

08-0343
Locally Assessed Property
Signed 08/05/2008

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF SUMMIT COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 08-0343 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2007 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 2

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 July 22, 2008.

At issue is the fair market value of the subject property as of January 1, 2007. The subject is a condominium located at ADDRESS in (X) of the COMPLEX in CITY, Utah. The Summit County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject property was assessed for the

Appeal No. 08-0343

2007 tax year. The property owners ask the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to sustain the \$\$\$\$\$ value established by the County BOE.

APPLICABLE LAW

Utah Code Ann. §59-2-102(12) defines "fair market value" for assessment purposes, as follows:

(12) "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.

UCA §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 is a 1,232 square-foot, one-story condominium. The subject unit is on the ground floor and has two bedrooms, two baths, and a two-car garage. The condominium complex has two phases. The phase in which the subject property is located is two years older and further down the hill than the newer phase that has better views. Furthermore, the subject property is inferior to some units in its own phase because it is located on the ground floor with views on the (X) instead of views of the mountains. The property owners do not rent out the property or have it in a rental pool.

Property Owners' Information. The property owners believe that the \$\$\$\$\$ assessed value is an average of the values for all units in the complex. Because the subject property is inferior to most other units as to age, views, and floor location, PETITIONER 2 asks the Commission to reduce the subject's value to \$\$\$\$\$.

PETITIONER 2 proffers a list of 24 comparables that sold in the subject complex during 2006. The sales prices ranged from \$\$\$\$\$ to \$\$\$\$\$. She highlighted four sales that she believes to be most similar to the subject as to their age, floor location, and views. These four comparables and their sales prices are as follows:

Unit Number	Square footage	Sales Price	Date of Sale
#####-1	1,232	\$\$\$\$\$	02/28/06
#####-2	1,280	\$\$\$\$\$	02/27/06
#####-3	1,232	\$\$\$\$\$	11/15/06
#####-4	1,232	\$\$\$\$\$	09/18/06

PETITIONER 2 also proffers that sales prices have decreased since 2006. She proffers that a unit with a slightly superior location sold for \$\$\$\$\$ in May 2007 and that current listings for all units are now below \$\$\$\$\$. For these reasons, PETITIONER 2 asks the Commission to reduce the subject's value to \$\$\$\$\$, which is the price she believes the property is now worth.

The Commission is not convinced that the property owners have shown the \$\$\$\$ value is incorrect. First, the value of the subject today is not the issue. The Commission must consider the evidence in order to establish a value as of January 1, 2007. PETITIONER 2's comparables show that similar units sold for prices below \$\$\$\$ in early 2006 and that a unit with a slightly better location sold for \$\$\$\$ in May 2007. However, the two comparables that sold closest to the lien date each sold for \$\$\$\$\$, which supports the assessed value. For these reasons, the Commission finds that the property owners have not shown the \$\$\$\$ value, as of the lien date, is incorrect.

County's Information. The County proffers an unsigned appraisal in which it estimates the subject's value to be \$\$\$\$ as of the lien date. However, the County does not ask the Commission to raise the subject's value. In its appraisal, the County compares the subject property to five comparables in the same complex. Two of the comparables, which sold for \$\$\$\$ and \$\$\$\$ in February 2006, are ones that the property owners proffered. The County's five comparables sold for prices that ranged from \$\$\$\$ to \$\$\$\$\$, respectively. The County made minimal adjustments to the comparables. As a result, the County's adjusted sales prices ranged from \$\$\$\$ to \$\$\$\$\$. County Comparable #3, which sold for \$\$\$\$\$, was completely remodeled prior to selling. As a result, this comparable is less persuasive than the others.

The Commission does not find the appraisal's estimated value of \$\$\$\$ to be convincing. The \$\$\$\$ value is the adjusted sales price of County Comparable #1, the only comparable that is not the same size as the subject property. It is difficult to tell from the appraisal what the value of the subject should be and whether \$\$\$\$ is a reasonable value. However, the County is not required to support its value. It is the property owner who has the burden of proof. The property owner's evidence shows that the similar units that

Appeal No. 08-0343

sold closest to the lien date sold for \$\$\$\$\$. As a result, the Commission finds that \$\$\$\$\$ is a reasonable value for the subject property as of the lien date.¹

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be sustained at the \$\$\$\$\$ value established by the County BOE. 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

¹ Furthermore, a value of \$\$\$\$\$ appears to be a reasonable estimate of the real property only and does not appear to include value for exempt furnishings. The County stated that information provided for all sales used in its appraisal showed that the comparable units sold without furnishings.

Appeal No. 08-0343

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
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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