

07-0199
Property Tax / Locally Assessed
Signed 09/13/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	ORDER Appeal No. 07-0199 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2006 Judge: Chapman
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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 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 August 28, 2007.

At issue is the fair market value of the subject property as of January 1, 2006. The subject is a condominium in the COMPLEX 1 complex and is located at ADDRESS in CITY, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was assessed

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for the 2006 tax year. The Petitioners are asking the Commission to reduce the subject's value to \$\$\$\$\$, while the County asks the Commission to reduce the 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 condominium is a one-story unit with 1,014 square feet of living space. The condominium has two bedrooms and one bath. Although the unit has one covered parking space, it does not have a garage. The front door of the unit faces STREET Street, which is a busy street, while the windows at the back of the unit face an alley in the condominium complex. The Petitioners indicate that the flooring in the subject consists of carpeting that is still in good condition and “outdated” linoleum.

Petitioners' Information. The Petitioners proffer an October 26, 2005 Real Estate Purchase Contract, which shows that they offered to buy the subject condominium for \$\$\$\$\$ approximately two months prior to the lien date. The Petitioners proffer that this is the price at which they purchased the property and that it represents the fair market value of the property as of the lien date.

The Petitioners explain that they purchased the subject after seeing a sign on the property indicating that COMPANY A was marketing it for sale. The Petitioners proffer that the subject was listed for sale for a price somewhere between \$\$\$\$\$ and \$\$\$\$\$. The County appraiser, however, believes that the subject's sales price of \$\$\$\$\$ is below market value, noting that a real estate investor purchased the subject unit in August 2005 for \$\$\$\$\$ before selling it to the Petitioners in October 2005 for \$\$\$\$\$. There is no evidence to suggest that the Petitioners' purchase was not an arm's-length transaction. Furthermore, there is no evidence to suggest that the real estate investor "flipping" the subject, as the County phrased it, was under duress to sell or would have incentive to receive less than fair market value for the property. For these reasons, it appears that the \$\$\$\$\$ sales price is strong evidence of the subject's fair market value.

To support the purchase price, the Petitioners also proffer three comparable sales of other two-bedroom, one-bath units. While the subject property is in the COMPLEX 1 condominium complex, the three comparables are located in the COMPLEX 2 condominium complex, which is located about 1½ blocks from the subject complex. Both parties indicate that the units in the COMPLEX 2 complex are similar in desirability to the ones in the subject complex and are reasonable comparables to compare to the subject.

The MLS information for the three comparables shows that they all have between 950 and 1,000 square feet, two bedrooms, one bath, and a one-car garage. The three comparables sold near the lien date for prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. It appears that two of the comparables may have been involved in foreclosure proceedings.

County Information. The County proffers an appraisal in which it estimates the subject's value to be \$\$\$\$\$ as of the lien date. The County proffers the appraisal to support a reduction in value.

The County's appraisal compares the subject to four comparable sales that sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. One of the comparables is located in the COMPLEX 2 project, the same project in which the Petitioners' three comparables are located. Although this comparable is similar to the subject and to Petitioners' comparables in its size and number of bedrooms and baths, it sold for \$\$\$\$\$, significantly more than the price at which the Petitioners' comparables sold. The Multiple Listing Service ("MLS") listing for this comparables indicates that it had newer carpet and paint.

The other three comparables used in the appraisal are located in the subject complex project. One, which is a two-bedroom, one-bath unit approximately the same size as the subject, sold for \$\$\$\$\$. The MLS listing for this comparable indicated that it was "updated" and had "tile throughout." Whereas the subject unit's entry faces a busy street, this comparable's entry faces the pool area at the complex. The Petitioners believe that comparable had a more desirable location than the subject property, while the County did not. The County adjusted this comparable to a price of \$\$\$\$\$, because of its updated, superior condition.

The other two comparables used in the appraisal are larger than the subject, as both have an additional ¾ bath and one has an additional bedroom. The two-bedroom, 1¾-bath unit sold for \$\$\$\$\$, while the three-bedroom, 1¾-bath unit sold for \$\$\$\$\$. Neither of these units was located on the busy street, as is the subject. The County adjusted all four of its comparables to prices ranging between \$\$\$\$\$ and \$\$\$\$\$. Based on this information, the County estimates the subject's fair market value to be \$\$\$\$\$.

The County also proffered that there had numerous sales in the subject complex in 2005, some of which were foreclosure sales. Besides the three sales in the complex that the County used in its appraisal,

nine other sales occurred in the complex. However, only the one sale used in the appraisal was for a two-bedroom, one-bath unit such as the subject. Information about the nine sales shows:

- 1) One-bedroom, one bath units. One sale of this smaller unit for \$\$\$\$\$.
- 2) Two-bedroom, 1¾ bath units. Three sales of these larger units for \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, in addition to the one sale in the appraisal for \$\$\$\$\$. Information indicated that the \$\$\$\$\$ sale may have been a foreclosure.
- 3) Two-bedroom, 2 ½ bath units. Three sales of these larger units for \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$.
- 4) Three-bedroom, 1¾ bath units. Two sales of these larger units for \$\$\$\$\$ and \$\$\$\$\$, in addition to the one sale in the appraisal for \$\$\$\$\$. Information indicated that the \$\$\$\$\$ sale was for a unit with new carpeting and that a washer and dryer and a microwave were included.

Analysis. Nothing about the manner in which the Petitioners' purchased the subject for \$\$\$\$\$ suggests that they paid less than fair market value for it. Although there is information that another two-bedroom, one-bath unit in the subject complex sold for \$\$\$\$\$, this sale appears to be an outlier, perhaps because it had been updated and had tile throughout. In fact, a review of all of the sales in the complex indicate that, generally, larger two-bedroom, 1¾ units sell for around \$\$\$\$\$, while larger two-bedroom, 2 ½ bath units sell for around \$\$\$\$\$. This information would suggest that the subject property's fair market value would probably be less than \$\$\$\$\$ because it is smaller and had less baths than these units.

For these reasons and given that the subject does not appear to have been updated, the Commission finds that the \$\$\$\$\$ sale of the subject appears to be the best evidence of its value. Accordingly, the Commission finds that the \$\$\$\$\$ value established by the County BOE should be reduced to \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the \$\$\$\$\$ value established by the County BOE should be reduced to \$\$\$\$\$. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

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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

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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