

07-0215
Locally Assessed Property
Signed 04/14/2008

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

vs.

BOARD OF EQUALIZATION OF SALT LAKE
COUNTY, UTAH,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND FINAL DECISION**

Appeal No. 07-0215

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2006

Judge: Marshall

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 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 order, specifying the commercial information that the taxpayer wants protected.

Presiding:

R. Bruce Johnson, Commissioner
Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *Pro Se*

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 18, 2008. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the assessed value of the subject property for the lien date January 1, 2006.
2. The property at issue is identified as Parcel No. ##### and is located at ADDRESS 1, CITY 1, Utah #####.

3. The subject property consists of .19 acres of land in CANYON that is improved with a two-story modern style residence. The residence was 11 years old as of the lien date and built of good quality construction. It has 2,858 square feet above grade and a 228 square foot unfinished basement. There is also a garage for which the parties dispute characterization as a two or three car garage.

4. The subject property is used as a year-round residence, although its access is limited during the winter months. The dirt road to the subject is not plowed in the winter. Petitioner gains access to the subject in winter by parking .2 to .15 of a mile from the subject and walking the remaining distance. Garbage pick up is approximately .25 of a mile from the subject. The subject is not attached to the sewer and possibility of future sewer hookup is unlikely.

5. The Petitioner is appealing the assessed value of the subject property as established by the Salt Lake County Board of Equalization. For the 2006 tax year, the County Assessor assessed the subject property at \$\$\$\$\$, which the Board of Equalization sustained.

6. The Petitioner requests the subject's assessed value be reduced to \$\$\$\$\$, asserting that the County Assessor has assessed the subject property at a higher value than other properties in the same subdivision; that the County failed to take into consideration the access problems with the subject property; and that the County has attributed the property with a 3-car garage rather than a 2-car garage. Petitioner offered three comparable sales to support her requested value of \$\$\$\$\$.

7. Petitioner's Exhibit P-1 shows the acreage, square footage, 2005 assessed value, and 2006 proposed values for the subject property and 23 additional properties located in the SUBDIVISION. The lot sizes range from .09 to .6 of an acre, and the square footage of the improvements range from 258 square feet to 4,663 square feet.

8. Petitioner's Exhibit P-2 is a map of the SUBDIVISION. It shows that Petitioner's property is located in a remote area of the subdivision. Petitioner testified that it was the most difficult lot in the subdivision to access, and that because of the shadows, snow does not melt in the winter months.

9. Petitioner submitted a photograph showing that the subject property has a two-car garage (Exhibit P-1).

10. Petitioner also submitted three properties from MLS that she believes are similar in size and style to the subject. The first property is located at approximately ADDRESS 2 in CITY 2, Utah and sold for \$\$\$\$\$. It is a two-story modern home built in 1991 with approximately 3,037 square feet, including a 670 square foot basement. The second property located at approximately ADDRESS 3 in CITY 1 and sold for \$\$\$\$\$. It is a tri/multi-level home built in 1986 with approximately 3,200 square feet, including

a 1,200 square foot basement. The third property is located at approximately ADDRESS 4 and sold for \$\$\$\$\$. It is a ranch-style home built in 1968 with approximately 2,816 square feet, including a 1,408 square foot basement. None of the properties are located in the SUBDIVISION or CANYON.

11. For the County, RESPONDENT REPRESENTATIVE, a Certified General Appraiser prepared and submitted an appraisal of the subject property (Exhibit R-3). In his appraisal, RESPONDENT REPRESENTATIVE compared the subject property to five comparables that had sold between September 18, 2003 and September 30, 2007. In the appraisal, RESPONDENT REPRESENTATIVE estimated the fair market value, as of the lien date, to be \$\$\$\$\$; however, he is not asking the Commission to raise the value of the subject property, only to sustain the Board of Equalization value.

12. The County also submitted photographs of four properties located within the same subdivision as the subject, all of which sold between January 23, 2007 and November 1, 2007 (Exhibit R-1).

- a. The first property sold on January 23, 2007 for \$\$\$\$\$. The improvements appear to be older than the subject property, and in inferior condition. Paint is scaling off the building, there is a thin roof-line, a tarp on the roof, and the building itself is not up away from the soil.
- b. The second property sold on September 14, 2007 for \$\$\$\$\$. RESPONDENT REPRESENTATIVE stated that this property was not used as a comparable because the transaction was not arm's length, and that a recent appraisal of the property arrived at a value of \$\$\$\$\$ (Exhibit R-4).
- c. The third property sold on September 28, 2007 for \$\$\$\$\$. This property was used as Comparable No. 4 in RESPONDENT REPRESENTATIVE'S appraisal. The improvements appear to be older than the subject property, and in inferior condition. RESPONDENT REPRESENTATIVE stated that the home is one large room, with the bathroom being the only room with privacy, and that the basement can only be accessed from the exterior.
- d. The fourth property sold on November 1, 2007 for \$\$\$\$\$, which RESPONDENT REPRESENTATIVE believes to be a salvage value. This property was used as Comparable No. 5 in RESPONDENT REPRESENTATIVE'S appraisal. The improvements appear to be older than the subject property and in inferior condition.

There is a lack of a quality foundation and the home appears to sit on the soil, the paint is peeling from the home, and is very close the road.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of residential property, as follows, in pertinent part:

- (1) All tangible taxable property located within the state 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 provided by law.
- (2) Subject to Subsections (3) and (4), beginning on January 1, 1995, the fair market value of residential property located within the state shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2.

Utah Code Ann. §59-2-103 (2006).

For property tax purposes, “fair market value” is defined in Utah Code Ann. §59-2-102(12), as follows:

“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. §59-12-102(12) (2006).

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part below:

- (1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property...may appeal that decision to the commission...
- (3) In reviewing the county board’s decision, the commission may:
 - (a) admit additional evidence;
 - (b) issue orders that it considers to be just and proper; and
 - (c) make any correction or change in the assessment or order of the county board of equalization.

- (4) In reviewing the county board's decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:
 - (a) the issue of equalization of property values is raised; and
 - (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

Utah Code Ann. §59-2-1006 (2006).

DISCUSSION

To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

For the 2006 tax year, the Board of Equalization established a fair market value of \$\$\$\$ for the subject property. In this appeal, the Petitioner proposes that the Commission lower the subject's value to \$\$. The County's position is that the fair market value of the subject is \$\$\$\$; however the County is not asking that the Board of Equalization value be raised. For Petitioner to prevail, she must not only demonstrate that the \$\$\$\$ value established by the Board of Equalization is incorrect, but must also provide the Commission with a sound evidentiary basis for changing the value to the amount proposed.

Respondent provided an appraisal, prepared by RESPONDENT REPRESENTATIVE. Although the appraisal determined the value of the subject property to be \$\$\$\$\$, the county did not request an increase in valuation above the \$\$\$\$ set by the board of equalization. The appraiser relied on five comparable properties with sales dates from September 18, 2003 and September 30, 2007 and made standard adjustments for the sales dates and amenities. RESPONDENT REPRESENTATIVE testified that because there were so few sales of properties in CANYON, he had to find sales that were not as close to the lien date as would typically be used. In addition, RESPONDENT REPRESENTATIVE provided photographs of four properties that were located in the same subdivision as the subject and also located on the south slope as a rebuttal to Petitioner's contention that the land on the south slope is less valuable than the north slope. The evidence presented by Respondent supports the Board of Equalization value.

Petitioner has the burden of proof in this matter. Petitioner provided evidence of the sales of three comparable properties. Petitioner's comparable properties were within the general area of

CANYON, but not within the canyon. Petitioner indicated that this was because she was unable to locate recent sales within the canyon. The comparable properties had selling prices between \$\$\$\$ and \$\$. Petitioner made no adjustments to the comparables for the date of sale, age, amenities, or location. The evidence presented by Petitioner is not convincing enough to show an error in the Board of Equalization value of \$\$\$\$ as of January 1, 2006.

The Petitioner also raises an equalization argument concerning the \$\$\$\$ value established by the County Board of Equalization. Petitioner contends that her value and taxes have increased at a higher rate than the surrounding properties. As evidence, Petitioner submitted a list of 24 properties, including the subject, in the SUBDIVISION. The proposed property values for the 2006 tax year range from \$\$\$\$ to \$\$\$\$; lot sizes range from .09 to .6 of an acre; and the square footage of the improvements range from 258 square feet to 4,663 square feet. The Petitioner does not provide any information on the age, style, or construction quality of the improvements of the neighboring properties. While the value of the subject property was increased by \$\$\$\$ over the 2005 fair market value, the Commission has found that the subject's fair market value of \$\$\$\$\$, as established by the Board of Equalization, has not been shown to be incorrect. Given this finding, the fact that the other properties have a lower fair market value does not demonstrate an inequity in assessment without a showing that the other properties' values are below fair market value. No information provided by the Petitioner demonstrates that the other properties are valued below their respective fair market values.

CONCLUSIONS OF LAW

1. The Commission finds that Petitioner has not provided sufficient evidence to show that the subject's fair market value was not \$\$\$\$\$, the value established by the Salt Lake County Board of Equalization.
2. The Commission also finds that the Petitioner has not provided sufficient evidence to establish that the subject's \$\$\$\$ value is an inequitable assessment.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the Petitioner's request to lower the fair market value of the subject property. Accordingly, the Commission sustains the Board of Equalization's decision that the fair market value of Parcel No. #####, as of January 1, 2006, is \$\$\$\$\$. It is so ordered.

DATED this _____ day of _____, 2008.

Jan Marshall

Appeal No. 07-0215

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 _____, 2008.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. Sec. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Sec. 59-1-601 et seq. and 63-46b-13 et seq.

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