

07-0246
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. 07-0246 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
 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 September 5, 2007.

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

Petitioners assert that the subject's fair market value is approximately \$\$\$\$\$. Furthermore, they ask the Commission to also consider an equalization argument. The County states that because it has not had an opportunity to prepare an appraisal on the home, it leaves it to the Commission's discretion to set the value it deems appropriate based on the testimony and evidence proffered at the Initial Hearing.

APPLICABLE LAW

Utah Code Ann. §59-2-103(1) provides that “[a]ll tangible taxable property 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 provide by law.”

For property tax purposes, “fair market value” is defined in UCA §59-2-102(12) to mean “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.”

UCA §59-2-1006 provides that a person may appeal a decision of a county board of equalization to the Tax Commission, pertinent parts as follows:

(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.

. . . .

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 0.25-acre lot and a one-story rambler that was built in 1962. The home has 1,310 square feet of living space on the main floor and 1,310 square feet of space in the basement (1,250 square feet of which is finished). The home has a two-car garage.

The Petitioners purchased the subject property for \$\$\$\$\$ in September 2003, approximately 2 years prior to the lien date. When the Petitioners purchased the home, its master bedroom and bath were situated in one large room without partitions, with a jetted tub in the middle of the room. The Petitioners began remodeling the master suite around Thanksgiving 2005, which resulted in this portion of the home being in a “guttled” condition on the lien date of January 1, 2006. The Petitioners state that besides replacing the master bath in its entirety, they added a wall to separate the new master bath from the master bedroom. The Petitioners also proffer that the remodeling was completed in March 2006 at a cost of approximately \$\$\$\$\$.

The Petitioners proffer two arguments to challenge the \$\$\$\$\$ value established by the County BOE. First, they assert that the \$\$\$\$\$ value does not reflect the fair market value of the subject property as of the lien date, as evidenced not only by the condition of the home on the lien date (i.e., the gutted master suite)

but also by the selling prices of comparable sales. Second, the Petitioners assert that the subject's fair market value should also be reduced to "equalize" its value to other properties that were assessed in 2006 for values significantly lower than their sales prices. The Commission will address each of these issues separately.

I. Valuation. Sections 59-2-103(1) and 59-2-102(12) provide that a property's value for assessment purposes shall reflect its fair market value. At issue is whether the \$\$\$\$ value established by the County BOE reflects the subject's fair market value as of the lien date.

The Petitioners determined that the subject's \$\$\$\$ value equates to approximately \$\$\$\$ per square foot, derived by dividing the subject's 2,620 square feet (total of main and basement areas) into the \$\$\$\$ value. The Petitioners proffer a study of the prices per square foot at which nine homes sold in 2006. They contend that their study shows that the subject's fair market value is approximately \$\$\$\$ per square foot, which results in a value of \$\$\$\$ when applied to its subject's 2,620 square feet.

The nine comparables are located within six blocks of the subject property and sold for prices ranging between \$\$\$\$ and \$\$\$\$. The Petitioners derived prices per square foot for each of the comparables by dividing their total square footages (totals of main and basement areas) into their respective sales prices. With this methodology, the prices per square foot of the nine comparables ranged between \$\$\$\$ and \$\$\$\$ per square foot, with an average price of \$\$\$\$ per square foot.

Two of the comparables are located on the same street as the subject. The Petitioners calculated the prices of these two comparables to be \$\$\$\$ and \$\$\$\$ per square foot, respectively. Based on these prices, the Petitioners contend that the subject's fair market value should be \$\$\$\$ per square foot, which equates to \$\$\$\$.

The Commission, however, is concerned that the study does not include information for most of the comparables showing their amounts of main floor square footages in comparison to their total square

footage, because above-grade square footage generally has a higher value than basement square footage. Furthermore, there is no information about the ages of the homes to know how truly comparable they are to the subject. For these reasons, the Petitioners' study is less convincing than it would have been had such information been available.

Nevertheless, the prices at which the comparables sold are available for the Commission to analyze. The Petitioner's nine comparables sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. Several of the Petitioners' comparables are too dissimilar in size to be useful in indicating the subject's value, specifically the four comparables that sold for \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$.

The five remaining comparables range between 2,297 and 3,046 square feet in size. The two comparables larger than the subject sold for prices greater than \$\$\$\$\$, with the home closest in location to the subject selling for \$\$\$\$\$. However, this home is 500 square feet larger than the subject property, has a greater percentage of its total space on the main floor, and appears to have been remodeled prior to sale. Based on this information, the Commission concludes that the subject's fair market value is less than \$\$\$\$\$.

Two similarly-sized comparables that are 2,596 and 2,544 square feet in size sold for \$\$\$\$\$ and \$\$\$\$\$, respectively, while a smaller comparable that is 2,297 square feet in size sold for \$\$\$\$\$. It appears that the homes more similar in size to the subject sell for prices around \$\$\$\$\$. The County's list of 37 comparables that sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ does not suggest that a higher value is warranted, as only two of the 37 comparables sold for prices above \$\$\$\$\$. Accordingly, the Commission finds that the information proffered by both parties at the Initial Hearing indicates that the fair market value of the subject, if complete, would be \$\$\$\$\$.

However, as of the lien date, the Petitioners had gutted their master suite. Accordingly, the Commission believes that the subject's fair market value should also reflect the "cost to cure" this condition.

The Petitioners state that they spent \$\$\$\$\$ to remodel the master suite after the lien date. There is no other evidence or testimony proffered to suggest an adjustment other than the \$\$\$\$\$ amount. Based on a \$\$\$\$\$ “cost to cure,” the Commission finds that it would be reasonable to reduce the \$\$\$\$\$ fair market value of the subject property, as determined above, to \$\$\$\$\$. As a result, the Commission finds that the fair market value of the subject property is \$\$\$\$\$ as of the lien date.

II. Equalization. Even if \$\$\$\$\$ is the property’s fair market value as of the lien date, Section 59-2-1006(2) provides that the Commission shall adjust the value if “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.”

The Petitioners believe that the subject’s fair market value should be reduced because other homes in their neighborhood were underassessed. To support their assertion, the Petitioners compare the prices at which their comparable sales sold to the comparables’ 2006 assessed values. In each case, the comparable’s 2006 assessed value was significantly less than the price at which it sold in 2006. The rates of underassessment ranged from approximately 10% to over 40%, significantly more than 5% difference required under Section 59-2-1006(2) to warrant equalization.

Furthermore, the three comparables most similar in size to the subject were assessed at values of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$ per square foot, even though they sold at prices of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$ per square foot, respectively. If the subject property’s value is equalized to reflect an equivalent assessment of approximately \$\$\$\$\$ per square foot, the equalized value for the 2,620 square foot subject would be \$\$\$\$\$. The Commission notes that the same three comparables sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$, near the subject’s fair market value, yet were assessed at values of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$, respectively. The County proffered no information to dispute the Petitioners’ evidence that showed that homes in the subject’s

Appeal No. 07-0246

neighborhood were underassessed for the 2006 tax year. Based on the information provided at the Initial Hearing, the Commission finds that the subject's value should be reduced to \$\$\$\$ for equalization purposes.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property should be reduced from the \$\$\$\$ value established by the County BOE 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

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.

Appeal No. 07-0246

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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