

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,

Petitioner,

vs.

BOARD OF EQUALIZATION OF
SALT LAKE COUNTY, UTAH,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND FINAL DECISION**

Appeal No. 07-0129

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2006

Judge: Jensen

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:

R. Bruce Johnson, Commissioner
Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1
PETITIONER 2

For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake County Assessor's
Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on October 30, 2007.

On the basis of the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the assessed value of the subject property for the lien date January 1, 2006.
2. The subject property, parcel no. #####, is located at ADDRESS 1 in CITY, Utah. The County Assessor had set the value of the subject 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 reduced to \$\$\$\$\$.

3. The subject property consists of a .16-acre lot improved with a brick duplex. The duplex was 45 years old as of the lien date and built of good quality construction. It has a gross building area of 1,890 square feet. It has a basement with 1,380 square feet that is approximately 10% finished. There is a built-in two-car garage. The County considered the duplex to be in average to fair condition.

4. Petitioner argued that fair market value should not be used to value property for purposes of property tax, because the only way to determine the fair market value of a property without selling it is to use methods of property value estimation that involve subjective judgment. Instead, Petitioner proposed the purchase price as the only objective reference standard by which property can be properly valued. Petitioner argued that since he paid \$\$\$\$\$ for the subject property in 1961, the county should value it at \$\$\$\$\$ to compute 2006 property taxes.

5. Petitioner provided evidence of some of the problems associated with the subject property including its age, design, steep terrain, and hazards from cars in the area. Petitioner discussed two comparable properties, but did not relate them to the value of the subject property. One comparable property was in Utah County. Petitioner discussed it as part of an argument that in a different market, the value that Salt Lake County placed on the subject would purchase a newer and nicer home. The second comparable was at ADDRESS 2 in CITY. Petitioner discussed it as part of an argument that Salt Lake County's appraiser had overlooked comparable properties that were close to the subject property.

6. Petitioner discussed yearly increases in the assessed valuation of his property and neighboring properties, but did not argue that the total assessed value was more than similar properties in the area.

7. The county provided an appraisal, prepared by RESPONDENT REPRESENTATIVE. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The county's appraiser relied on the sales of three comparable properties with sale dates from October 2004 to July 2006. The comparable properties were from .05 of a mile to .14 of a mile from the subject. The appraiser indicated that he had considered a property at ADDRESS 2 as a possible comparable sale, but had rejected this for use as a comparable because it sold following a notice of default and thus may not have been an arms' length transaction between a willing buyer and seller with typical market motivations. The appraiser made adjustments to compensate for differences between the subject property and the comparable properties in factors such as time of sale, condition, and building size. After making adjustment for factors that the

appraiser considered would influence market value, the comparable sales had adjusted selling prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The appraiser also considered an income and a cost approach, but indicated that the sales approach was the most applicable approach to determine the value of the subject property.

APPLICABLE LAW

1. All tangible property in the state that is not exempt shall be “assessed at a uniform and equal rate in proportion to its fair market value.” Utah Const. Art XIII, § 2.

2. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. 59-1-210(7).

3. 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).)

4. “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).)

5. To prevail, 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).

6. 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. 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) and 59-2-1004(4).)

CONCLUSIONS OF LAW

1. In response to Petitioner’s argument that property in the state should be valued at its purchase price rather than its fair market value, the Commission notes that the Constitution of Utah requires property valuation at fair market value. The Constitution, accordingly, establishes the standard of reference for property

tax valuation in this state. The Commission does not have the power to disregard the Constitution. Rather, it will follow the state Constitution and will value the subject property at its fair market value as of January 1, 2006.

2. Petitioner has not presented evidence sufficient to provide sound evidentiary basis for his proposed value of \$\$\$\$ for the subject property. Petitioner failed to present any sales comparables or any other evidence that the subject property would have sold for \$\$\$\$ as of January 1, 2006.

3. Petitioner has not presented evidence sufficient to show that the subject property deviates in value plus or minus 5% from the assessed value of comparable properties.

4. The county has presented a sound evidentiary basis that if the subject property were to have changed 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, as of January 1, 2006, the selling price would have been \$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2006, is \$\$\$\$\$. It is so ordered.

DATED this _____ day of _____, 2008.

Clinton Jensen, Administrative Law Judge

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 _____, 2008.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Appeal No. 07-0129

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. 59-1-601 and 63-46b-13 et. seq.

CDJ/07-0129.fof