

07-0633
Locally Assessed Property
Signed 01/14/2008

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

vs.

BOARD OF EQUALIZATION OF SALT LAKE
COUNTY, UTAH,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND FINAL DECISION**

Appeal No. 07-0633

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2006

Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: No One Appeared

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on November 5, 2007. Although notified of the date, time and location of the hearing, and despite having previously exchanged evidentiary documents with Respondent, Petitioner did not appear. Respondent requested that the Formal Hearing proceed as scheduled as it was Respondent's request that the value for the property be raised above that set by the County Board of Equalization based on an appraisal Respondent had prepared for the property in preparation for the hearing. Respondent had mailed this appraisal to Petitioner prior to the hearing. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the assessed value of the subject property for the lien date January 1, 2006.

2. The property at issue is Parcel No. #####, located at ADDRESS, CITY, Utah.

3. For the January 1, 2006 lien date the County Assessor had valued the property at \$\$\$\$ and the County Board of Equalization had sustained the value.

4. Petitioner had filed an appeal of the value established by the County Board of Equalization. However, Petitioner did not attend the Formal Hearing so no evidence supporting her position was submitted into the hearing record or considered in this decision.

5. The property consists of .47- acres of land with a stream running diagonally through the lot. Some of the property is low and prone to flooding. However, there is a portion of the lot that is higher in elevation and currently is improved with a cabin that had been constructed in 1920. The cabin was of a wood frame construction and has 1,152 square feet. Respondent considered the cabin to be in salvage condition and notes that there is no insulation, few interior partitions, antiquated electrical wiring and no ceilings on the second floor except the rafters. Additionally there is significant deterioration to the exterior finish. Respondent's representative maintained that although the cabin was in poor condition, the fact that there was already a cabin on the property did add value as it was much easier to obtain a permit to remodel an existing cabin than to go through the lengthy process to obtain a building permit for new construction.

6. At one time Petitioner had owned a water share for the subject property. However, sometime prior to the lien date Petitioner sold the water share independently of the property. In its appraisal, Respondent attempted to value the property as if it had no water. There was no public sewer to the property, as it had a septic tank holding system.

7. Respondent submitted an appraisal at the hearing that had been prepared by RESPONDENT

REPRESENTATIVE, Certified General Appraiser, Appraiser, Salt Lake County. It was RESPONDENT REPRESENTATIVE'S appraisal conclusion that as of the lien date at issue, the value of the subject property was \$\$\$\$\$. Respondent requested that the value be raised to the appraisal value.

8. In the appraisal RESPONDENT REPRESENTATIVE considered a number of land sales, four of which he relied on in the sales comparison approach. All four were unimproved lots located reasonably near the subject property that had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. In making adjustments for the differences, it was RESPONDENT REPRESENTATIVE'S conclusion that the lack of water share for the subject property would be a negative \$\$\$\$\$ adjustment and lack of the availability of public sewer a negative \$\$\$\$\$ adjustment. However, he concluded the fact that a cabin already had been built on the property was a positive adjustment of \$\$\$\$\$ due to difficulty in obtaining a building permit for new construction. After making his appraisal adjustments the indicated value range for the subject property was from \$\$\$\$\$ to \$\$\$\$\$. It was his conclusion that the value of this property was \$\$\$\$\$.

9. After reviewing the evidence submitted by Respondent in this matter the Commission concludes that RESPONDENT REPRESENTATIVE'S appraisal was reasonable. The Commission notes that Petitioner failed to appear at the hearing and nothing was submitted during the hearing by Petitioner to refute or counter the appraisal assertions made by RESPONDENT REPRESENTATIVE.

APPLICABLE LAW

1. 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.)

2. "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. For purposes of taxation, "fair market value" shall be

determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value. (Utah Code Ann. 59-2-102(12).)

3. (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).)

CONCLUSIONS OF LAW

1. 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). However, when requesting a value higher than that set by the County Board of Equalization, Respondent also has the burden of demonstrating error on the County's original assessment and providing a sound evidentiary basis for increasing the value.

2. In this matter Petitioner did not attend the hearing and submitted no evidence into the record regarding the value of this property. Respondent has submitted an appraisal in which the unique features of the property were given some consideration. The weight of the evidence submitted at the hearing in this matter

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supports Respondent's requested increase in value.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2006, is \$\$\$\$\$. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order.

DATED this _____ day of _____, 2008.

Jane Phan
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 _____, 2008.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. Sec. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Sec. 59-1-601 et seq. and 63-46b-13 et seq.

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