

08-0919  
LOCALLY ASSESSED PROPERTY  
SIGNED 12-22-08

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 08-0919</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2007</p> <p>Judge: Phan</p>
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER  
PETITIONER REP  
For Respondent: RESPONDENT REP, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was before the Commission in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on October 9, 2008. Petitioner (the "Property Owner") is appealing the assessed value as established for the subject property by the Salt Lake County Board of Equalization, as of the lien date January 1, 2007. The County Assessor had set the value at \$\$\$\$\$ and the County Board of Equalization (the "County") lowered the value to \$\$\$\$\$. The Property Owner requests that the value be lowered to \$\$\$\$\$ based on the price for which he recently purchased the property. At the hearing, the County's representative requested that the value be lowered to \$\$\$\$\$ based on an appraisal.

APPLICABLE LAW

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 provide by law. (Utah Code Ann. Sec. 59-2-103 (1).)

“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. (Utah Code Ann. 59-2-102(12).)

(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).)

To prevail in a real property tax dispute, the Petitioner 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. *Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

DISCUSSION

The subject property is parcel no. ##### and is located at ADDRESS, CITY, Utah. It consists of .36 of an acre of land improved with a multi-level style residence. The exterior of the residence is stucco with brick trim on the front and vinyl siding on the rear and sides. It is 9 years

old and according to the county was in good condition on the lien date. There is 1,733 square feet above grade and 486 square feet in the basement, which is unfinished. There is also an attached two-car garage. The property backs onto an empty field that is zoned for future development as commercial. The side yard of the subject property was not landscaped on the lien date. The backyard was fenced in chain link fencing. Further Petitioner indicated that there were problems with the condition of the property, the roof needed to be repaired, the back sliding door to the backyard needed to be replaced and the carpets were worn and in bad condition.

The Property Owner stated that the location of the subject property was on a fairly busy street. The street, STREET, was the only entrance into the subdivision. The Property Owner provided data from the Traffic Engineer of CITY that showed more than 160 vehicles per hour during the weekday morning and afternoon peak hours. Further, although the posted speed limit was 25 miles per hour, most drivers exceeded the speed limit. It was his position that this was unusually high for the typical subdivision street in the area. The city, in fact had placed speed bumps on the street to reduce the speeding.

The Property Owner requested that the value be lowered to \$\$\$\$\$. This was the price at which he had purchased the property on November 16, 2006, just prior to the lien date at issue. The Property Owner's mother also attended the hearing and she was a real estate agent. She indicated that her son had purchased the property for that price, which was a bit lower than other sales in the area because of the condition of the property which was not good, the unfinished side yard, the traffic on the street and the commercial zoning behind the residence. She pointed out that the property had been listed for \$\$\$\$\$, but the seller had come down in price and accepted the \$\$\$\$\$ because of the negative factors with the property. It was her and the Property Owner's position that the value of the property on the lien date at issue was what they had paid for the property just prior to the lien date and that many of the problems had not been fixed as of the lien

date. They did provide an inspection report done prior to their closing of the property that noted some problems including that the roof needed to be repaired.

The County's appraisal submitted in this matter had been prepared by RESPONDENT REP, Appeals Supervisor, Salt Lake County. His appraisal conclusion at \$\$\$\$\$ was a lower value than that set by the County Board of Equalization. It was RESPONDENT REP's position that "one sale did not a market make," that you could not rely solely on the purchase price of the subject property to establish a market value.

RESPONDENT REP considered nine comparable sales of fairly similar properties all within less than one mile and most less than one-half mile from the subject property. They were similar in age and size. These properties had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. All sales had occurred during the latter part of the year and it was his opinion that a time of sale adjustment was not needed. Further, he did not make a traffic adjustment as he indicated when the real estate market was booming, like it was during this period, heavy traffic did not impact the value. It was his opinion that once the market started to slow and houses began to sit unsold for a while, heavy traffic would affect the value.

RESPONDENT REP considered the subject property to be in good condition and comparable to all the sales. He did make some age adjustments and appraisal adjustments for size. Additionally he did make an adjustment of 2,500 for the unfinished area. One note, although the backyard of the subject property was fenced in chain link, he did find this to be superior to a partial, but nicer vinyl privacy fence. After making these adjustments it was RESPONDENT REP's conclusion that the indicated value range for the subject from the comparables was from \$\$\$\$\$to \$\$\$\$\$. Five of these comparables indicate a value for the subject below \$\$\$\$\$, from \$\$\$\$\$ to \$\$\$\$\$.

Upon review of the evidence, the Commission notes that the Property Owner's purchase price of this property just prior to the lien date does fall within the value range indicated in

RESPONDENT REP's appraisal. Further, RESPONDENT REP did not give much allowance for the condition of the property; he made no traffic adjustment and no adjustment for the commercial property located behind the residence. He did not consider the purchase of the subject as a comparable or give it weight in his value conclusion.

Although the Commission would not go so far as to say that properties should always be valued based on a purchase price near the lien date, the Commission does give a purchase price near the lien date considerable weight. Certainly the County could provide evidence to rebut the purchase price, that it was a distress sale, to a related party, or that the sale was below market, but the County has not sufficiently shown any of these factors in this case. In this case the evidence puts the purchase price in the range of sales in the neighborhood and the Property Owner has provided evidence that condition, lack of landscaping, zoning and traffic account for the fact that the value is on the lower end of the range.

DECISION AND ORDER

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

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file 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 Petitioner'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.

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Jane Phan  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The agency 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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