

07-1467
Locally Assessed Property
Signed 08/14/2008

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

vs.

KANE COUNTY BOARD OF EQUALIZATION

Respondent.

INITIAL HEARING ORDER

Appeal No. 07-1467

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2007

Presiding:

Commissioner: Marc B. Johnson

Commissioner: R. Bruce Johnson

Appearances:

For Petitioner: PETITIONER, *Pro Se*

For Respondent: RESPONDENT REPRESENTATIVE 1, Kane County Assessor
RESPONDENT REPRESENTATIVE 2, Kane County Chief Deputy
Assessor

STATEMENT OF THE CASE

Taxpayer brings this appeal from the decision of the Kane County Board of Equalization. This matter was argued in an Initial Hearing on April 30, 2008. Taxpayer is appealing the assessed value of the subject property as set by the Kane County Board of Equalization for property tax purposes. The lien date at issue in this matter is January 1, 2007.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows, in pertinent part:

- (1) All tangible taxable property located within the state 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 provided by law.

Utah Code Ann. §59-2-103 (2007).

For property tax purposes, “fair market value” is defined in Utah Code Ann. §59-2-102(12), as follows:

“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) (2007).

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part below:

- (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.

Utah Code Ann. §59-2-1006 (2007).

Any party requesting a value different from the value established by the County Board of Equalization 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. To prevail, a party must: 1) demonstrate that the value established by the County Board of Equalization contains error; and 2) provide the Commission with a sound evidentiary basis for changing the value established by the County Board of Equalization to the amount proposed by the party. The Commission relies in part on *Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm’n*, 590 P.2d 332, 335 (Utah 1979); *Beaver County V. Utah State Tax Comm’n*, 916 P.2d 344 (Utah 1996) and *Utah Railway Co. v. Utah State Tax Comm’n*, 5 P.3d 652 (Utah 2000).

DISCUSSION

The subject property is parcel no. #####, located in the CITY area of Kane County, Utah. It is a 5.25 acre unimproved parcel. The parcel has #####’ of frontage on (X) and is #####’ deep. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The Board of Equalization sustained the value of the subject property at the same amount. The Assessor’s office now

recommends the assessed value of the subject property be reduced to \$\$\$\$\$. The Taxpayer did not request a specific assessed value.

In this matter, Taxpayer provided discussion regarding the percentage increases in the assessed valuation of the subject property. He submitted a letter, dated April 18, 2008, in which he indicates the market value of his property has increased 1,275% since 2004. Further, he disagrees with the County's assertion that the parcel is "commercial property," and states that his property is not zoned commercial. Taxpayer did not present evidence regarding the sales of comparable properties in the area of the subject property, or other evidence that would indicate the value of the subject property.

For the County, RESPONDENT REPRESENTATIVE 2 stated that the subject property is located in a commercial zone, with frontage on (X), both of which contribute to the increased value. RESPONDENT REPRESENTATIVE 1 explained that in calculating the value of the subject property, a higher cost per square foot was used to determine the value of the first 200' of depth of the property, and a lower cost per square foot was used to calculate the value the remainder of the property. The County submitted a copy of this calculation post-hearing. The County used a cost of \$\$\$\$\$ per square foot for the first 200' of depth, and a cost of \$\$\$\$\$ per square foot for the residual #####' of backage for the subject property.

The County determined their cost per square foot by using the sales of comparable properties. The County provided sales and listing information on several comparable properties that had sold between April 13, 2004 and August 23, 2006. The acreage of the comparable properties was 0.51 acres to 13.40 acres, and ranged in price from \$\$\$\$\$ to \$\$\$\$\$. Based on these comparables, the County determined that the subject property was over-valued for the January 1, 2007 lien date, and recommended that the assessed value be reduced to \$\$\$\$\$.

The Commission recognizes that the Taxpayer's petition was not based on fair market value, nor did he have an estimate. His specific complaint is the drastic increase in market value, with a corresponding increase in taxes. The Taxpayer is particularly concerned about the Assessor's failure to establish a precise basis for establishing the frontage and backage rates. He is also concerned about these issues within the context of his property being valued at a commercial rate although it is zoned agricultural.

Unfortunately these specific questions, regardless of the impact they may have on an individual, are beyond the statutory purview of the Commission. Nonetheless, the Commission will address them in general. To begin, the increase in value and taxes can be attributed to several causes, all of which may be related to some degree. Major increases can result when a given property has been undervalued for a period of time, and then is reappraised to current fair market value. This situation is exacerbated in a time of rapid inflation or price increases. There exists no statutory basis for reducing value based upon the

financial or economic impact of such increases. The only basis for reducing the value is when a property is either assessed above its fair market value or if it is systematically assessed at a higher amount than similarly situated properties. The taxpayer presented no evidence that either of these situations were present. Regarding the agricultural zoning, market value is based on comparable sales prices of similar properties. The comparable sales provided by the County did not specify the zoning, nor did the Taxpayer choose to challenge them. Thus there is no evidence that the zoning of the subject property affects its market value compared with other property in the neighborhood. Finally, the Commission finds that the County provided a reasonable explanation of its calculations to the Taxpayer. In this case, there is no evidence that the assessments were above market.

The Taxpayer has not met his burden of proof. While he has shown a significant increase in the assessed value, he has not shown that this value is incorrect. The Taxpayer offered no appraisal, and no comparable properties that would indicate a lower value should be established.

The County presented as evidence, comparable properties used to determine a cost per square foot for the subject property. The county also explained that the value was based on different rates for frontage at backage. This constitutes a reasonable evidentiary basis for a selling price Of \$\$\$\$\$, as of January 1, 2007.

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2007 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 _____, 2008.

Marc B. Johnson
Commissioner

Appeal No. 07-0510

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and concur in this decision.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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