

07-0325
Property Tax
Signed 09/11/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p style="text-align: center;">Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p>ORDER</p> <p>Appeal No. 07-0325</p> <p>Tax Type: Property Tax Tax Period: 2006 Parcel No. #####</p> <p>Judge: Robinson</p>
--	--

Presiding:

R. Spencer Robinson, 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 Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on July 16, 2007. The subject property is a single-family residence located in CITY 1, Salt Lake County, Utah. The property was originally assessed at \$\$\$\$\$. The Salt Lake County Board of Equalization (BOE) reduced the value to \$\$\$\$\$. The Petitioner appeals that decision to the Commission, requesting a value of \$\$\$\$\$.

APPLICABLE LAW

1. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. §59-1-210(7).

2. 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 Tax Commission. In reviewing the county board's decision, the Commission may admit additional evidence, issue orders that it considers to be just and proper, and make any correction or change in the assessment or order of the county board of equalization. Utah Code Ann. §59-2-1006(3).

3. Petitioner has the burden to establish that the market value of the subject property is other than the value determined by Respondent.

4. To prevail, 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), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

ANALYSIS AND DISCUSSION

Petitioner did not submit an appraisal. He asked that information to the Board of Equalization be considered. RESPONDENT REPRESENTATIVE did not object.

Petitioner's property is a split-level home with 1,561 square feet of above grade living space and 548 square feet of space in the basement, none of which is finished. It has three bedrooms and 2.25 bathrooms. The lot is .21 acres in size. The address is ADDRESS 1, CITY 1, Utah.

Petitioner provided MLS information on five properties to the BOE. At the Initial Hearing, he said that the property was in need of work to correct structural problems. He said in 1998 he received bids on the repairs needed to correct these problems. The bids ranged from \$\$\$\$\$ to \$\$\$\$\$.

Petitioner's first comparable, according to the MLS data, is a split-level home located at ADDRESS 2 located in CITY 2, Utah. It has 1,383 square feet above grade, with 864 square feet in the basement, 90 percent of which is finished. It has five bedrooms and two bathrooms. It has neither a garage nor a carport. It sold on December 22, 2005 for \$\$\$\$\$. The MLS data shows it was a short sale. In other words, it sold for less than was owed to the lender.

Petitioner's comparable two, according to the MLS data, is a split-level located at ADDRESS 3 in CITY 1, Utah. It has 1,120 square feet above grade and 1,120 square feet in the basement, 10% of which is finished. It has three bedrooms and two bathrooms. It has an attached garage. It sold on November 4, 2005 for \$\$\$\$\$.

Petitioner's comparable three, according to the MLS data, is a split-level located ADDRESS 4 in CITY 2, Utah. It has 900 square feet above grade and 468 square feet in the basement, 100 percent of which is finished. It has four bedrooms and two bathrooms. It has an attached garage. It sold on November 1, 2005 for \$\$\$\$\$.

Petitioner's comparable four, according to the MLS data, is a split-level located at ADDRESS 5 in CITY 2, Utah. It has 944 square feet above grade, and 828 square feet in the basement, 80 percent of which is finished. It has three bedrooms and 1.75 bathrooms. It has neither a garage nor a carport. It sold on October 19, 2005 for \$\$\$\$\$, with \$\$\$\$\$ in concessions.

Petitioner's comparable five, according to the MLS data, is a split-level located at ADDRESS 6 in CITY 3, Utah. It has 940 square feet above grade, and 888 square feet in the basement, which is 89 percent finished. It has four bedrooms and 2.75 bathrooms. It has neither a garage nor a carport. It sold on October 14, 2005 for \$\$\$\$\$. The listing noted it was "Great for an investor or handy man. Sold 'As Is'."

Petitioner made no adjustments to his comparables. Adjustments would be appropriate for things such as differences in square footage, number of bedrooms, number of bathrooms, age, view, condition, date of sale, and other factors.

Petitioner is required to demonstrate error in the County's original assessment, and to provide a sound basis for his proposed value. Assuming his comparables demonstrated an error in the BOE value, his evidence was not sufficient to establish an alternative value. His comparables are unadjusted, making it difficult to compare their value to that of the subject. However, his evidence regarding the need for structural repair does demonstrate an error in the BOE value.

Respondent submitted an appraisal prepared by RESPONDENT REPRESENTATIVE, a licensed appraiser. It has five comparables, all of which are within one mile of the subject. He made appropriate adjustments, arriving at adjusted values ranging from \$\$\$\$\$ to \$\$\$\$\$. Using the sales comparison approach, he valued the subject at \$\$\$\$\$.

RESPONDENT REPRESENTATIVE also developed a cost approach as a confirmation of value. The cost approach produced a value of \$\$\$\$\$.

RESPONDENT REPRESENTATIVE acknowledged there were cracks in the wall of the home. Petitioner provided photographs of the cracks. They were received as evidence without objection. RESPONDENT REPRESENTATIVE said the cracks were typical of similar properties.

PETITIONER has a Ph.D. and three engineering degrees from (X) University. He has engineering degrees in aeronautical/mechanical engineering, reservoir engineering, and civil engineering. He testified the cracks were manifestations of structural problems that he would either have to remediate or disclose to buyers. He said he had bids from 1998 listing the cost as \$\$\$\$\$ to \$\$\$\$\$.

Appeal No. 07-0325

RESPONDENT REPRESENTATIVE'S appraisal, in the area dealing with "deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property," noted none, but conceded he was not an expert in these fields.

Because of PETITIONER'S expertise, the Commission accepts his statement that the cracks are evidence of a structural defect that would cost \$\$\$\$\$ to remediate. This is sufficient to reduce the value by \$\$\$\$\$

DECISION AND ORDER

Based on the evidence presented, the Commission finds the value of the subject property is \$\$\$\$\$. The Salt Lake County Board of Equalization shall 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 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.

Appeal No. 07-0325

R. Spencer Robinson
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

RSR/07-0325.int