

07-1553
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2007
SIGNED: 01-27-2009
COMMISSIONERS: P. HENDRICKSON, R. JOHNSON, M. JOHNSON, D. DIXON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, vs. BOARD OF EQUALIZATION OF RURAL COUNTY, UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 07-1553 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2007 Judge: Jensen
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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
For Respondent: RESPONDENT REP. 1, RURAL COUNTY Assessor
 RESPONDENT REP. 2, Chief Deputy Assessor, RURAL COUNTY

STATEMENT OF THE CASE

The above-named Petitioner (the “Taxpayer”) brings this appeal from the decision of the Board of Equalization (the “Board”) of RURAL 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 is parcel no. #####, located in the AREA approximately 15 miles west of CITY, Utah. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The Board sustained the value. The Taxpayer requests that the value be reduced to \$\$\$\$\$. The County requests that the value set by the Board be sustained.

The subject property consists of a 20-acre vacant lot. It has one acre-foot of water available to it. The lot is in an area that was originally developed as a summer home area. In recent years, however, more residents have been using their homes in the area as primary residences. Although some property owners have improved their lots, many remain vacant as is the subject property.

The Taxpayer has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the Board, but also provide an evidentiary basis to support a new

value. In this matter the Taxpayer provided a history of his purchase of the subject property and his more recent efforts to sell it. The Taxpayer testified that he purchased the subject on November 22, 2005 for \$\$\$\$\$. He further testified that within the 18 months prior to the hearing in this matter, he has listed the property for sale with three reputable realtors in three consecutive six-month listings. The Taxpayer indicated that each of these realtors actively marketed the property but had no success in selling it. The Taxpayer indicated that his first listing was in the range of \$\$\$\$\$, but that he steadily lowered the price so that by the second listing, the listing price was below \$\$\$\$\$. The listing that had just expired was down to \$\$\$\$\$ and had little or no interest from buyers.

The County provided evidence of the sales of eight comparable properties with sale dates from November 2005 to May 2007, prepared by RESPONDENT REP. 2, a real property appraiser. The comparable sales were in the area of the subject and had lot sizes from 19.34 acres to 29.36 acres. It was the appraiser's conclusion that the value for the subject property as of the lien date at issue was at or above \$\$\$\$\$. Only one of those comparable sales was below the \$\$\$\$\$ value set by the board of equalization for the subject property. The other seven ranged from \$\$\$\$\$ to \$\$\$\$\$. The County's appraiser felt that two comparable sales at \$\$\$\$\$ and \$\$\$\$\$ were in a superior location to the subject and, for that reason, were not strong comparable sales. The appraiser explained that the sale at \$\$\$\$\$ should probably receive less weight as a comparable sale because it was a larger parcel at 29.36 acres and may not have had water available. The one at \$\$\$\$\$ may also not be as strong a comparable because its lot size of 19.34 acres may have fallen short of the amount of property required for a building lot in an area with A-20 zoning.

Taking out four lots that may not have been strong comparables leaves four comparable properties with selling prices of \$\$\$\$\$ (20.32 acres selling in February 2007), \$\$\$\$\$ (22.27 acres selling in April 2006) \$\$\$\$\$ (20.24 acres selling in February 2007) and \$\$\$\$\$ (20.23 acres selling in April 2006).

Reviewing the evidence provided by the parties, the Commission finds ample support for the \$\$\$\$\$ value set by the Board for the subject property as of January 1, 2007. The Taxpayer's evidence of the original purchase of the property in 2005 is enough before January 1, 2007 that it has little predictive value of a 2007 value. Likewise, the Taxpayer's attempts to sell the subject for amounts substantially higher than \$\$\$\$\$ in early 2007 do not support a conclusion that the property would not have sold close to January 1, 2007 for \$\$\$\$\$. Finally, the Taxpayer's efforts to sell the property for \$\$\$\$\$ or lower came much later than January 1, 2007 and, more

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important, at a time when the parties testified that the market had changed substantially from what it was 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 \$\$\$\$\$. 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

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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