

07-0154  
Property Tax/Locally Assessed  
Signed 06/29/2007

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2,	)		
	)	<b>ORDER</b>	
Petitioners,	)		
	)	Appeal No.	07-0154
v.	)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,	)	Tax Year:	2006
STATE OF UTAH,	)		
	)	Judge:	Chapman
Respondent.	)		

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**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 Petitioner: 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 June 21, 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 the SUBDIVISION in CITY, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was

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assessed for the 2006 tax year. The Petitioner asks the Commission to reduce the value to \$\$\$\$\$, while the County requests a reduction 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 0.51-acre lot and a two-story, colonial-style home that was built around 1978. The home contains 3,957 square feet of living space on the main and second floors and a four-car garage. It also has a 3,396 square foot basement that is 92% finished and contains a second kitchen. Approximately 1,200 square feet of the basement is located beneath the garage area and does not have windows. The home also has four fireplaces and a swimming pool.

**County Information.** The County proffers an appraisal of the subject property that RESPONDENT REPRESENTATIVE prepared. In his appraisal, RESPONDENT REPRESENTATIVE estimates the subject's value to be \$\$\$\$ for the 2006 tax year. At the hearing, however, RESPONDENT REPRESENTATIVE asked the Commission to lower the value to \$\$\$\$ because he had been unaware of the superior views that two of his comparable sales have.

The County's appraisal compares the subject to six comparable sales in the SUBDIVISION that sold for prices between \$\$\$\$ and \$\$\$\$\$. Five of the comparables sold at prices between \$\$\$\$ and \$\$\$\$\$. The comparables are somewhat similar to the subject in age, location, and amount of above-grade (main and second floor) square footage. However, none of the comparables have a basement that is more than 62% the size of the subject's basement, and none have a fourth garage or a swimming pool. RESPONDENT REPRESENTATIVE'S adjusted sales prices of the comparables, as shown in the appraisal, range between \$\$\$\$ and \$\$\$\$\$, with five of the six adjusted prices above \$\$\$\$.

PETITIONER 1, who is also an appraiser, questions why the County used time adjustments that reflect a 16% annual increase in value for homes in the neighborhood. PETITIONER 1 states that his appraisal office only used a 1%, or 12% annual, increase for appraisals it prepared between early 2005 and late 2006. RESPONDENT REPRESENTATIVE explains that the County has prepared studies of the subject's neighborhood showing that values increased approximately 16% annually near the lien date. He further supported his testimony with a study of SUBDIVISION home sales between 2004 and 2006, which showed an annual increase in value that was more supportive of a 16% annual time adjustment than a 12% adjustment. Accordingly, the Commission finds the County's time adjustments to be persuasive, except for the adjustment to County Comparable #4.

For County Comparable #4, RESPONDENT REPRESENTATIVE shows that it sold on July 21, 2005, which is the date he states that the property was recorded in the County Recorder's Office. However, the Multiple Listing Service information for this sale shows that it sold on October 27, 2005, approximately one month prior to the lien date. For this reason, the Commission believes it would be reasonable to remove the \$\$\$\$ time adjustment that RESPONDENT REPRESENTATIVE made to County Comparable #4, which would change its adjusted sales price from \$\$\$\$ to \$\$\$\$.

RESPONDENT REPRESENTATIVE also agreed that he may have neglected to adjust for the superior "valley views" that County Comparables #4 and #6 have and the subject property does not. In PETITIONER 1's market data analysis that included these two comparables, he adjusted County Comparable #4 by \$\$\$\$ and County Comparable #6 by \$\$\$\$ to account for their superior views. Making similar adjustments to the County's appraisal results in a revised adjusted sale price of \$\$\$\$ for County Comparable #4 and \$\$\$\$ for County Comparable #6.

The Petitioner also questioned whether RESPONDENT REPRESENTATIVE'S lot size adjustments were too small. However, for County Comparable #6, which is the same comparable as the Petitioner's Comparable #4, RESPONDENT REPRESENTATIVE'S lot size adjustment is greater than PETITIONER 1's adjustment. As a result, the Commission does not find PETITIONER 1's criticism of RESPONDENT REPRESENTATIVE'S lot size adjustments to be persuasive.

The Petitioner also questioned RESPONDENT REPRESENTATIVE'S opinion that the subject's 1,200 square feet of finished basement located under the garage would add value to the subject's value. PETITIONER 1 did not include this square footage in his market data analysis when comparing the subject's basement to his comparables' basements. The Commission, however, is persuaded that the 1,200 square foot area, though currently used for storage, would increase the value of the subject property because it

is finished with carpeting on the floors and drywall on the walls and ceilings. Accordingly, the Commission believes that the basement adjustments that RESPONDENT REPRESENTATIVE made are reasonable.

The Petitioner also recommended a \$\$\$\$ per square foot adjustment for above-grade square footage differences for the period near the lien date and, thus, questions the County's use of a \$\$\$\$ per square foot adjustment. The County testified that the Appraisal Institute recommends a square foot adjustment of between 35% and 40% of the square foot selling price of comparable properties. The Commission notes that the parties' comparable sales sold, generally, for prices in excess of \$\$\$\$ per square foot. Based on the County's testimony, a \$\$\$\$ square foot adjustment appears more reasonable than the Petitioner's \$\$\$\$ per square foot adjustment.

Given these conclusions, the revised adjusted sales prices of the County's six comparables are \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. The adjusted sales prices of the four properties closest in age to the subject property are \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. Of these four comparables, the two comparables with fully finished basements, which are more similar than two with unfinished basements, have adjusted sales prices of \$\$\$\$\$ and \$\$\$\$\$, respectively. After reviewing these adjusted prices, the Commission finds that the County's recommendation of \$\$\$\$ for the subject property appears more reasonable than the Petitioner's recommendation of \$\$\$\$.

**Petitioner's Information.** The Petitioner proffers that the subject property's assessed value increased more than 35% from the 2005 tax year to 2006 tax year. The Petitioner states that prices for homes in his neighborhood increased in value during 2005, but not at a rate as high as 35%. Accordingly, he asks the Commission to reduce the subject's value for this reason. Even if values of properties in the subject's neighborhood increased during 2005 at a rate less than 35%, this fact alone would not prove that the subject is overassessed for the 2006 tax year. For example, the subject may have underassessed for the 2005 tax year. If

so, an increase in the subject's assessed value above the rate at which values in the neighborhood increased would be required for the subject's 2006 assessment to represent its fair market value. Accordingly, the Commission is not persuaded that the subject property is overassessed for this reason.

The Petitioner also proffers a market data analysis in which he compares the subject to four comparable sales and makes adjustments. The four comparables sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. The Petitioner adjusted the comparables and arrived at adjusted sales prices ranging from \$\$\$\$\$ to \$\$\$\$\$. Given these adjusted sales prices, the Petitioner estimated that the subject property's value is \$\$\$\$\$.

The Commission has already determined that several of the County's adjustments in its appraisal are more persuasive than the adjustments the Petitioner used in his market data analysis, specifically concerning time adjustments, basement adjustments, and above-grade square foot adjustments. If the adjustments used by the County for these components are substituted for the Petitioner's adjustments in his market data analysis, the adjusted sales prices for the Petitioner's comparables would range, approximately, between \$\$\$\$\$ and \$\$\$\$\$.

Given the sales information provided by the parties, it appears that the subject property is larger and has superior features to most of the comparables. When the Commission compares the comparables used by each party, however, it appears that the County's comparables are, in general, closer in size and similarity of features to the subject. In addition, the actual prices at which the comparables sold ranged from \$\$\$\$\$ to \$\$\$\$\$. The Commission is convinced that the subject would sell at the higher end of this range. Accordingly, the Commission finds that the \$\$\$\$\$ value recommended by the County appears to be a more reasonable value for the subject property than the \$\$\$\$\$ value the Petitioner recommended.

Based on the information proffered at the Initial Hearing, the Commission finds that the subject property's value should be reduced to \$\$\$\$\$ for the 2006 tax year.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be decreased from the \$\$\$\$ value established by the County BOE to \$\$\$\$ for the 2006 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. 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.

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Kerry R. Chapman  
Administrative Law Judge

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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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