

08-0792
LOCALLY ASSESSED PROPERTY
05-18-09

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 08-0792</p> <p>Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2007</p> <p>Judge: Jensen</p>
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Presiding:

Pam Hendrickson, Commission Chair
Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
PETITIONER SPOUSE
For Respondent: No one appeared

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on February 9, 2009. On the basis of the evidence and testimony presented at the hearing, the Tax Commission makes its:

FINDINGS OF FACT

1. The Petitioner (the "Taxpayer") is appealing the assessed value of the subject property as set by the Salt Lake County Board of Equalization (the "County") for the lien date January 1, 2007.
2. The subject property, parcel no.#####, is located at ADDRESS in Salt Lake County. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The County Board of Equalization sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$.
3. The subject property consists of a third-floor condominium with 1200 square feet and includes access to common areas in the condominium project in which it is located.
4. The Taxpayer purchased the subject condominium in September 2005 for \$\$\$\$\$, less seller concessions of \$\$\$\$\$ for a net price of \$\$\$\$\$.

5. The Taxpayer provided testimony indicating that the Taxpayer and his wife had carefully studied property values in the subject property's complex since 2005 and that these studies concluded that the subject had appreciated \$\$\$\$\$ in value between its purchase in September 2005 and the lien date of January 1, 2007. On that basis, the Taxpayer testified that the subject would be worth \$\$\$\$\$ as of January 1, 2007.

6. The Taxpayer provided testimony that he and his wife had carefully reviewed comparable sales presented by the County in setting a value for the subject and had determined that all of the properties on which the County had earlier relied were superior to the subject in areas such as view, noise, and privacy and were therefore not reliable as comparable properties in valuing the subject property. Because the Taxpayer did not rely on any comparable properties other than the subject itself, he did not provide any other detail regarding the sales on which the County had relied. However, the Taxpayer did present photographs to support the Taxpayer's testimony that the subject had a view of dumpsters rather than the landscaped areas that the County's comparable properties overlooked. The Taxpayer also provided testimony that the subject overlooked a fence between the condominium project and athletic fields for Cottonwood High School and that the Taxpayer had witnessed incidents of public urination, drinking, foul language, and similar boisterous behavior.

7. The county did not appear or otherwise contest the Taxpayer's assertions or provide evidence to support the value as set by the board of equalization.

APPLICABLE LAW

1. All tangible taxable property 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) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (Utah Code Ann. Sec. 59-2-103.)

2. "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. 59-2-102(12).)

3. (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 value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

CONCLUSIONS OF LAW

1. To prevail in a real property tax dispute, the Taxpayer must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. (*X*) *v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

2. In this matter the Taxpayer provided evidence that the fair market value of the subject property was \$\$\$\$ as of January 1, 2007.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property was \$\$\$\$ as of January 1, 2007. The Salt Lake County Auditor is hereby ordered to adjust its records in accordance with this decision. It is so ordered.

DATED this _____ day of _____, 2009.

Clinton Jensen
Administrative Law Judge

Appeal No. 08-0792

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 _____, 2009.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. Sections 59-1-601 and 63-46b-13 et. seq.

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