

07-0287
Property Tax/Locally Assessed
Signed 10/22/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p>ORDER</p> <p>Appeal No. 07-0287</p> <p>Parcel No. #####-1 Tax Type: Property Tax/Locally Assessed Tax Year: 2006</p> <p>Judge: Jensen</p>
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Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake Co.
Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Salt Lake County Board of Equalization. This matter was argued in an Initial Hearing on August 20, 2007. Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes. The lien date at issue in this matter is January 1, 2006.

APPLICABLE LAW

All 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. (Utah Code Ann. Sec. 59-2-103 (1).)

“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. 59-2-102(11).)

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 board of equalization 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.

To prevail, a party requesting a value that is different from that determined by the county board of equalization must (1) demonstrate that the value established by the county board of equalization contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the county board of equalization 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).

Any 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 by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board. 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. Sec. 59-2-1006(1) and 59-2-1004(4).) The evidence required for adjustment on the basis of equalization under Utah Code Ann. Sec. 59-2-1004(4) is a showing that there has been an “intentional and systematic undervaluation” of property that results in “preferential treatment” to the property owners receiving the lower valuations. *Mountain Ranch Estates v. Utah State Tax Comm’n*, 2004 UT 86, ¶ 16.

DISCUSSION

The subject property is parcel no. #####-1, located at ADDRESS 1 in CITY 1, Utah. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The County Board of Equalization lowered the value to \$\$\$\$\$. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property consists of a .30-acre lot improved with a duplex. The duplex was 31 years old and built of average quality construction. It has a gross building area of 3,374 square feet. It has a four-car carport. The County considered the duplex to be in average condition. It is one of three duplexes constructed side by side by the same builder at about the same time using the same plans. The subject and its two neighboring duplexes appear to have the same size lots, about the same maintenance, and appear to have been converted from flat to pitched roofs at about the same time using similar materials and constructions.

Petitioner has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. In this matter Petitioner made an argument that his property be equalized to the value of two neighboring duplexes. Petitioner presented evidence that the board of equalization had valued the property at ADDRESS 2 (parcel no. #####-2), which is next to the subject, at \$\$\$\$\$ for 2006. Petitioner presented evidence that the board of equalization had valued the property at ADDRESS 3 (parcel no. #####-3), which is two doors away from the subject, at \$\$\$\$\$ for 2006. Petitioner described the construction, design, and history of the three duplexes as similar in some respects and identical in others. Petitioner requested that the Commission equalize his duplex to the two neighboring properties.

The county provided an appraisal, prepared by RESPONDENT REPRESENTATIVE. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser relied on the sales of three comparable properties in CITY 1 and CITY 2. As for Petitioner's equalization argument, the appraiser indicated that he had inspected the subject and its neighboring duplexes and agreed with Petitioner's representations that all three were nearly identical in all factors that would influence value. The appraiser did not present evidence of any similar neighboring duplexes with assessed values higher than \$\$\$\$\$.

Reviewing the evidence presented, the Commission notes that evidence of the assessed values of only two properties would normally not be sufficient to show an "intentional and systematic undervaluation" of other properties as is required to successfully present an equalization case under *Mountain Ranch Estates v. Utah State Tax Comm'n*, 2004 UT 86. However, the facts of this case present three factors that persuade the Commission that the subject property should be equalized to two neighboring properties. First, at the hearing in this matter, the county's appraiser testified that he had inspected the subject and its two neighboring properties and had no reason to dispute Petitioner's equalization arguments. Second, the facts of

this case show that the board of equalization had taken specific action to lower the values of the two neighboring properties to an amount that was lower than the value it set for the subject property. Third, and perhaps most important, the evidence in this case is that the two neighboring properties are not just similar or comparable to the subject – they are nearly identical properties. On the basis of these factors, the Commission finds that Petitioner has shown good cause to equalize the 2006 assessed valuation of the subject with two neighboring properties at \$\$\$\$.

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission finds that the assessed value of the subject property as of January 1, 2006 should be \$\$\$\$\$. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file 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.

Clinton Jensen
Administrative Law Judge

Appeal No. 07-0287

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The agency 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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