

07-0334
Property Tax/Locally Assessed
Signed 11/08/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p>ORDER</p> <p>Appeal No. 07-0334</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2006</p> <p>Judge: Phan</p>
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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 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:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on September 6, 2007. Petitioner is appealing the assessed value as established for the subject property by the Salt Lake County Board of Equalization. The lien date at issue 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(12).)

(1) 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. . . . (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. Sec. 59-2-1006(1)&(4).)

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).

DISCUSSION

The subject property is parcel no. ##### and is located at ADDRESS 1, CITY, Utah. The County Assessor’s Office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization sustained the value.

The subject property consists of .55-acres of land that is used primarily as an extension of the yard for the neighboring residence. A portion of the swimming pool is built on the subject property and there is also some landscaping. Only about .21 acres of the lot is level. A portion of this is level due to the fact that the storm and sanitation sewers were buried there. The remaining .34 acres is very steep and classified by the County as residual acres. It is part of (X), which is a flood control catch basin. Petitioners had purchased the subject lot about six years after purchasing the adjoining lot on which they had built their residence. It was Petitioner's understanding from the time that they purchased the subject lot that it was unbuildable. There was only sixty feet of frontage on the road and the lot was otherwise too steep to build a residence. Petitioner indicated they had purchased the lot to extend their yard, but also so they could maintain the subject lot, as people had started using it for dumping.

Petitioner was unable to find comparables for the unbuildable residential lot. His argument was based on equalization of the assessed values of similar lots. He explained that there had been other unbuildable lots in the subdivision that had been purchased for use in conjunction with adjoining lots. It was Petitioner's position that there were some higher valued lots, a medium valued lot, and a lower valued lot within one block from the subject property. The two higher end lots were valued similar to the subject, around \$\$\$\$\$. These were located at ADDRESS 2 and ADDRESS 3. These lots had originally been purchased together with an adjacent lot so that the residences were actually built straddling the lot and the adjacent lot.

Petitioner pointed to a property, which more similar to the subject, had been purchased by an adjacent homeowner, to extend that yard. This was located at ADDRESS 4 and had been valued by the County at \$\$\$\$\$. Petitioner requested that the value for his lot lowered to \$\$\$\$\$ based on the assessed value of this comparable.

Petitioner also indicated there was a fourth lot that had been purchased by an adjacent homeowner. However, it had been combined into one parcel with the parcel that

contained the residence. For this reason, the County did not show a separate value for the lot. Petitioner extrapolated the value to be somewhere between \$\$\$\$ and \$\$\$\$\$, but without more information on the comparables he used to determine the extrapolation the Commission is unable to base a value conclusion on this example.

After the hearing, Respondent went out and looked at the lot again for the purpose of determining whether the classification between primary and residual acres was correct. Respondent had not valued the lot as a buildable residential lot, but had instead valued a portion as primary acres and a portion as residual acres. After visiting the property, Respondent increased the portion of the subject lot it had classified as residual and this resulted in a slightly lower valuation at \$\$\$\$\$.

Respondent indicated that the values of the unbuildable lots in the neighborhood would be different based on the size of the lots and the portion that was deemed primary acres, secondary acres or residual. Respondent pointed out that the property that had been valued at \$\$\$\$\$, on ADDRESS 4, was only .29 acres, significantly smaller than the subject. Instead of separating this lot into primary and residual classifications, the County had valued the entire parcel at the secondary acreage rate. If the County had applied its secondary acreage rate to the entire subject property the value would be \$\$\$\$\$, plus the \$\$\$\$\$ for the improvement. Respondent's representative pointed out that ADDRESS 2 valued at \$\$\$\$\$ was only .26 acres in size. All of that lot had been valued as primary acres.

Upon review of the evidence, Respondent has suggested a somewhat lower value based on a more accurate reclassification of primary acres and residual acres and applying the same rates that the County applied to other land in the area. For purposes of equalization, Petitioner has provided only one comparable to support the value he requests for the property, and it is smaller than the subject by nearly half. Two other comparables support the value set by Respondent. Petitioner bears the burden of proof in this matter and to make a case based on

equalization Petitioner must provide truly comparable properties that are valued more than 5% less than the subject. It is insufficient to provide just one comparable valued at the lower value. See *Mountain Ranch Estates v. Utah State Tax Commission*, 100 P.3d 1206 (2004). In this case Petitioner had not presented evidence to support equalization of the values.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006, is \$\$\$\$\$. The County Auditor is hereby 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.

Jane Phan
Administrative Law Judge

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.

Appeal No. 07-0334

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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