

08-0995
LOCALLY ASSESSED PROPERTY
SIGNED 01-13-09

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,

Petitioners,

vs.

BOARD OF EQUALIZATION OF SALT LAKE
COUNTY, UTAH,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND FINAL DECISION**

Appeal No. 08-0995

Parcel No. #####

Tax Type: Property Tax/Locally Assessed

Tax Year: 2007

Judge: Phan

Presiding:

Pam Hendrickson, Commission Chair

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1

For Respondent: RESPONDENT REP, Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on October 20, 2008. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioners (the "Property Owners") are appealing the assessed value of the subject property for the lien date January 1, 2007.

2. The property at issue is Parcel No.#####, located at ADDRESS, CITY, Utah.

3. For the January 1, 2007 lien date the County Assessor had valued the property at \$\$\$\$ and the County Board of Equalization (the "County") had sustained the value. Petitioner requests that the value be lowered to \$\$\$\$\$. At the hearing the representative for the County submitted an appraisal that indicated a value of \$\$\$\$\$ and was offered in support of the value set by the County Board of Equalization

4. The property consists of .21 of an acre of land improved with a two-story style residence. The

residence has 2,464 square feet above grade and a basement of 1,274 square feet, which is fully finished. The residence is 9 years old, in good condition and of a stucco and brick construction. There is also an attached three-car garage. The back yard is landscaped with lawn, retaining walls and a sitting area. Some of the back yard, however is unlandscaped and in its natural state, along with the undeveloped parcel behind the subject property.

5. The backyard of the subject property faces STREET. It is not immediately adjacent to this roadway, as there is a strip of land between the subject and the roadway which is unlandscaped and left in its natural state, but does provide some buffer to the roadway. The Property Owner testified that beginning in 2006 and into 2007 STREET was busy and noisy due to heavy construction trucks and equipment that were being used to develop the properties (PORTION REMOVED). He indicated that the heavy trucks rattled the residence when they drove by and the traffic had increased significantly during this period of time.

6. As of the date of the hearing, the Property Owners were trying to sell the subject property. They had listed the property for sale beginning early in 2008. They had started listing the property at \$\$\$\$ but as there had been no buyers, they had reduced the price. As of the date of the hearing they were asking \$\$\$\$ and still had no offers.

7. The Property Owner testified that he had seen a steady decrease in real estate prices starting in the second and third quarters of 2007, in the CITY area. He did provide four comparable sales from his neighborhood, which had sold late in 2007 or in 2008. There properties had sold for prices ranging from \$\$\$\$ to \$\$\$\$.

8. The representative for the County, RESPONDENT REP, did not dispute that values had started to decline during the last half of 2007. However, he pointed out that for property tax purposes the value is determined as of the lien date, which is January 1, of the year at issue. Therefore, to determine the value as of January 1, 2007, he considered sales that occurred toward the end of 2006. RESPONDENT REP, prepared an appraisal of the subject property as of January 1, 2007. In the appraisal, he considered eight sales of fairly similar properties, located near the subject property. Three of the sales had occurred during November or December of 2006, very near the lien date that is at issue in this appeal. The comparables, listed in order by date of sale nearest to the lien date are as follows:

Address	Sale price	Date of Sale
ADDRESS 2	\$\$\$\$	12/08/06

ADDRESS 3	\$\$\$\$	12/06/06
ADDRESS 4	\$\$\$\$	11/28/06
ADDRESS 5	\$\$\$\$	7/27/06
ADDRESS 6	\$\$\$\$	6/29/06
ADDRESS 7	\$\$\$\$	6/28/06
ADDRESS 8	\$\$\$\$	6/23/06
ADDRESS 9	\$\$\$\$	2/27/06

9. RESPONDENT REP then made appraisal adjustments for factors like the size of the residence, basement finish and size of the lot. The basement of the subject property was fully finished, while some of the comparables had no basement finish. His adjustment for the difference between an unfinished basement and the finished basement of the subject property was \$\$\$\$\$. He testified that he did not find the location near STREET to be a detriment, because it did not back directly onto STREET and the buffer parcel between the subject provided additional open space and a view. He also indicated that the backyard was landscaped in fully functional manner with retaining walls and a terrace. In the appraisal he included a picture of the back yard and open space behind the yard which supported this opinion. The largest adjustment that he made to some of the comparables was the date of sale/time adjustment. It was his position that property values were appreciating significantly during 2006. The adjustment was 1% per month. He indicated that the reports from the Multiple Listing Service show that values had been increasing by at least this amount during 2006. After making the appraisal adjustments the indicated value for the subject property was a range from \$\$\$\$\$ to \$\$\$\$\$. From this it was his conclusion that the value of the subject property was \$\$\$\$\$.

10. Upon review of the evidence submitted in this matter, the Property Owners have not provided evidence that as of the January 1, 2007 the value of the property was \$\$\$\$\$. The evidence that they provided was of sales that had occurred late in 2007 and early 2008, and did support that the value had begun to decline sometime after the lien date. In fact, both parties agreed that the decline did not occur until later in 2007. The County's appraisal considered sales that were more relevant to the value of the property on the lien date at issue. In an appreciating or depreciating market, the date of the comparable sales must be considered. In the County's appraisal there are three sales that occurred very near the lien date in either November or December of 2006. These sales do indicate a range of value that supports the value set by the County Board of

Equalization. These sales are corroborated by the other sales submitted in the appraisal. Regarding the factor of the location of STREET, it appears a nuisance, offset to some extent by the buffer parcel and open space, but not one that would support a reduction to the value that the Property Owners are requesting for this property.

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 provide 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. . . . (Utah Code Ann. Sec. 59-2-1006(1).)

CONCLUSIONS OF LAW

1. 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).

2. The law requires that for property tax purposes the assessed value is the value of the property as of January 1 of the year at issue. *See* Utah Code Sec. 59-2-103. Under the current law, the value as of the end of the year, or as of the date a property tax appeal must be filed with the County, is not the relevant issue.

3. In this matter the Property Owners have not provided sufficient evidence to show error on the part of the County's value or provide an evidentiary basis to support \$\$\$\$ as the value as of January 1, 2007. The Property Owners provided evidence supporting that the values had begun to decrease toward the end of 2007, this factor should have been considered in regards to the 2008 assessed value. However, the only year before the Commission in this appeal is the 2007 tax year.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2007, is \$\$\$\$\$. It is so ordered.

DATED this _____ day of _____, 2009.

Jane Phan
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 _____, 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. Sec. 63G-4-302. 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 Sec. 59-1-601 et seq. and 63G-4-401 et seq.

Appeal No. 08-0995

JKP08-0995.fof