioners: PETITIONER 1

For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake 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 July 19, 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 subject was assessed at \$\$\$\$ for the 2006 tax year, which the Salt Lake County Board of Equalization ("County BOE") reduced to \$\$\$\$.

The Petitioners are asking the Commission to reduce the subject's value to \$\$\$\$\$, while the County asks the Commission to increase the subject's value to \$\$\$\$\$.

APPLICABLE LAW

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 BOE 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.

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must (1) demonstrate that the value established by the County BOE contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the County BOE 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 consists of a 0.23-acre lot and a two-story home that was built around 1998. The home contains 3,247 square feet of above-grade living space and a three-car garage. The subject also has a 1,561 square foot basement that is 80% finished.

Petitioners' Information. The Petitioners ask the Commission to reduce the subject's value to \$\$\$\$\$, which is the price they paid for the home on July 3, 2005, approximately six months prior to the January 1, 2006 lien date at issue. The Petitioners proffer a settlement statement showing their purchase price

to be \$\$\$\$\$. The County has no information to show that the sale was other than an arm's-length sale. PETITIONER 1 states that the subject property was listed for sale through the Multiple Listing Service ("MLS").

County Information. The County proffers an appraisal in which it estimates the subject's value to be \$\$\$\$\$. The County's appraisal compares the subject to four comparable sales that sold between \$\$\$\$\$ and \$\$\$\$\$. The first comparable is the subject itself, which the County shows to have sold for \$\$\$\$\$. When the County adjusts the subject's selling price to reflect a six-month time adjustment of 1% per month, the County derives an adjusted sales price of \$\$\$\$\$ as of the lien date. The County explains that not only does its own data show that homes in the subject's neighborhood were increasing at more than 12% annually during 2005, but also that MLS information shows a similar rate of appreciation during 2005.

The other three comparables are located within one mile of the subject property. The two comparables closest in size and location to the subject sold for prices of \$\$\$\$\$ and \$\$\$\$\$, respectively, and were adjusted to values of \$\$\$\$\$ and \$\$\$\$\$, respectively. The fourth comparable, which is slightly smaller than the subject, sold for \$\$\$\$\$ and was adjusted to a value of \$\$\$\$\$.

Analysis. The Commission considers the arm's-length sale of a property to be persuasive evidence of its fair market value. Accordingly, the Commission concludes that the subject's fair market value six months prior to the lien date was its selling price of \$\$\$\$\$.

The County, however, proffers that market values in the subject's neighborhood appreciated significantly during 2005. Had values appreciated in 2005 at a rate of only a few percent, the Commission would likely accept the \$\$\$\$\$ sales price as the subject's value as of the lien date. In this case, however, it appears from the evidence proffered by the County that values were appreciating significantly between the July 3, 2005 date on which the subject sold and the January 1, 2006 lien date.

For these reasons, the Commission finds that the \$\$\$\$ adjusted sales price that the County derived from the sale of the subject is not unreasonable and provides an upper limit of the subject's value as of the lien date. Because the \$\$\$\$ adjusted value is relatively close to the \$\$\$\$ value established by the County BOE, the Commission finds the \$\$\$\$ value to be a reasonable estimate of the subject's value as of the lien date. Accordingly, the Commission denies the Petitioners' request to reduce the subject's value and the County's request to increase the subject's value.

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 Petitioners' 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. 06-1684

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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