

07-0149
Property Tax/Locally Assessed
Signed 10/19/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 & PETITIONER 2, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.</p>	<p>ORDER Appeal No. 07-0149 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2006 Judge: Jensen</p>
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Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake Co.
Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Salt Lake County Board of Equalization. This matter was argued in an Initial Hearing on August 13, 2007. Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes. The lien date at issue in this matter 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(11).)

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 board of equalization 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.

To prevail, a party requesting a value that is different from that determined by the county board of equalization must (1) demonstrate that the value established by the county board of equalization contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the county board of equalization 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 is parcel no. #####, located at ADDRESS 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 sustained.

The subject property consists of a .30-acre lot improved with a duplex. The duplex was 35 years old and built of average quality of frame construction. It has a gross building area of 3,220 square feet. There is also a four-car carport. The County considered the duplex to be in average condition.

Petitioner has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. In this matter Petitioner provided evidence of the sales of three comparable properties with sale dates from August 2005 to December 2005. Petitioner’s comparables had selling prices between \$\$\$\$\$ and \$\$\$\$\$. Petitioner did not make adjustments for time of sale. Petitioner’s sale on STREET 1 was also one of the Respondent’s comparable sales. The other two sales were on STREET 2 and STREET 3. Petitioner also presented evidence that in the summer of 2007, he had to spend approximately \$\$\$\$\$ replacing a back deck on the subject property that had deteriorated. On the basis of this repair, he argued that the subject should be valued \$\$\$\$\$ less than similar properties on January 1, 2006 because the subject was nearly due for a new deck in 2006. On cross-examination, Petitioner answered that the \$\$\$\$\$ deck cost

included replacing a wood deck with a material called Trex, which costs considerably more than wood. Petitioner also argued for a lowering of value for needed driveway and sprinkler system repairs.

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 five comparable properties, one of which was the Petitioner's September 2004 purchase of the subject property for \$\$\$\$\$. Making a time adjustment, this comparable had an adjusted selling price of \$\$\$\$\$ as of the lien date. Petitioner argued against the use of his purchase of the subject property as a comparable sale. He had explained that he had purchased the subject on a 1031 exchange under a short time deadline and felt he had overpaid for the subject.

The county's other four comparable properties had sale dates from January 2005 to March 2006. They had ages from 33 years to 22 years. The appraiser made adjustments for differences between the subject and the comparable properties for factors such as duplex size, time of sale, and features such as carports and fireplaces. After taking these factors into account, the county's comparable properties had adjusted selling prices from \$\$\$\$\$ to \$\$\$\$\$. The property that both Petitioner and the county appraiser relied on as a comparable sale had a net value of \$\$\$\$\$ after making adjustments for seller concessions, time of sale, square footage, carport, and fireplace. The county's appraiser also completed valuations for cost and income approaches to value, but indicated that the market approach best matched duplex properties such as the subject. Although the county's appraiser shared one comparable with Petitioner, the county's appraiser found the neighborhoods of Petitioner's other comparables dissimilar to the neighborhood of the subject.

Weighing the evidence presented, the Commission finds the county's comparables more persuasive than those presented by Petitioner. Two of Petitioner's comparables are subject to criticism on the basis of neighborhood differences. The one that is remaining has an adjusted value that is higher than that set for the subject property by the board of equalization. Although Petitioner did complete costly repairs to the subject in 2007, the evidence presented by Petitioner does not support a conclusion that the 2006 condition of the subject was particularly worse than the comparable properties of similar age. Both the problems with Petitioner's comparables and the nature of the 2007 repairs leave Petitioner with insufficient evidence to bear the burden of proof required to show error in the \$\$\$\$\$ value as determined by the board of equalization.

DECISION AND ORDER

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

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.

Clinton Jensen
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

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