

08-2109
LOCALLY ASSESSED PROPERTY
SIGNED 05-21-09

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, vs. BOARD OF EQUALIZATION OF SAN JUAN COUNTY, STATE OF UTAH Respondent.	INITIAL HEARING DECISION Appeal No. 08-2109 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2008 Judge: R. Johnson
--	--

Presiding:

R. Bruce Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER, by written submission
For Respondent: RESPONDENT REP 1, San Juan County Assessor
 RESPONDENT REP 2, San Juan County Clerk/Auditor
 RESPONDENT REP 3, San Juan County Deputy Assessor

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 April 30, 2009. The Taxpayer notified the Commission that he would be unavailable on the day of the hearing, but was prepared to rely on his written submission. He confirmed this by telephone on the day of the hearing.

The subject property is Parcel No. #####, consisting of about 22.36 acres of undeveloped land in SUBDIVISION. The County assessed the parcel at \$\$\$\$ and the Board of Equalization affirmed that value.

Taxpayer purchased the property from COMPANY A in September, 2007, for a contract price of \$\$\$\$\$. He provided a copy of his closing statement from TITLE COMPANY. The County noted that the county records indicate that PETITIONER acted as the surveyor for COMPANY A in surveying and platting the subdivision. Taxpayer argues that his contract sales price should establish the value of the property for property tax purposes.

The County presented a list of 14 sales in the subdivision of lots ranging from about 10 to 25 acres each. The sales occurred from October, 2004, through June, 2008. Four of the sales occurred in 2007. The

sales prices ranged from \$\$\$\$\$ to \$\$\$\$\$ per acre. Ten of the sales, however, were between \$\$\$\$\$ and \$\$\$\$\$ per acre. (All the sales below \$\$\$\$\$ per acre occurred before July 1, 2006, in the relatively early stages of the project.) On the basis of these sales, the Assessor determined a value of \$\$\$\$\$ per acre for lots over 15 acres, and \$\$\$\$\$ per acre for lots less than 15 acres. The Assessor did not include Taxpayer's sale in his analysis because of concerns about the arm's length nature of the sale.

APPLICABLE LAW

Utah Code Ann. § 59-2-103 requires all tangible taxable property in the state to be assessed and taxed “on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

Any party requesting a value different from the value established by the County Board of Equalization 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. To prevail, a party must: 1) demonstrate that the value established by the County Board of Equalization contains error; and 2) provide the Commission with a sound evidentiary basis for changing the value established by the County Board of Equalization to the amount proposed by the party. The Commission relies in part on *Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332, 335 (Utah 1979); *Beaver County V. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996) and *Utah Railway Co. v. Utah State Tax Comm'n*, 5 P.3d 652 (Utah 2000).

DECISION AND ORDER

The value determined by the Board of Equalization is well-supported by the extensive documentation of other sales from the subdivision. Taxpayer argued that those other sales should not be used because “the many lots used to establish the base value included some lots that were build ready.” Taxpayer did not provide any information, however, as to which of the lots were “build ready” and which were not. He also maintained that some lots have “spectacular views” while others have “far lesser vistas.” Again, he did not specify which lots had which views. The Assessor, however, testified that he had revisited the property and found many locations on the subject parcel that had excellent views. He also testified that, like any property with some irregular topography, some portions of the subject parcel had better views than others.

Finally, the County suggested that Taxpayer's sale should be disregarded because he had “been known” to trade surveying services for property. In the Assessor's mind, such a transaction here would explain the low sales price for the property. In Taxpayer's absence, however, we were unable either to confirm or disprove the Assessor's assumption and we make no finding on this point.

Appeal No. 08-2109

Although we consider Taxpayer's own sale, in view of the large number of other sales in the same development, all at significantly higher prices (including the "bargain sales" in the early months of the development), we hold that Taxpayer has not carried his burden of showing error in the Board of Equalization's value; nor has he established a better value. The decision of the Board of Equalization valuing this parcel at \$\$\$\$ as of January 1, 2008 is upheld.

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 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 _____, 2009.

R. Bruce Johnson
Commissioner

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

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

RBJ/08-2109.int