

07-0341
Property Tax / Locally Assessed
Signed 10/09/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 & PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.</p>	<p>ORDER</p> <p>Appeal No. 07-0341</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax / Locally Assessed Tax Year: 2006</p> <p>Judge: Chapman</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 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
 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 October 2, 2007.

At issue is the fair market value of the subject property as of January 1, 2006. The subject is a cabin located at ADDRESS in CANYON in Salt Lake County, Utah. The Salt Lake County Board of Equalization ("County BOE") reduced the \$\$\$\$ value at which the subject was originally assessed for the

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2006 tax year to \$\$\$\$\$. The Petitioners are asking the Commission to reduce the subject's value to \$\$\$\$\$, while the County BOE asks the Commission to reduce the subject's value to \$\$\$\$\$.

APPLICABLE LAW

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 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 2.00-acre lot and a cabin with 1,021 square feet (805 square feet on the main floor and 216 square feet in the loft). The cabin was built approximately 20 years prior to the lien date and has two bedrooms and one bath. The cabin is not accessible by road in the winter. The subject's lot is only 62.5 feet wide, which is common in the subject's area.

Petitioners' Information. The Petitioners proffer a “CRA Report” prepared by REAL ESTATE AGENT, who is a real estate agent. In the CMA Report, REAL ESTATE AGENT compared the

subject to four cabins in Summit County that sold in 2006 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. Although REAL ESTATE AGENT did not adjust the comparables for location, he made other adjustments and derived adjusted sales prices for the subject ranging from \$\$\$\$\$ to \$\$\$\$\$.

PETITIONER 1 also proffered that a person called him in July 2006 asking him if he would sell the subject property and, if so, for how much. PETITIONER 1 proffered that after he told the person he would sell the subject for \$\$\$\$\$, the person was no longer interested. For these reasons, the Petitioners ask the Commission to reduce the value of the subject property to \$\$\$\$\$.

The Commission does not find the Petitioners' evidence convincing. First, the comparables used by REAL ESTATE AGENT in his CMA Report are in a different county than the subject property. REAL ESTATE AGENT does not provide any information to show where in Summit County the cabins are located and what location adjustments are necessary to compare these properties to the subject. It is apparent that the locations of the four comparables have different values, as the cabins and lots are similar in size, yet sold for widely diverse prices and adjusted to prices that are even more diverse. As a result, the CMA Report is unpersuasive. Furthermore, the Petitioner did not list his property for sale at \$\$\$\$\$, so that it was exposed to the market prior to not selling for this price. The fact that a single individual refused this price under the circumstances described does not establish \$\$\$\$\$ as the upper limit of value. Based on the Petitioners' information alone, the Commission is not convinced that the \$\$\$\$\$ value established by the County BOE is incorrect.

County Information. The County proffers an appraisal in which it originally estimated the subject's value to be \$\$\$\$\$. At the hearing, the County appraiser states that he overestimated the subject's square footage by 84 square feet, which required a reduction in value of \$\$\$\$\$ to account for the mistake. As

a result, the County appraiser states that he would estimate the value of the subject at \$\$\$\$ and asks the Commission to reduce the subject's value to this amount.

The County appraiser compared the subject to two properties in CANYON that were relatively close in location to the subject, Comparable #1, which sold for \$\$\$\$ in September 2004 and Comparable #3, which sold for \$\$\$\$ in October 2006. After changes to the subject's size, these comparables adjusted to prices of \$\$\$\$ and \$\$\$\$\$, respectively. These properties have cabins that are similar in size to the subject property. However, Comparable #1 has a 10.00-acre lot and Comparable #3 has a 6.04-acre lot, while the subject only has a 2.00-acre lot. Although the County adjusted these comparables \$\$\$\$ and \$\$\$\$\$, respectively, to account for the larger acreage, the Petitioners assert that the adjustments should be larger, which would result in a lower value for the subject.

To support their assertion, the Petitioners proffer 2006 assessments of vacant lots near the subject property that ranged from 1.90 acres to 4.00 acres in size. The County assessed these vacant lots in 2006 for values ranging from \$\$\$\$ to \$\$\$\$\$. Because the Petitioners contend that Comparable #1 and Comparable #3 had enough land to subdivide them into additional lots worth at least \$\$\$\$\$, they believe that the County's adjustments of \$\$\$\$ and \$\$\$\$\$ for the additional acreage is too low.

The County appraiser contends, however, that not all acreage can be built on near the subject due to F-COZ zoning requirements that will not permit a home to be built on property that exceeds a certain slope. Neither party knows whether the excess acreage for Comparable #1 and Comparable #3 could be built upon if the properties were subdivided. In addition, there is no information concerning the costs involved with getting approval to subdivide a single lot into two or more developable lots. Furthermore, there is no information concerning the location of the cabins that currently exist on these comparables so that the Commission can determine whether subdivision is feasible, even if slope requirements would allow for

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subdivision and approval for subdivision could be obtained. Based on the information available at the Initial Hearing, the Commission is not convinced that the County appraiser's adjustments for the additional acreage are unreasonable.

In addition, the County's Comparable #2 sold for \$\$\$\$\$ in July and is nearly identical in size and age to the subject. However, this comparable is located in an inferior area of CANYON (without improved roads) and only has a lot that is 1.00 acre in size. The County adjusted this comparable (after amendment to subject's size) to \$\$\$\$\$. For these reasons, the Commission finds the County's value of \$\$\$\$\$ for the subject property to be the most persuasive estimate of value proffered at the Initial Hearing. Accordingly, the Commission finds that the subject's current value of \$\$\$\$\$ should be reduced to \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market 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 accordingly. 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.

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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.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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