

07-1688
Locally Assessed Property
Signed 08/14/2008

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>SALT LAKE COUNTY BOARD OF EQUALIZATION</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 07-1688</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2007</p> <p>Judge: Marshall</p>
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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:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *Pro Se*

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser for Salt Lake County

STATEMENT OF THE CASE

Taxpayer brings this appeal from the decision of the Salt Lake County Board of Equalization ("the County"). This matter was argued in an Initial Hearing on July 22, 2008. Taxpayer is appealing the value of the subject property as established by the County. 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:

- (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.

- (2) Subject to Subsections (3) and (4), beginning on January 1, 1995, the fair market value of residential property located within the state shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2.
- (3) No more than one acre of land per residential unit may qualify for the residential exemption.

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. §59-12-102(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.
- (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 values plus or

minus 5% from the assessed value of comparable properties.

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 at ADDRESS in CITY, Utah. It is .15 acre parcel improved with a 62-year old brick cottage/bungalow in good condition. It has 857 square feet above grade and an 850 square foot finished basement. The home has two bedrooms, 1.75 bathrooms, and a detached garage. The County Assessor's Office established a value of \$\$\$\$ as of the January 1, 2007 lien date. The Board of Equalization sustained that value. Based on an appraisal prepared by RESPONDENT REPRESENTATIVE, the County is requesting the value of the subject property be increased to \$\$\$\$\$. The Taxpayer believes that the fair market value of the subject property as of the lien date was \$\$\$\$.

The Taxpayer testified that when she was contacted by Salt Lake County to inspect her home, she denied their request because she was uncomfortable having them in her home. She stated that someone from the County did a drive-by inspection of her home and increased her value. She believes that the County was in error because there have not been any changes to the exterior of her home. She stated that her taxes have increased every year for the past five years.

She stated that she feels sabotaged by the County. The Taxpayer testified that there are homes in her neighborhood that have been listed for sale for quite a while that still have not sold, which would indicate that the market value cannot be increasing. She stated that in her neighborhood, most of the homes are being fixed up. She also noted that her driveway was cracked and the concrete was chipping, the Taxpayer estimated that it would cost at least \$\$\$\$ for the repairs.

For the County, RESPONDENT REPRESENTATIVE, a residential appraiser with Salt Lake County prepared and submitted a retrospective appraisal of the subject property. In his appraisal, RESPONDENT REPRESENTATIVE compared the subject property to eight comparable properties, all located within one-half mile of the subject property. At the hearing, he stated that in order to take into consideration the necessary repairs on the driveway of the subject property, he found comparable properties that were similar in age and condition that had similar problems, and would not require an adjustment. RESPONDENT REPRESENTATIVE determined the fair market value, as of the lien date, to be \$\$\$\$\$ and asked the Commission to increase the value of the subject property.

The County's first comparable property is a .15 acre parcel improved with a 59-year old brick cottage/bungalow in very good condition. It has 868 square feet above grade and an 868 square foot basement that is 85% finished. The home has three bedrooms, 1.75 bathrooms, and a detached garage. Adjustments were made for seller concessions, the date of the sale, the superior condition, square footage and central air. The home sold for \$\$\$\$\$ on October 13, 2006 and had an adjusted sales price of \$\$\$\$\$.

The County's second comparable property is a .14 acre parcel improved with a 55-year old brick cottage/bungalow in good condition. It has 858 square feet above grade and an 858 square foot basement that is 95% finished. The home has four bedrooms, 1.75 bathrooms, a detached garage, and a fireplace. Adjustments were made for seller concessions, the date of the sale, the remodeled interior, and other features. The home sold for \$\$\$\$\$ on October 10, 2006 and had an adjusted sales price of \$\$\$\$\$.

The County's third comparable property is a .15 acre parcel improved with a 60-year old brick cottage/bungalow in good condition. It has 1,114 square feet above grade and a 1,114 square foot finished basement. The home has three bedrooms, 1.75 bathrooms, and a detached garage. Adjustments were made for seller concessions, square footage, and other features. The home sold for \$\$\$\$\$ on December 14, 2006 and had an adjusted sales price of \$\$\$\$\$.

The County's fourth comparable property is a .14 acre parcel improved with a 60-year old brick cottage/bungalow in good condition. It has 816 square feet above grade and an 816 square foot basement that is 70% finished. The home has four bedrooms, 1 bathroom, a two-car garage, and a fireplace. Adjustments were made for seller concessions, the date of the sale, bathroom fixtures, the garage size, and other features. The home sold for \$\$\$\$\$ on November 29, 2006 and had an adjusted sales price of \$\$\$\$\$.

The County's fifth comparable property is a .15 acre parcel improved with a 59-year old brick cottage/bungalow in good condition. It has 849 square feet above grade and an 849 square foot finished basement. The home has three bedrooms, 1.75 bathrooms, and a detached garage. Adjustments were made for seller concessions and central air. The home sold for \$\$\$\$\$ on January 10, 2007 and had an adjusted sales price of \$\$\$\$\$.

The County's sixth comparable property is a .12 acre parcel improved with a 64-year old brick and siding cottage/bungalow in good condition. It has 833 square feet above grade and an 833 square foot finished basement. The home has three bedrooms, 1.75 bathrooms, and a detached garage. Adjustments were made for the date of the sale, and central air conditioning. The home sold for \$\$\$\$\$ on October 12, 2006 and had an adjusted sales price of \$\$\$\$\$.

The County's seventh comparable property is a .16 acre parcel improved with a 60-year old brick cottage/bungalow in good condition. It has 876 square feet above grade and an 876 square foot un-finished basement. The home has four bedrooms, 1.75 bathrooms, and a two-car garage. Adjustments were made for seller concessions, the date of the sale, and other features. The home sold for \$\$\$\$\$ on November 14, 2006 and had an adjusted sales price of \$\$\$\$\$.

The County's final comparable property is a .15 acre parcel improved with a 67-year old siding cottage/bungalow in good condition. It has 780 square feet above grade and a 780 square foot basement that is 98% finished. The home has three bedrooms, 1.75 bathrooms, a detached garage, and a fireplace. Adjustments were made for the date of the sale, square footage, and other features. The home sold for \$\$\$\$\$ on November 13, 2006 and had an adjusted sales price of \$\$\$\$\$.

In seeking a value lower than that established than the board of equalization, the Taxpayer has the burden of proof and must demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. The Taxpayer offered testimony regarding the exterior of the subject property, the increased property taxes, the needed driveway repairs, and that she believes Salt Lake County has sabotaged her appeal. The Taxpayer did not provide any comparable sales or other evidence at the hearing that would support her requested value of \$\$\$\$\$. The Commission finds that the Taxpayer has not met her burden of proof to establish that the value set by the board of equalization was incorrect.

The County presented an appraisal supported by eight comparable properties, all of similar age, square footage, building style, and located within one-half mile of the subject. This presents sound evidentiary basis that if the subject property were to have changed 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, as of January 1, 2007, the selling price would have been \$\$\$\$\$.

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission finds that the value of the subject property as of the January 1, 2007 lien date is \$\$\$\$\$. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order. 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.

Jan Marshall
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