

07-0214
Property Tax / Locally Assessed
Signed 08/16/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	ORDER Appeal No. 07-0214 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 Petitioner: No one appeared

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 9, 2007. Although notified of the date and time of the hearing, the Petitioner failed to appear and could not be reached at the telephone number he provided. In accordance with Utah Code Ann. §63-46b-11(4)(a), the Commission conducted the Initial Hearing without the participation of the Petitioner.

At issue is the fair market value of the subject property as of January 1, 2006. The subject is a cabin located at ADDRESS, next to (X) in the (X) area, in Salt Lake County. The Salt Lake County Board of Equalization (“County BOE”) sustained the \$\$\$\$ value at which the subject was originally assessed for the 2006 tax year. The Petitioner asks the Commission to reduce the subject’s value to \$\$\$\$\$, while the County asks the Commission to sustain the County BOE value.

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 0.39-acre lot and a two-story cabin that was built around 1965. CREEK dissects the lot. The cabin has 2,346 square feet of living space on its two floors, both of which are above-grade. The property does not have a garage or carport.

Petitioner's Information. The \$\$\$\$ value established by the County BOE is comprised of a \$\$\$\$ land value and a \$\$\$\$ improvements value. The Petitioner states in the letter accompanying his appeal to the Commission that he does not challenge the \$\$\$\$ improvements value. He contends, however, that the \$\$\$\$ land value should be reduced to a value not to exceed \$\$\$\$\$, which would reduce the total assessment to approximately \$\$\$\$.

In support of the Petitioner's request to reduce the land value, he included a map to show that CREEK runs directly through the middle of the 0.39-acre subject lot. The Petitioner acknowledged that the current structure is legally permissible because it was built before the current, more restrictive creek set-back requirements were adopted. However, because current set-back requirements would not allow a new structure to be built without a variance and because a significant portion of the lot is on the other side of the creek, the Petitioner argued that a willing buyer would not pay more than \$\$\$\$ for the lot, if it were vacant.

The Commission notes, however, that the subject lot is not vacant and that a willing buyer would likely purchase the property as a lot on which a "grandfathered" cabin may continue to exist, even if the current cabin is razed and another built. Because the Petitioner's argument appears to ignore the value at which the "grandfathered" cabin and lot would sell, the Commission does not find the Petitioner's argument persuasive. Accordingly, the Commission finds that the Petitioner has not shown that the \$\$\$\$ value established by the County BOE is incorrect.

County Information. The County proffers an appraisal in which the appraiser estimates the subject's value to be \$\$\$\$ as of the lien date. The County states, however, that it submits the appraisal in support of the \$\$\$\$ value established by the County BOE and does not ask the Commission to increase the current value.

In its appraisal, the County compares the subject property to four comparable cabins, one that sold in 2001, two that sold in 2004, and one that sold in 2005. The County admits that the comparable that sold in 2001 on forest land where the owner did not receive title to the land, is the least persuasive. The remaining three cabins sold in 2004 and 2005 for prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. Of these three comparables, the cabin with the smallest lot (0.25 acres) and smallest amount of living space (720 square feet) sold for the highest price, \$\$\$\$\$. This comparable is located within a block of the subject in the same area next to (X), and because it is much smaller in size and inferior in condition to the subject, its sales price suggests that the subject's value would be significantly higher than \$\$\$\$\$. The appraiser determined that the adjusted sales price for this comparable would be \$\$\$\$\$, based on a square footage adjustment of \$\$\$\$\$ per square foot. Even if the square footage adjustment were reduced to only \$\$\$\$\$ per square foot, the adjusted sales price would still be approximately \$\$\$\$\$, which is also higher than the value established by the County BOE.

The remaining two cabins each have approximately 1,600 square feet of living space and sold for prices of \$\$\$\$\$ and \$\$\$\$\$, respectively. The appraiser determined that these comparables, which were located approximately 1.3 miles from the subject, were in an inferior location that required an adjustment of \$\$\$\$\$ because lots near these comparables sell for \$\$\$\$\$ to \$\$\$\$\$ less than lots near the subject. The appraiser determined that the adjusted sales prices of these comparables would be \$\$\$\$\$ and \$\$\$\$\$, respectively.

The Commission finds that the appraisal submitted by the County supports the \$\$\$\$\$ value established by the County BOE. For this reason and because the Petitioner has not demonstrated the \$\$\$\$\$ value to be incorrect, the Commission denies the Petitioner's appeal.

DECISION AND ORDER

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Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be sustained at the \$\$\$\$ value established by the County BOE. 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.

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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