

07-1551
LOCALLY ASSESSED PROPERTY
SIGNED: 10-06-08

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER ,

Petitioner,

vs.

BOARD OF EQUALIZATION OF COUNTY,
UTAH,

Respondent.

INITIAL HEARING ORDER

Appeal No. 07-1551

Parcel Nos. #####-1

#####-2

#####-3

#####-4

Tax Type: Property Tax/Locally Assessed

Tax Year: 2007

Judge: Jensen

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:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
PETITIONER REP 1
PETITIONER REP 2

For Respondent: RESPONDENT REP, Appraiser, COUNTY Assessor’s Office

STATEMENT OF THE CASE

The above-named Petitioner (the “Taxpayer”) brings this appeal from the decision of the Board of Equalization (the “Board”) of COUNTY (the “County”). This matter was argued in an Initial Hearing on May 8, 2008. The Taxpayer is appealing the market value of the subject property as set by Board for property tax purposes. The lien date at issue in this matter is January 1, 2007.

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(11).)

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 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 requesting a value that is different from that determined by the county board of equalization must (1) demonstrate that the value established by the county board of equalization contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the county board of equalization 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 four parcels. Parcel No. #####-1 is 143.05 acres located north and west of CITY 1, Utah near the LAKE (the “LAKE PROPERTY”). The other three parcels adjoin or are near HIGHWAY (X) near the CITY 1 Airport (the “HIGHWAY PARCELS”). The HIGHWAY PARCELS include Parcel No. #####-2 at 7.5 acres, Parcel No. #####-3 at 16 acres, and Parcel No. #####-4 at 55.9 acres. The County Assessor had set the value of the Taxpayer’s parcels, as of the lien date, as follows:

Parcel No. #####-1 at \$\$\$\$\$ (143.05 acres at approximately \$\$\$\$\$/acre)

Parcel No. #####-2 at \$\$\$\$\$ (7.5 acres at \$\$\$\$\$/acre)

Parcel No. #####-3 at \$\$\$\$\$ (5 acres at \$\$\$\$\$/acre; 11 acres at \$\$\$\$\$/acre)

Parcel No. #####-4 at \$\$\$\$\$ (55.9 acres at \$\$\$\$\$/acre).

The Board sustained these values and made no changes to valuation for the 2007 tax year. The Taxpayer requests that the value be reduced as follows:

Parcel No. #####-1 to \$\$\$\$\$ (143.05 acres at approximately \$\$\$\$\$/acre)

Parcel No. #####-2 to \$\$\$\$\$ (7.5 acres at \$\$\$\$\$/acre)

Parcel No. #####-3 to \$\$\$\$\$ (16 acres at \$\$\$\$\$/acre)

Parcel No. #####-4 to \$\$\$\$\$ (55.9 acres at approximately \$\$\$\$\$/acre)

The County notes that the value set for Parcel No. #####-1, the LAKE PROPERTY, may be high for the 2007 tax year. However, it also notes that it has had difficulty locating comparable sales for this property and thus is concerned about whether it has a valid basis to overcome the value as determined by the Board. As for the HIGHWAY PARCELS, the County requests that the value set by the Board be sustained.

The LAKE PROPERTY

The parties agree that the LAKE PROPERTY is not as desirable as other properties in the county. It is 143.05 acres of land on which farming would be difficult if not impossible. The grazing of livestock would be difficult at best. Water is not available to the property. It is cut with washes and has several hills. The soil is salty. The areas on which plant life will survive are mostly sagebrush. While there is farm ground some distance from the LAKE PROPERTY, its closest neighbors are a power substation and sewer ponds. When asked why he bought this property, the Taxpayer explained that he received it in trade as partial satisfaction for a debt.

The County presented evidence of the sales of four comparable properties that it found most similar to the LAKE PROPERTY. Three of the comparable properties were north of Little Salt Lake. The parties agree that these three properties are superior in some ways, particularly the soil, to the LAKE PROPERTY, which is south of Little Salt Lake. The parcel sizes of these comparable sales were 7.38 acres, 82.43 acres, and 220.22 acres with sales prices of \$\$\$\$\$ per acre, \$\$\$\$\$ per acre, and \$\$\$\$\$ per acre. These three sales were in January 2007 and May 2007. The County's fourth comparable sale was a 105.72-acre parcel adjoining the LAKE PROPERTY. It sold in May 2002 for \$\$\$\$\$ per acre. The Purchaser was CITY 1 and the intended use was for the previously-mentioned sewer ponds. The Taxpayer agreed that even though these four comparable properties may not be ideal, there are no others.

Considering the comparable sales presented for the LAKE PROPERTY, it appears that the value set by the Board for the LAKE PROPERTY was in error. Even the comparable sales with the higher values would not support a value of \$\$\$\$\$ per acre. Accordingly, the task in this case is to determine a value that is supported by the evidence.

The Commission recognizes that the parties have a difficult task in valuing a property with few comparable properties. For the LAKE PROPERTY, there are three comparable properties that are superior to subject in some ways. From these three comparables, it is evident that the LAKE PROPERTY should be valued less than the \$\$\$\$\$ per acre, \$\$\$\$\$ per acre, or \$\$\$\$\$ per acre prices of the superior comparables. As for how much less the value should be, the only evidence is a fourth comparable sale that is nearly five years old as of the lien date. Because this fourth comparable sale was for the stated purpose of building sewer ponds, it did not suffer from the detriment of sewer ponds on neighboring property. However, this fourth comparable sale at approximately \$\$\$\$\$ per acre is the only available evidence regarding a value less than the three superior comparable sales. On that basis, the best evidence of value for the LAKE PROPERTY would be \$\$\$\$\$ per acre, or \$\$\$\$\$ (rounded) for the 143.05-acre parcel.

The HIGHWAY PARCELS

The parties agree that for the parcels adjoining or near HIGHWAY, the comparable properties have wide variance in price. The County presented evidence of the sales of four comparable properties with sale dates from August 2005 to July 2006. The parcel sizes of these comparable sales were .6 of an acre, 2.11 acres, 4 acres, and 39 acres with sales prices of \$\$\$\$\$ per acre, \$\$\$\$\$ per acre, \$\$\$\$\$ per acre and \$\$\$\$\$ per acre. Parcel size does not appear to be a strong determinant of value for these comparable sales. The .6-acre parcel sold for \$\$\$\$\$ per acre, which is in line with the per-acre price of the 4-acre parcel at \$\$\$\$\$ per acre and the 39-acre parcel at \$\$\$\$\$ per acre. Nor is highway frontage a strong determinant. The .6-acre parcel selling for \$\$\$\$\$ per acre fronted onto HIGHWAY, while the other three comparables were interior lots or fronted on to lesser streets. The Taxpayer testified that all or some of the HIGHWAY PARCELS are low enough that future development would require the pumping of sewer for any development. However, this does not seem to explain differences in value for the comparable properties, because the 6-acre parcel selling for \$\$\$\$\$ per acre would require the pumping of sewer while there is no such evidence for the other three comparable properties. Zoning or proximity to other development may be determinants of value. The 2.11-acre parcel selling for \$\$\$\$\$ per acre had R 1-1 zoning while the HIGHWAY PARCELS and the other comparables were zoned A-1 or I & M. The 2.11-acre parcel selling for \$\$\$\$\$ per acre was south and west of town while the HIGHWAY PARCELS and the other comparables were all north and east of town.

Considering the comparable sales presented for the HIGHWAY PARCELS, there appears to be ample support for the values of the properties valued at \$\$\$\$\$ per acre. Taking out

one property with an outlying value, the other three comparable properties form a group around the value of \$\$\$\$\$ per acre. The value for the five acres of Parcel No. #####-3 valued at \$\$\$\$\$ per acre does not have support in the evidence. While future sales in the area may show that highway frontage adds substantially to value, that evidence does not appear in the comparables presented at hearing. On that basis, it appears that a reasonable value for all three of the HIGHWAY PARCELS is \$\$\$\$\$ per acre.

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission finds that the value of the LAKE PROPERTY as of January 1, 2007 is \$\$\$\$\$. As for the HIGHWAY PARCELS, the Tax Commission sustains the values for Parcel No. #####-2 at \$\$\$\$\$ (7.5 acres at \$\$\$\$\$/acre) and Parcel No. #####-4 at \$\$\$\$\$ (55.9 acres at \$\$\$\$\$/acre) and lowers the value of Parcel No. #####-3 to \$\$\$\$\$ (16 acres at \$\$\$\$\$/acre). The COUNTY Auditor is ordered to adjust its records in accordance with this decision. 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 _____, 2008.

Clinton Jensen
Administrative Law Judge

Appeal No. 07-1551

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 _____, 2008.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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