

08-0932
LOCALLY ASSESSED PROPERTY
SIGNED 12-11-08

BEFORE THE UTAH STATE TAX COMMISSION

PETTITIONER,

Petitioner,

v.

BOARD OF EQUALIZATION OF
SALT LAKE COUNTY, STATE OF UTAH,

Respondent.

INITIAL HEARING ORDER

Appeal No. 08-0932

Parcel No. #####

Tax Type: Property Tax / Locally Assessed

Tax Year: 2007

Judge: Chapman

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REP, from the Salt Lake 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 December 9, 2008.

At issue is the fair market value of the subject property as of January 1, 2007. The subject is a condominium located near the (X) at ADDRESS in Salt Lake County, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was assessed for the 2007 tax year. The property owner asks the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to sustain the subject's value at \$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §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 condominium located in the COMPLEX near (X). The buildings in the complex are three or four stories high, and the subject is located in the interior of the second floor. The subject contains 1,309 square feet of living space. Multiple Listing Service (“MLS”) information shows that most units in the complex range between 1,000 and 1,155 square feet in size.

The subject is one of the few units that have an extra room that could be used as a den, a TV room, or for sleeping. However, the building’s elevators are located in between the “den” and the remainder of the unit. The den is connected to the remainder of the unit by a 15-foot long hall that “skirts” around the elevators. The property owner purchased the subject property completely furnished in February 2004 for \$\$\$\$\$.

Property Owner’s Information. The property owner submits three comparables of condominiums that sold in his complex between September 2006 and February 2007. The three comparables sold for prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. These units range between 1,000 and 1,060 square

feet in size. The property owner asks the Commission to reduce the subject's value to the average of these three sales prices, which is \$\$\$\$\$. The taxpayer acknowledges that the subject property is larger in size than the comparables. However, he contends that any upward adjustment to the comparables' values to account for the subject's larger size would be offset by the downward adjustment to account for the fact that all three comparables sold fully furnished.

The property owner is one of the few owners in the complex who lives in his unit year-round. He is also on the condominium board. He contends that all the comparable sales were furnished at the time of sale, which the County did not refute. He estimates the value of the furnishings to be \$\$\$\$\$ for sales near the lien date, which the County also did not refute.

The property owner also explained that the units on the top floors of the project have vaulted, 15-foot ceilings. He proffered that the units with vaulted ceilings generally sell for \$\$\$\$\$ to \$\$\$\$\$ more than units, like the subject, on lower floors that have eight-foot, non-vaulted ceilings. The County indicated that it did not know that some units were vaulted while others were not. The County also did not know what the difference in price would be between a vaulted unit and a non-vaulted one.

County Information. The County proffers an appraisal in which it estimates the subject's value to be \$\$\$\$\$. Because this value is so close to current assessed value of \$\$\$\$\$, the County asks the Commission to sustain the current value.

The County's appraisal compares the subject to four condominiums in the subject's complex that sold between November 2006 and March 2007 for prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$, respectively.

The County also proffered that the vaulted unit directly above the subject sold for \$\$\$\$\$ in August 2006 and again in March 2007 for \$\$\$\$\$.

Analysis. The parties offered nine sales of vaulted and non-vaulted units, which are segregated in the following chart:

Sales of Non-Vaulted Units			Sales of Vaulted Units		
Sales Date	Price	Size (sq. ft.)	Sales Date	Price	Size (sq. ft.)
1. 09/06	\$\$\$\$\$	1,060	5. 08/06	\$\$\$\$\$	1,309
2. 11/06	\$\$\$\$\$	1,155	6. 10/06	\$\$\$\$\$	1,040
3. 12/06	\$\$\$\$\$	1,086	7. 03/07	\$\$\$\$\$	1,309
4. 03/07	\$\$\$\$\$	1,000	8. 03/07	\$\$\$\$\$	1,112
			9. 03/07	\$\$\$\$\$	1,000

These sales appear to show that vaulted units sell for significantly more than non-vaulted units of similar size. For this reason, the Commission will give primary consideration to the non-vaulted sales when determining a value for the non-vaulted subject property.

Of the four sales of non-vaulted units, three are on the second floor, like the subject, while the unit that sold for \$\$\$\$\$ in September 2006 is on the first floor. The three non-vaulted comparables that are located on the second floor, like the subject, sold for \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. The County contends that the comparable that sold for \$\$\$\$\$ is located on the other side of the building from the subject and that units on this side sell for less. For these reasons, it appears that the subject is most like the two remaining comparables, which sold for \$\$\$\$\$ and \$\$\$\$\$, respectively. As these units are smaller than the subject, the County adjusted these two sales to \$\$\$\$\$ and \$\$\$\$\$, respectively. As a result, it appears that the subject's value, as furnished, is approximately \$\$\$\$\$.

This value is also supported by the comparable located directly above the subject property. This is the vaulted comparable that sold twice near the lien date, for \$\$\$\$\$ in August 2006 and again for \$\$\$\$\$ in March 2007. Although this unit is a vaulted unit, it is the same size as the subject and has the same floor plan. The average of the two prices at which this unit sold is approximately \$\$\$\$\$. If an \$\$\$\$\$

Appeal No. 08-0932

downward adjustment is applied to \$\$\$\$\$ to account for the vaulted ceiling, a value of \$\$\$\$\$ is derived for the subject.

Based on this information, the Commission concludes that \$\$\$\$\$ is a reasonable value for the subject and its furnishings. Because all of the comparables sold as furnished, an adjustment for personal property is needed for the subject property. The only information of the value of furnishings is the \$\$\$\$\$ estimate provided by the property owner. Subtracting \$\$\$\$\$ from the \$\$\$\$\$ value results in a final value of \$\$\$\$\$ for the real property. Based on the information available at the Initial Hearing, the Commission finds that the subject's value should be reduced from \$\$\$\$\$ to \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be reduced from \$\$\$\$\$, as established by the County BOE, to \$\$\$\$\$ for the 2007 tax year. The Salt Lake County Auditor is ordered to adjust its records to reflect this decision. 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.

Appeal No. 08-0932

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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