

07-0186
Property Tax / Locally Assessed
Signed 11/16/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,	ORDER
Petitioners,	Appeal No. 07-0186
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 2

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 November 8, 2007.

At issue is the fair market value of the subject property as of January 1, 2006. The subject is a single-family residence located at ADDRESS 1 in the SUBDIVISION in CITY, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was assessed for the

Appeal No. 07-0186

2006 tax year. 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 0.46-acre corner lot and a two-story home that was built in 1994. The home contains 4,015 square feet of above-grade living space, in addition to a basement with 2,100 square feet that is 95% finished. The home has a four-car garage and two fireplaces. Although the kitchen has been updated with granite countertops, the baths have not been undated since the home was built. The Petitioners also proffer that the subject property's master bedroom does not have a walk-in closet and that the home does not have a view from its deck.

County Information. The County proffers an appraisal in which it estimates the subject's value to be \$\$\$\$\$. The County asks the Commission to raise the subject's value to this amount. The Petitioners objected to RESPONDENT REPRESENTATIVE representing the County at the hearing, asserting that it is a conflict of interest because RESPONDENT REPRESENTATIVE, as a County employee and the person who prepared the County's appraisal, is not a disinterested person. The presiding officer determined that RESPONDENT REPRESENTATIVE could represent the County at the appeal. The Commission supports this decision. RESPONDENT REPRESENTATIVE'S testimony is relevant to the Commission's duty to determine the most accurate value for the subject property as possible.

The County's appraisal compares the subject to four comparable sales in the SUBDIVISION that sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. All of the sales sold less than two months away from the lien date. Three of the homes are located within one block of the subject, with one located across the street from the subject. The fourth is located approximately two to three blocks away from the subject. The County adjusted the comparables and arrived at adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$.

RESPONDENT REPRESENTATIVE determined that County Comparable #1, which sold for \$\$\$\$\$ and adjusted to \$\$\$\$\$, was most representative of the subject's value and concluded that the subject's value is \$\$\$\$\$ as of the lien date. The appraiser's conclusion appears reasonable because this comparable is most like the subject in location, age, size, and basement finish than any home proffered by either party. The Multiple Listing Service ("MLS") information indicates that the "price [of this comparable was] reduced for quick sale." The Petitioners, however, also point out that the MLS information shows that "over \$\$\$\$\$[were] invested in upgrades." However, it is not known whether these upgrades were invested when the home was built or prior to its sale. The Petitioners also state that the comparable is superior to the subject because of its features, including hardwood floors, a water softener, a cherry wood office, a master bedroom with a sitting

area and a walk-in closet, and a view from the upper deck. The County, however, does not believe that these features significantly impact the value of the home.

After reviewing the County's comparables and considering the Petitioners' objections to them, the Commission notes that the subject property's value appears to be more than \$\$\$\$\$, the price at which County Comparable #2 sold. This comparable, which is the same age as the subject and located within one block, appears to be inferior to the subject because it has less square footage and because its basement is unfinished. It also has a three-car garage compared to the subject's four-car garage.

County Comparables #1 and #2 appear most similar to the subject than the other comparable submitted by both party. Because these two homes sold for prices ranging from \$\$\$\$\$ and \$\$\$\$\$ and adjusted to prices ranging from \$\$\$\$\$ and \$\$\$\$\$, the Commission finds the County's estimate of value for the subject property at \$\$\$\$\$ to be convincing.

Petitioners' Information. The Petitioners submitted seven comparable sales of homes in the SUBDIVISION that sold within eleven months of the lien date for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. All of the comparables were between five and 18 years older than the subject. In addition, all of the comparables are located within eight blocks of the subject.

Five of the comparables were significantly smaller than the subject property and do not appear comparable to the subject. The other two comparables, which sold for \$\$\$\$\$ and \$\$\$\$\$, respectively, had approximately 10% more above-grade living space than the subject. However, these two comparables, unlike the subject, had unfinished basements. The MLS information for these two sales shows that the comparable that sold for \$\$\$\$\$ was built in 1980, 14 years before the subject and "needs some updating." The MLS information also indicates that the comparable that sold for \$\$\$\$\$ may have been a foreclosure sale because its sale "was subject to bank approval."

The Petitioners proffer that three of the seven sales are most comparable to the subject property, specifically: 1) Comparable #1, located at ADDRESS 2, which sold for \$\$\$\$\$; 2) Comparable #2, located at ADDRESS 3, which sold for \$\$\$\$\$; and 3) Comparable #3, located at ADDRESS 4, which sold for \$\$\$\$\$. PETITIONER 2, who is real estate broker, made adjustments to these sales after speaking with real estate appraisers and arrived at adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$ for the three sales. PETITIONER 2 averaged these adjusted prices and determined that the subject's value is \$\$\$\$\$ as of the lien date.

The three homes that the Petitioners chose as most comparable to their property were built in 1976, 1977, and 1980, respectively, while the subject was built in 1994. The Commission is not convinced that the Petitioners' adjustments of \$\$\$\$\$ to \$\$\$\$\$ to account for the differences in age are adequate when estimating a value for the subject. Furthermore, the Commission is not concerned that the Petitioners' adjustments for lot size and other features are reasonable. In addition, the Petitioners do not make a condition adjustment to Comparable #1, even though the MLS information indicated that this comparable needed updating. For these reasons, the Commission is not convinced that the Petitioners' adjustments are reasonable. Lastly, these comparables do not appear as similar to the subject property as the comparables used by the County in its appraisal.

The Petitioners also proffer the County's "SIGMA" sheet of five comparables that the County submitted at the County BOE hearing. This sheet shows five comparables that sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ and adjusted to prices ranging between \$\$\$\$\$ and \$\$\$\$\$. However, these homes are located further away from the subject than the four comparables the County used in its appraisal. The ages and sizes of these comparables are also less similar to the subject than the comparables the County used in its appraisal.

Appeal No. 07-0186

For these reasons, the Commission does not find this information more convincing than that found in the County's appraisal.

Summary. The Commission finds that the County has demonstrated that the \$\$\$\$ value established by the County BOE is incorrect and that the subject's value is better estimated at \$\$. The Commission also finds that the Petitioners have not shown that the lower value they propose is reasonable or that the \$\$\$\$ value proposed by the County is incorrect. For these reasons, the Commission denies the Petitioners' appeal and grants the County's request to raise the value to \$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the \$\$\$\$ value established by the County BOE should be increased to \$. 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 Petitioners' 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. 07-0186

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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