

BEFORE THE UTAH STATE TAX COMMISSION

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| PETITIONER 1 & PETITIONER 2,<br><br>Petitioners,<br><br>v.<br><br>BOARD OF EQUALIZATION OF<br>SUMMIT COUNTY, STATE OF UTAH,<br><br>Respondent. | <b>INITIAL HEARING ORDER</b><br><br>Appeal No.    08-0341<br><br>Parcel Nos.    #####-1<br>#####-2<br>Tax Type:      Property Tax / Locally Assessed<br>Tax Year:      2007<br><br>Judge:        Chapman |
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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:**

Kerry R. Chapman, Administrative Law Judge

**Appearances:**

For Petitioner:    PETITIONER 1

For Respondent:    RESPONDENT REPRESENTATIVE, Appraiser, Summit 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 two adjacent properties as of January 1, 2007. The first subject property is a vacant parcel located at ADDRESS 1 in CITY, Utah. It is identified as Parcel No. #####-1 ("Parcel 1"). The Summit County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which Parcel 1 was assessed for the 2007 tax year. The property owners ask the Commission to reduce Parcel

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1's assessed value to \$\$\$\$\$. The County asks the Commission to sustain the \$\$\$\$\$ value established by the County BOE.

The second subject property is a single-family residential property located at ADDRESS 2 in CITY, UT. It is identified as Parcel No. #####-2 ("Parcel 2"). The County BOE sustained the \$\$\$\$\$ value at which Parcel 2 was assessed for the 2007 tax year. The property owners ask the Commission to reduce Parcel 2's value to \$\$\$\$\$. The County asks the Commission to sustain the \$\$\$\$\$ value established by the County BOE.

APPLICABLE LAW

UCA §59-2-1006 provides that a person may appeal a decision of a county board of equalization to the Tax Commission, pertinent parts as follows:

(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. . . .

. . . .

(3) In reviewing the county board's decision, the Commission may:  
(a) admit additional evidence;  
(b) issue orders that it considers to be just and proper; and  
(c) make any correction or change in the assessment or order of the county board of equalization.

(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 value plus or minus 5% from the assessed value of comparable properties.

. . . .

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

I. Parcel 1. Parcel 1 is a 0.53-acre vacant residential lot that is in the SUBDIVISION 1. The property owner asserts that Parcel 1's value should be reduced either because its fair market value is less than the \$\$\$\$\$ assessed value or because the assessed value is inequitable when compared to the assessments of other vacant lots in the area.

Fair Market Value. The property owners proffer that the current assessed value of \$\$\$\$\$ is too high when compared to the prices at which lots that are double the size of Parcel 1 sold. The property owners proffer three sales of nearby lots that sold in 2006 as follows: 1) a 1.14-acre lot that sold for \$\$\$\$\$; 2) a 1.33-acre lot that sold for \$\$\$\$\$; and 3) a 1.53-acre lot that sold for \$\$\$\$\$. Because these lots are much larger than the 0.53-acre Parcel 1, the property owners proffer that the subject's fair market value is less than the \$\$\$\$\$ value established by the County BOE.

The County submits an appraisal in which it estimates Parcel 1's value as of the lien date to be \$\$\$\$\$. The County does not ask the Commission to raise the subject's value. In its appraisal, the County compares the subject property with three comparable lots that are located within one mile of the subject property. The three lots sold in 2006 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The three lots are 0.59 acres, 0.81 acres and 0.22 acres in size, respectively. The County adjusted the comparables and arrived at adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$.

All but one of the lots in the subject's neighborhood sold for values of at least \$\$\$\$\$, which includes lots similar in size to Parcel 1. Even the property owners stated that the 0.22-acre lot that sold for \$\$\$\$\$ is in an area where prices are similar to those for lots in the subject's area. The Commission also notes that larger lots often sell for prices per square foot that are less than prices at which smaller lots sell. This is because a building lot is generally worth more than the remaining land comprising a lot. For these reasons, the Commission finds that the property owners have not shown that Parcel 1's market value is less than the \$\$\$\$\$ value established by the County BOE.

Equalization. The property owners also assert that the Parcel 1's value is not equalized to the value of other similar, vacant lots in the subject's neighborhood. The property owners submit the 2007 assessed values of six nearby vacant lots, as follows:

| <b>Comparable No.</b> | <b>Parcel Number</b> | <b>Subdivision</b> | <b>Assessed Value</b> | <b>Acreage</b> |
|-----------------------|----------------------|--------------------|-----------------------|----------------|
| #1                    | #####-3              | SUBDIVISION 2      | \$\$\$\$\$            | 0.90 acres     |
| #2                    | #####-4              | SUBDIVISION 1      | \$\$\$\$\$            | 0.96 acres     |
| #3                    | #####-5              | SUBDIVISION 1      | \$\$\$\$\$            | 0.70 acres     |
| #4                    | #####-6              | SUBDIVISION 1      | \$\$\$\$\$            | 0.59 acres     |
| #5                    | #####-7              | SUBDIVISION 1      | \$\$\$\$\$            | 0.52 acres     |
| #6                    | #####-8              | SUBDIVISION 1      | \$\$\$\$\$            | 0.83 acres     |

Based on these assessments, the property owners ask the Commission to reduce the subject's value to \$\$\$\$\$ for purposes of equity.

The County explains that discounts were applied in assessing almost all of these lots because of easements or other factors that decreased their market values. For example, Comparable #1 is not located on the street. It is a backage lot. Comparables #2 and #3 are subject to easements and must be combined to accommodate one building lot. The County also explains that Comparable #5's value may be negatively impacted because the house on the lot adjacent it was partially built on Comparable #5. Finally, Comparable #6 is subject to an easement for a driveway to another lot. There is no indication that Parcel 1 is impacted by

such problems. For these reasons, the Commission is not convinced that Parcel 1's current value of \$\$\$\$ is inequitable when compared to the assessments of these comparables.

The County admits, however, that Comparable #4 is similar to the subject, but was erroneously assessed at \$\$\$\$ as "overage" acreage. The County states that for the 2008 tax year, it "corrected" this comparable's value to \$\$\$\$\$, the same value at which the subject was assessed for 2007. Although this one comparable was inequitably assessed in 2007, the Utah Supreme Court ruled in *Mt. Ranch Estates v. Utah State Tax Comm'n*, 2004 UT 86 (Utah 2004) that evidence of one similar comparable being assessed at a lower value is insufficient to show an inequity of assessments.

Furthermore, the County has proffered three other assessments for vacant lots in the subject's neighborhood that have similar utility to the subject. These lots were assessed for the 2007 tax year at values of: 1) \$\$\$\$ for Parcel #####-9; 2) \$\$\$\$ for Parcel #####-10; and 3) \$\$\$\$ for Parcel #####-11. Based on this information, the Commission is not convinced that Parcel 1's assessment is inequitable when compared to the assessment of other lots in its area. Accordingly, the Commission sustains the \$\$\$\$ value that the County BOE established for Parcel 1.

II. Parcel 2. Parcel 2 consists of 0.68 acres of land and a home that was built in 1992. The home has 2,798 square feet of living space on the two above-grade floors. It also has a 535 square foot basement that is unfinished.

First, the property owners assert that the home on Parcel 2 only has 2,600 square feet of living space on the two above-grade floors. However, the property owners proffered no floor plans or other evidence to support their assertion. In addition, the County proffered that it obtained the 2,798 of square feet from plans submitted to the County at the time the home was built. The County also provided a sketch of the upper two floors in its appraisal of the property. The sketch supports the County's square footage determination. Based

on the evidence proffered at the Initial Hearing, the Commission finds that the property owners have not met their burden to show that the square footage on which the County based its assessment is incorrect.

Second, the subject property's assessed value of \$\$\$\$\$ is comprised of a land value of \$\$\$\$\$ and an improvements value of \$\$\$\$\$. For the same reasons stated above for Parcel 1, the property owners assert that Parcel 2's land value should be reduced to \$\$\$\$\$ for equalization purposes. Adding a \$\$\$\$\$ land value to Parcel 2's improvements value of \$\$\$\$\$ result in a total value of \$\$\$\$\$. The property owners ask the Commission to reduce Parcel 2's value to this amount. In the discussion for Parcel 1 above, the Commission has found that the property owner's evidence is insufficient to show an inequity of assessments for the land. Furthermore, Parcel 2's land value is similar to other assessed values in its area, as shown by the assessed values proffered by the County for Parcel 1. For these reasons, the Commission finds that the property owners' information is insufficient to show that the Parcel 2's current assessed value of \$\$\$\$\$ is incorrect.

Furthermore, the County submits an appraisal in which it estimates the subject's value as of the lien date to be \$\$\$\$\$. The County does not ask the Commission to raise the subject's value. In its appraisal, it compares the subject property with four comparables that sold in 2006. The comparables, all of which have less above-grade square footage than the subject, sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. The comparables were built between 1985 and 1993 and, thus, are similar in age to the subject. After adjusting the comparables, the County arrived at adjusted sales prices ranging from \$\$\$\$\$ to \$\$\$\$\$. The County's evidence supports Parcel 2's current assessed value.

For these reasons, the Commission sustains the \$\$\$\$\$ value established by the County BOE for Parcel 2 and denies the property owners' request for a reduction in value.

DECISION AND ORDER

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Based upon the foregoing, the Commission sustains the \$\$\$\$ value that the County BOE established for Parcel No. #####-1 (Parcel 1). The Tax Commission also sustains the \$\$\$\$ value that the County BOE established for Parcel No. #####-2 (Parcel 2). 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.

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

\_\_\_\_\_  
Kerry R. Chapman  
Administrative Law Judge

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

Marc B. Johnson

D'Arcy Dixon Pignanelli

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Commissioner

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Commissioner