

07-0545
Property Tax/Locally Assessed Greenbelt
Signed 09/14/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,

Petitioners,

v.

BOARD OF EQUALIZATION OF DAVIS
COUNTY, UTAH,

Respondent.

ORDER

Appeal No. 07-0545

Parcel Nos. #####-1 & #####-2

Tax Type: Property Tax/Locally Assessed
Greenbelt

Tax Year: 2006

Judge: Phan

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 1

For Respondent: RESPONDENT REPRESENTATIVE 1, Davis County Assessor
RESPONDENT REPRESENTATIVE 2, Appraiser, Davis
County
RESPONDENT REPRESENTATIVE 3, Green Belt Specialist,
Davis County
RESPONDENT REPRESENTATIVE 4, Green Belt Specialist,
Davis County

STATEMENT OF THE CASE

This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on August 6, 2007. The lien date at issue is January 1, 2006.

Petitioner brings this appeal from the decision of the County Board of Equalization to deny assessment of the subject property as ‘greenbelt’ under the Farmland Assessment Act.

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).)

For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

- (a) is not less than five contiguous acres in area, except . . . if (A) the land is devoted to agriculture use in conjunction with other eligible acreage; and (B) the land and the other eligible acreage . . . have identical legal ownership; . . . and
- (b) except as provided in Subsection (5): (i) is actively devoted to agricultural use; and (ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part. (Utah Code Sec. 59-2-503(1).)

“Other eligible acreage” means land that is: (a) five or more contiguous acres; (b) eligible for assessment under this part; and (c) (i) is located in the same county . . . or (ii) contiguous across county lines . . . (Utah Code Section 59-2-502 (5).)

DISCUSSION

Petitioner asks that his property be assessed as ‘greenbelt’ under the Farmland Assessment Act. If assessed as ‘greenbelt’ or farmland under the act the tax amount would be based on the value the land has for agriculture use, and not at its fair market value.

The subject property is parcel nos. #####-1 & #####-2 and is located at ADDRESS, CITY, Utah. The parcels combined are 2.14 acres of land and are located near HIGHWAY. There is a dilapidated shed on the property, which Respondent has concluded adds no value. There is also a billboard on the property.

Petitioner had recently purchased the property and there is no showing that it had been used for agricultural purposes for the two years prior to the lien date. Petitioner did not intend to plant crops or graze cattle on the property. He had purchased the property to store farming equipment that he used in his farming operation located in COUNTY 1. Petitioner lived in COUNTY 2 and wanted a place to store the equipment near where he lived and where it was easier to perform repairs and maintenance on the equipment. Petitioner's farming operation in COUNTY 1 qualified for 'greenbelt' assessment. It is clear that Petitioner's property in COUNTY 1 was not contiguous across county lines with his COUNTY 1 property.

During the hearing Petitioner was not sure whether his farming property in COUNTY 1 was under identical ownership with the subject parcels, because he and his wife had set up a trust. Both Petitioner and Respondent submitted post hearing information regarding ownership, which indicated that as of the lien date the subject parcel in COUNTY 2 was not in the same name as the farm property in COUNTY 1. Following the hearing Petitioner and his wife filed a Quit Claim deed with the COUNTY 2 Records Office in an attempt to correct this discrepancy. Following the hearing, Petitioner also submitted a photograph that showed a piece of farming equipment stored on the property.

Petitioner had indicated he thought the County should make it easier for people to apply and be granted treatment under the Farmland Assessment Act. However, the act is a state law, adopted by the Utah Legislature, and the act specifies the criteria for assessment under the act. In order to qualify for the favorable tax treatment under the Farmland Assessment Act all the criteria listed in the statute must be met.

Upon review of the facts and the law in this matter the subject property does not qualify for 'greenbelt' assessment under the Farmland Assessment Act as it fails to meet the statutory criteria for assessment. The subject property had not been used for agricultural purpose for two years prior to the lien date. (Utah Code Sec. 59-2-503(1)(b).) It is less than five acres and Petitioner's property in COUNTY 1 is expressly not "other eligible acreage" pursuant to the statute. A revision to the statute adopted several years ago limits "other eligible acreage" to property located in the same county or that is contiguous across county lines. (Utah Code Sec. 59-2-502 (5).) Therefore, the COUNTY 1 property may not be considered in the minimum acreage requirement. Additionally, on the lien date the subject property was not in identical ownership to the COUNTY 1 property. (Utah Code Sec. 59-2-503(1)(a).) Furthermore, parking one or two pieces of farming equipment on a property more than two acres in size is not actively devoting the property to agricultural use, which means the subject property would also not meet the use requirement. (Utah Code Sec. 59-2-503(1)(b).)

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject property does not qualify for assessment under the Farmland Assessment Act for tax year 2006 and denies Petitioner's appeal. It is so ordered.

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.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner