

08-0348
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. 08-0348 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 1
 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 July 22, 2008.

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

Appeal No. 08-0348

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 consists of 5.04 acres of land and an A-frame cabin with 960 square feet of above-grade living area. The majority of the lot is hillside acreage. The cabin was built around 1985 by the property owners. The cabin sits on railroad ties with the wooden floor of the cabin nailed to the ties. Because the subject property does not have a well, the property owners carry in water in jugs. Waste water is either directed into the ground or into a holding tank that is hooked up to the toilet. The cabin is heated by a wood stove.

Property Owners' Information. Although the subject property is located very close to the SUBDIVISION, it is not part of the platted subdivision. The property owners contend that their property is less valuable than properties that are in the SUBDIVISION. First, they assert that the subject property cannot be accessed through the SUBDIVISION roads. They explain that they can only access the subject property through a private road. For these reasons, they do not have access to water and to garbage pickup that is available to platted properties in the SUBDIVISION. Second, the property owners assert that it would cost between \$\$\$\$\$ to \$\$\$\$\$ to dig a well and that there is no guarantee that a well, once dug, would be operable.

The property owners state that they do not really know the value of the subject property. However, they explain that they paid \$\$\$\$\$ for the land approximately 40 years ago and built the cabin themselves in the 1980's. Nevertheless, they state that they do not believe that the subject property is worth much more than \$\$\$\$\$. For these reasons, they ask the Commission to reduce the subject's value to \$\$\$\$\$.

The property owners have the burden to show that the County's assessed value is incorrect and to establish a value for the property that is more convincing. The property owners have done neither. The property owner's estimate of value is not convincing.

County's Information. The County proffers an appraisal in which it estimates the subject's value to be \$\$\$\$\$ as of the lien date. In its appraisal, the County compares the subject property to three

comparables. Two of the comparables are located in the SUBDIVISION approximately one-half mile from the subject. These properties are on the main road of the subdivision and have access to garbage pickup and to water. The two comparables sold in 2006 for prices of \$\$\$\$\$ and \$\$\$\$\$, respectively.

The \$\$\$\$\$ comparable is a mobile home, while the \$\$\$\$\$ comparable is a cabin. The cabin that sold for \$\$\$\$\$ is slightly smaller than the subject parcel and has less land. The property with the mobile home is, like the subject property, not hooked up to water. The County adjusted these comparables to arrive at adjusted prices of \$\$\$\$\$ and \$\$\$\$\$, respectively.

The third comparable is an A-frame cabin located approximately twenty miles from the subject property. It is also slightly smaller than the subject. This comparable sold for \$\$\$\$\$ in 2006. The County determined that this comparable's location was superior to the subject, for which it made a \$\$\$\$\$ adjustment. After all adjustments, this comparable adjusted to a sales price of \$\$\$\$\$. Based on the three adjusted sales prices, the County determined a value of \$\$\$\$\$ for the subject property.

The property owners contend that the properties in the SUBDIVISION are more valuable than the subject property. It appears that there are certain features of the SUBDIVISION that may be superior to the subject property. However, there is no evidence to show that the subject property would sell for a price that is less than its assessed value of \$\$\$\$\$. The lowest sale of another cabin in the vicinity is at \$\$\$\$\$. Furthermore, a much smaller, 38-year old mobile home, sold for \$\$\$\$\$. Based on the information proffered at the Initial Hearing, the Commission finds that the property owners have not shown that the \$\$\$\$\$ value established by the County BOE is incorrect.

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.

Appeal No. 08-0348

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
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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