

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF WASHINGTON COUNTY, STATE OF UTAH Respondent.	INITIAL HEARING DECISION Appeal No. 07-1576 Parcel Nos. #####-1 #####-2 Tax Type: Property Tax / Locally Assessed Tax Year: 2007 Judge: M. Johnson
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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 regulation pursuant to 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 notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Marc B. Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER 1
PETITIONER 2
PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE 1, Deputy Assessor
RESPONDENT REPRESENTATIVE 2, Appraiser
RESPONDENT REPRESENTATIVE 3, Lead Appraiser
RESPONDENT REPRESENTATIVE 4, Lead Appraiser

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on April 16, 2008.

At issue is the fair market value, as of the January 1, 2007 lien date, of two residential properties that are adjacent to one another. The first property is a single-family residence located at ADDRESS in CITY, Washington County, Utah and is identified as Parcel No. #####-1. The Washington

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County Board of Equalization (“County BOE”) sustained the \$\$\$\$ value at which this property was assessed for the 2007 tax year. The PETITIONER’S are asking the Commission to reduce the property’s value to \$\$\$\$\$, while the County asks the Commission to sustain the value established by the County BOE.

The second subject property is a vacant residential lot. It is adjacent to the first subject property and is identified as Parcel No. #####-2. The County BOE sustained the \$\$\$\$ value at which this property was assessed for the 2007 tax year. The PETITIONER’S are asking the Commission to reduce the property’s value to \$\$\$\$\$, while the County asks the Commission to sustain the value established by the County BOE.

APPLICABLE LAW

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 BOE 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.

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must (1) demonstrate that the value established by the County BOE contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the County BOE 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 single-family residence is a one-story ranch home on a 0.23-acre lot. The main floor contains 1,360 square feet of living space. It also contains a basement that is 1,020 square feet in size (30% finished). The home has 1½ baths and a one-car garage. The home is also affected by several items of deferred maintenance that involve its wiring, its swamp cooler and roof, and its decking. The second subject property, the vacant lot, is also 0.23 acres in size.

For the 2007 tax year, the assessed value of each subject property increased approximately \$\$\$\$\$, which the PETITIONER'S believe to be excessive because of conditions that affect the properties. First, the PETITIONER'S proffer that the subjects' neighborhood is blighted, as evidence by photographs that show nearby lots that lack landscaping and are filled with "junk." The PETITIONER'S also assert that the subject properties' values are negatively affected by a sewer easement that runs through the properties. Because the sewer lines were improperly placed, the PETITIONER'S believe the subjects' marketability may be impacted. They argue that the actual placement of the sewer lines restrict the use and development of the lots. Furthermore, the PETITIONER'S state that the subject properties' Covenants, Conditions, and Restrictions ("CC&R's") are not being enforced, which further devalues properties in the subjects' subdivision. Lastly, the PETITIONER'S proffered a photograph that shows lots offered for sale in another subdivision at prices as low as \$\$\$\$\$. However, there was no information to show the size of these lots or other features associated with them. Based on these arguments, the PETITIONER'S believe the increases in the subjects' values for the 2007 tax year are too high. The PETITIONER'S suggest that the Commission set the value of the single-family residence at \$\$\$\$\$ and the value of the vacant lot at \$\$\$\$\$.

The County proffered appraisals to support the values established by the County BOE. The appraisals were prepared by RESPONDENT REPRESENTATIVE 2, a certified residential appraiser in the assessor's office. RESPONDENT REPRESENTATIVE 2 determined that as of the lien date, the values of the

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subject properties were \$\$\$\$ for the single-family residence and \$\$\$\$ for the vacant lot. Although RESPONDENT REPRESENTATIVE 2 determined values that were higher than those established by the County BOE, the County states that it is not asking the Commission to increase the value of either subject property. In his reports, RESPONDENT REPRESENTATIVE 2 specified that after identifying the useable area, accounting for setbacks and the actual location of the sewer lines and easements, was sufficient for typical residential use. He further testified that he could find no market evidence that would indicate or suggest that the properties were adversely effected by the easements. Finally, RESPONDENT REPRESENTATIVE 2 recognized that while market conditions may have been worsening in recent months, these conditions were not present at the time of the January 1, 2007 lien date.

Although the PETITIONER'S have proffered evidence of factors that negatively impact the subject properties, they have not provided evidence to show that the values established by the County BOE are too high. Furthermore, the appraisals submitted by the County appear reasonable, address the sewer issues, and indicated higher values than those established by the County BOE. Although RESPONDENT REPRESENTATIVE 2 acknowledged that the sewer lines that run through the subject properties are located outside the easement, he did not believe that this factor would result in values different from those he derived in his appraisals. For these reasons, the Commission sustains the values established by the County BOE and denies the PETITIONER'S appeal. In particular, the Commission believes that what additional impact, if any, resulting from the easements, beyond that accounted for in the appraisal, is already taken into consideration by the fact that the appraised values are higher than the assessments established by the BOE

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the two subject properties, as established by the County BOE, should be sustained. Accordingly, the PETITIONER'S appeal is denied. It is so ordered.

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This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files 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

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

D'Arcy Dixon Pignanelli
Commissioner

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