

BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER 1 &amp; PETITIONER 2,  Petitioners,  v.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,  Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 08-0180</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2007</p> <p>Judge: Chapman</p>
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**Presiding:**  
Kerry R. Chapman, Administrative Law Judge

**Appearances:**  
For Petitioner: PETITIONER 1  
For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake County Assessor's Office

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 August 6, 2008.

At issue is the fair market value of the subject property as of January 1, 2007. The subject is a single-family residence located at ADDRESS 1 in CITY, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was assessed for the 2007 tax year. The property owner asks the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to reduce the subject's value to \$\$\$\$.

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 property consists of a 0.24-acre lot and a one-story home that was built around 1940. The home contains 1,538 square feet of above-grade living space and an unfinished basement that is 560 square feet in size. The home has a two-car garage.

Property Owners' Information. The current value of \$\$\$\$\$ consists of a land value of \$\$\$\$\$ and an improvements value of \$\$\$\$\$. Although the property owners believe that the land value is reasonable, they contend that the improvements value is too high. The property owners suggest that the 1,538 square foot home could be rebuilt for a price of \$\$\$\$\$ (\$\$\$\$\$ per square foot). As a result, they contend that when the \$\$\$\$\$ land value is added to an improvements value of \$\$\$\$\$, the total value should be \$\$\$\$\$. They request that the subject's value be reduced to this amount.

The Commission does not find the property owners' cost approach argument to be convincing. First, the County has assessed the subject property and all other similar properties on a market approach, not the cost approach. The primary issue is whether the subject's total value represents its fair market value.

Second, the County has proffered evidence that suggests the subject's land value is actually closer to \$\$\$\$\$ than its current assessed value of \$\$\$\$\$. Using a cost approach, the revised land value of \$\$\$\$\$, when added to the property owners' proposed improvements value of \$\$\$\$\$, would result in a value significantly higher than the current assessed value.

Second, the property owners proffer one comparable sale that sold for \$\$\$\$\$ in August 2007. This home only has 1,166 square feet of above-grade living space, as compared to the subject's 1,538 square feet of above-grade space. Furthermore, the comparable sale is a two-story home, while the subject is a one-story home. Because of these differences and because the one-story homes used by the County in its appraisal sold for prices higher than \$\$\$\$\$, the Commission is not convinced that this comparable's sales price reflects the subject's fair market value.

Third, the property owners submitted an assessment of another nearby home that they own. The assessment shows that for the 2007 tax year, a home at ADDRESS 2 (approximately five blocks from the subject) was assessed by the County at \$\$\$\$\$. The property owners assert that the home on this property is similar to the subject property in age and is slightly larger in size than the subject. However, the Commission is not convinced that this property necessarily shows an inequity of assessments. The County proffers that STREET, the street on which the subject is located, is more desirable and, thus, more valuable than many nearby areas. In addition, in *Mt. Ranch Estates v. Utah State Tax Comm'n*, 2004 UT 86 (Utah 2004), the Utah Supreme Court ruled that evidence of one comparable being assessed at a lower value is insufficient to show an inequity of assessments.

Fourth, the property owners state that the Commission found the subject property to have a fair market value of \$\$\$\$\$ for the 2006 tax year in Appeal No. 06-1529. They assert that the value they ask for is more reasonable than the \$\$\$\$\$ increase represented by the 2007 assessed value. However, the County

appraiser asserted that prices for residential properties in the subject's neighborhood increased approximately 20% between January 1, 2006 and January 1, 2007. Applying a 20% increase to the 2006 value of \$\$\$\$\$ results in a 2007 value of \$\$\$\$\$, which is near the \$\$\$\$\$ value the County is requesting (based on its appraisal of the property).

County Information. The County proffers an appraisal in which it estimates the subject's value to be \$\$\$\$\$ as of the lien date. The County asks the Commission to reduce the subject's value to this amount.

The County's appraisal compares the subject to five comparable sales that sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. Comparable #1, which sold for \$\$\$\$\$ and is located next door to the subject, has twice the square footage of the subject. Furthermore, the picture of Comparable #1 is not useful as it was taken after the home was "gutted" after its purchase. Accordingly, this comparable is not useful except for establishing that the subject's value is below \$\$\$\$\$.

The remaining four comparables sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The Commission acknowledges that all four remaining comparables sold prior to the lien date during a period of escalating values. Nevertheless, none of the four comparables sold for a price as high as the appraisal's \$\$\$\$\$ estimate of value.

Furthermore, the remaining four comparables appear to show two markets, based on their respective "adjusted sales prices." The first market is shown by Comparables #2 and #3, which are similar in age to the subject and which the appraiser determined to have a similar "cottage/bungalow" style. Although these two comparables sold for prices of \$\$\$\$\$ and \$\$\$\$\$, they adjusted to prices of \$\$\$\$\$ and \$\$\$\$\$, respectively.<sup>1</sup> The second market is shown by Comparables #4 and #5, which are newer than the subject and

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1 At the hearing, RESPONDENT REPRESENTATIVE stated that he had inadvertently omitted the time

which the appraiser determined to be ramblers instead of cottage/bungalows. These two comparables sold for prices of \$\$\$\$\$ and \$\$\$\$\$ and adjusted to prices of \$\$\$\$\$ and \$\$\$\$\$, respectively.

These four comparables result in one range of values above \$\$\$\$\$ and another range of values below \$\$\$\$\$. Comparable #3 sold for a price that is the highest of the relevant comparables and has an adjusted sales price of \$\$\$\$\$, which is considerably higher than the estimated value and the relevant range of values indicated in the appraisal. Furthermore, the Commission notes that a picture of Comparable #3 is not available to compare to the subject, making it more difficult to make a comparison. Because of these issues, the Commission gives less weight to Comparable #3.

Of the remaining comparables, Comparable #2 appears to be the most relevant. It sold for \$\$\$\$\$ and has an adjusted sales price of \$\$\$\$\$. However, in reviewing the photograph, and even taking into consideration the fact that the property was remodeled after the purchase, it appears that this comparable is superior to the subject property. The Commission believes that the value of the subject property is less than \$\$\$\$\$. Furthermore, although less comparable than Comparable #2, the Commission believes that some consideration should be given to the Comparables #4 and #5. The highest price at which the remaining three comparables sold is \$\$\$\$\$. This is the sales price of Comparable #2, the home that is closest in location and age to the subject. In addition, the average adjusted sales price of the three most relevant comparables is \$\$\$\$\$. The Commission finds that this information shows that the subject's market value is not above \$\$\$\$\$. Because Comparables #4 and #5 are less similar to the subject than Comparable #2, the Commission believes that the fair market value is above \$\$\$\$\$, the adjusted sales price of Comparable # 5. For these reasons, the

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adjustment from Comparable #3. After making the time adjustment, Comparable #3's adjusted sales price is \$\$\$\$\$.

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Commission finds that \$\$\$\$ is the most reasonable estimate of the subject's value from the information proffered at the Initial Hearing.

Conclusion. Based on the property owners' evidence, the Commission finds that they have met the first prong required to lower value by calling the County's assessed value of \$\$\$\$ into question. Nevertheless, the Commission does not believe that the property owners' evidence meets the second prong; i.e. proving that their proposed value of \$\$\$\$ is a better value than the current value. Regardless, based on the totality of the evidence, the Commission believes that \$\$\$\$ is a more reasonable value for the subject property than the current assessed value of \$\$\$\$ or the values proposed by either party.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value established by the County BOE for the 2007 tax year should be reduced to \$\$\$\$\$. The Salt Lake County Auditor is ordered to adjust its records to reflect this decision. It is so ordered.

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 taxpayer'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.

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BY ORDER OF THE UTAH STATE TAX COMMISSION.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

*KRC/08-0180.int*