

07-0348  
Locally Assessed Property  
Signed 05/30/2008

---

BEFORE THE UTAH STATE TAX COMMISSION

---

|                                                                                                                                |                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT<br/>LAKE COUNTY, UTAH,</p> <p>Respondent.</p> | <p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 07-0348</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2006</p> <p>Judge: Phan</p> |
|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER

PETITIONER REPRESENTATIVE

For Respondent: RESPONDENT REPRESENTATIVE, Appraisal Manager, 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 January 28, 2008. Petitioner submitted post hearing information in this matter on February 8, 2008 which is being considered in this decision.

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. At the

hearing the County submitted an appraisal for the property that indicated the value was \$\$\$\$\$. However, the County's representative stated that the appraisal was being submitted only to support the value set by the County Board of Equalization.

The subject property consists of 1.68-acres of residential land. The property is improved with an old residence that had been constructed in 1880. The residence has 847 above grade square feet, with no basement and is in fair condition. The property is located on STREET, a very heavily trafficked street. The property owner represented that 25,000 cars per day drove past the property and it was noisy. There are commercial buildings across the street from the subject property. Further, the zoning is limited to one residence per one acre. Petitioner indicates in CITY, there is little chance that the city would allow a variance for two residences on the subject property.

Although it is on STREET, the property is located in a desirable residential area. The trend in the area is that when sold, buyers for the older residences with one or more acres of property would demolish the existing structure and build large, expensive, custom homes. For this reason both Petitioner and the appraiser for the County concluded that the residence did not contribute to the market value of the property. They both valued the property as if it were vacant land.

The Petitioner, PETITIONER, explained that the property has been tied up for eight years in a probate action and a Lis Pendens was filed against the property in 2004 as part of the action. The Lis Pendens involves whether PETITIONER may sell the property to pay her claims as creditor and devisee. PETITIONER states that she has only a life estate in the property and her stepdaughters have the remainder interest. PETITIONER represents that her stepdaughters will not let her sell the property, yet she is responsible for paying the taxes. PETITIONER reports that she lives on a fixed income and now spends 1/3 of her total income on property tax.

PETITIONER requested that the value for the property be reduced to \$\$\$\$\$ based on vacant land sales. She points out that the zoning requirements limit the developability to one residence and that the County is comparing the subject to properties that could be developed for more than one residence. Petitioner provided three comparables. One developable residential lot, .92 acres in size, located at ADDRESS 2 had sold for \$\$\$\$\$ in June 2005. This was located on a quiet private lane. A second developable residential lot that was .89 of an acre in size had sold for \$\$\$\$\$ in June 2005. A third property, located at ADDRESS 3, which was 1 acre in size, had sold for \$\$\$\$\$ in August 2005. From these sales, she concluded that the value of the subject property was \$\$\$\$\$ per acre, or \$\$\$\$\$ for the entire parcel. She indicated that all her sales were limited to only one residential building site.

The county submitted an appraisal prepared by APPRAISER. APPRAISER had considered six land sales. Four of the six were actually located on STREET. The properties on STREET had ranged in size from .70 of an acre to 1.53 acres and had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$.

APPRAISER had also included a comparable at ADDRESS 4, which had been 1.68 acres in size and sold for \$\$\$\$\$. PETITIONER pointed out that the ADDRESS 4 comparable had a different zoning had been subdivided after the purchase into 9 building lots.

The County also indicated that for property tax purposes the property is valued as if the owner has the full bundle of ownership rights. For this reason the County did not discount the value for PETITIONER on the basis that she had only a life estate, or the Lis Pendens that affected the ownership interests of the property.

PETITIONER pointed out that the County comparables had different zoning than the subject. The County's comparable at ADDRESS 5, which was .91 of an acre and had sold for \$\$\$\$\$ was zoned for two residences per acre. However, because of its size, this property may be limited to one residence with excess land, like the subject property. PETITIONER indicated that

the County's comparable at ADDRESS 6, which had been 1.53 acres and sold for \$\$\$\$\$, had been located in the unincorporated area of the County and purchased for multiple housing units. It was later incorporated into CITY. The property at ADDRESS 7, which had sold for \$\$\$\$\$ and was .85 of an acre, was zoned so that two residences could have been built on the property, however, only one was constructed after the sale. PETITIONER stated that this property was not actually on STREET, but was one lot removed from STREET. She also had concerns that the comparable at ADDRESS 8, which had sold for \$\$\$\$\$ for .70 of an acre had a different zoning than the subject because it was on the west side of the street. Petitioner indicated that it was zoned commercial.

After considering the sales in this matter, the Commission first would note that the County is correct in its position that the ownership issues and the way this property is divided between life estate and remainder, is not taken into account. The valuation is based as if the property is owned in fee. In addition, the Commission would note that the fact alone that a Lis Pendens has been filed against a property would not mean that the value for property tax assessment purposes should be reduced. In this matter the Lis Pendens was an ownership issue, not one that involved the highest and best use of the property.<sup>1</sup> It is up to property owners to arrange who will pay the taxes or how they will be divided.

The Commission also notes that the County's comparables are closer in location to the subject property than the comparables submitted by PETITIONER. The Commission does have a concern, however, that the County's appraisal has overvalued the property on a fair market basis. The properties with the more similar zoning tend to be more supportive of the value requested by Petitioner. For instance ADDRESS 7 with only .85 of an acre had sold for \$\$\$\$\$.

---

<sup>1</sup> In Finding of Fact, Conclusions of Law, and Final Decision, Tax Commission Appeal No. 06-0812, the Commission considers whether a property that had a Lis Pendens filed against it should be reduced in value for property tax assessment purposes. The Commission concluded in that case "the fact that a Lis Pendens is filed on a property and that there is an ongoing lawsuit would not per se result in a specific percentage

The County made a large adjustment for size, but no adjustment for the fact that it was not located on the busy street. The most similar, when zoning is taken into consideration as well as the location on STREET is the comparable located at ADDRESS 5 that had sold for \$\$\$\$\$. After making appraisal adjustments it was the County's conclusion that the value indicated for the subject from this comparable was \$\$\$\$\$. Considering additionally Petitioner's comparables which all appear from the Multiple Listing Information to be similar to the subject in that there could be only one residence, and although in different, but desirable residential locations, these sales support a value of \$\$\$\$\$ for the subject property.

DECISION AND ORDER

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

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

Appeal No. 07-0348

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

*JKP/07-0438.int*