

08-2263
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2008
SIGNED 12-17-2009

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

vs.

RURAL COUNTY BOARD OF EQUALIZATION

Respondent.

INITIAL HEARING ORDER

Appeal No. 08-2263

Parcel No. ##### -1

Tax Type: Property Tax/Locally Assessed

Tax Year: 2008

Judge: M. Johnson

Presiding:

Marc B. Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER, Owner, *pro se*, appeared by phone

For Respondent: RESPONDENT REP 1, RURAL COUNTY Assessor
RESPONDENT REP 2, RURAL COUNTY Chief Deputy Assessor

STATEMENT OF THE CASE

Petitioner (“Taxpayer”) brings this appeal from the decision of the RURAL COUNTY Board of Equalization (“the County” or “BOE”). This matter was heard in an Initial Hearing on June 18, 2009. The RURAL COUNTY Assessor’s Office assessed Parcel No. ##### -1 (“##### -1”) at \$\$\$\$ as of the January 1, 2008 lien date. The Board of Equalization reduced this value to \$\$\$\$\$. The County is requesting that the Commission sustain the BOE value. The Taxpayer stated on his “Request for Redetermination” that the value is \$\$\$\$\$.

For this hearing, the County provided the same evidence that was used in Appeal 08-2225.

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

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).

DISCUSSION

The subject property, ##### -1, is a 19.26-acre, unimproved residential lot located in the DEVELOPMENT, near CITY, Utah, situated in the northwest corner of the development, in the lower mesa area at the base of the MESA, a plateau. According to the Taxpayer, ##### -1 is larger than most surrounding properties, which typically have approximately 10 acres.

The Taxpayer explained that the Valuation Notice set the value of ##### -1 at \$\$\$\$\$ based on ##### - 2, which is close by, approximately 20 acres in size, and in the lower mesa. Although the BOE lowered the original assessment, the Taxpayer argues that the property is still overvalued and that the excess acreage over 10 acres does not affect the market value.

The Taxpayer provided that the sales of 10-acre properties are comparable for ##### -1. He argues that 10-acre sales are comparable because all properties cannot be subdivided, are subject to the a conservation easement, and are limited to developing only within the building envelope on each property.

The Taxpayer testified of three comparable sales of 10-acre property, as follows:

<u>Parcel</u>	<u>Sale Date</u>	<u>Sale Price</u>
##### - 3	3 years ago—2006	\$\$\$\$\$
##### - 4	2 years ago—2007	\$\$\$\$\$
Next to ##### -3	Recent	\$\$\$\$\$

Based on these sales, the Taxpayer states that a value between \$\$\$\$\$ and \$\$\$\$\$ would be fair, and suggested that \$\$\$\$\$ would be appropriate.

The County explained that it valued ##### -1 at \$\$\$\$\$ per acre as required by the State Tax Commission. The County further explained that the State completed an “Assessment/Sales Ratio Study” (“sales ratio study”) based on sales occurring in the past several years and ordered the County to raise the land values. In response, the County raised the values for the CITY area to \$\$\$\$\$ per acre. Additionally, the County asserted that the sale of ##### - 4 for \$\$\$\$\$ supports the \$\$\$\$\$ per acre order issued by the State. Furthermore, the County stated, ##### -1 is worth more than ##### - 4 because ##### -1 is approximately twice the size. The County also provided that ##### - 2 is for sale at \$\$\$\$\$. The County also stated that it is 20 acres in size, located 3 lots east of ##### -1, and had been originally listed for \$\$\$\$\$. The County additionally provided that a 10-acre parcel in the development is reported to have sold recently for \$\$\$\$\$ or \$\$\$\$\$. The county also submitted a document that listed ##### - 2 as being listed for \$\$\$\$\$.

The County provided a table indentifying nine comparable sales in the area, occurring from September, 2004 to June, 2007 at prices from \$\$\$\$\$ to \$\$\$\$\$ for lot sizes from 9.09 to 20.00 acres. This document is the sales ration study that the County testified was the basis for the \$\$\$\$\$ per acre valuation mandated by the Property Tax Division. The table included three sales for 2007, which the Commission deems most relevant, as follows:

<u>Serial</u>	<u>Sale Date</u>	<u>Sale Price</u>	<u>Lot Size</u>
##### - 6	5/1/2007	\$\$\$\$\$	9.09
##### - 6	3/20/2007	\$\$\$\$\$	20.00
##### - 7	6/1/2007	\$\$\$\$\$	9.60

The sales were the basis of the sales ratio study performed by the Division. The price per acre for each of the lots was \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$ respectively, with an average of \$\$\$\$\$ per acre. In addition to the three 2007 sales, four sales took place in 2004 and the other two occurred in 2006.¹

The assessor submitted two “Tax Roll Master Record(s)” for two parcels. These records were for Serial #'s ##### - 8 (“##### - 8”) and ##### - 9 (“##### - 9”). The records are for 2009, but show the 2008 values. ##### - 8 indicates a value of \$\$\$\$\$ for 77.14 acres (\$\$\$\$\$ per acre), which was broken down into 10 acres at \$\$\$\$\$ (\$\$\$\$\$ per acre) and 67.14 acres at \$\$\$\$\$ (\$\$\$\$\$ per acre). This document had a handwritten note: “June 2009 Sale.” The ##### - 9 record showed 19.26 acres assessed at \$\$\$\$\$ (\$\$\$\$\$ per acre), which was broken down to 10 acres at \$\$\$\$\$ (\$\$\$\$\$ per acre) and 9.26 acres at \$\$\$\$\$ (\$\$\$\$\$ per acre).

¹ Data from the table for all sales indicates a total average price per acre of \$\$\$\$\$, for all sales; \$\$\$\$\$ for 2006; and \$\$\$\$\$ for both 2006 and 2007. We note however, that handwritten notes on the sales ratio study, as well as data listed on another table provided by the assessor indicate a unit price of \$\$\$\$\$ for ##### - 10. This contradicts the indicated sale price of \$\$\$\$\$ for 10.02 acres.

In making a value determination, we have several observations and concerns, beginning with the assessor's analysis. Both parties have not provided much detail about what property sold when nor have they discussed much about how the comparable properties vary in character. Without these characteristics, one cannot determine how comparable these properties truly are and what adjustments are necessary. Furthermore, the parties have not provided clear evidence as to when the comparable sales occurred. Without such evidence, it is difficult to determine whether the sale and listings all occurred after the lien date and are too distant in time. Additionally, absent further evidence, the explanation that the County adjusted all properties in the CITY area in general, according to the State's ratio study, does not show what the specific market value is for ##### -1.

On the other hand, two the Taxpayer's comparable sales are corroborated by the sales ratio study. The Taxpayer's ##### - 3 sold in 2006 for \$\$\$\$\$, which is fairly consistent with Serial # ##### - 11, which sold in July of 2006 for \$\$\$\$\$ according to the sales ratio study. ##### - 4 sold two years ago, in 2007, for \$\$\$\$\$. Serial # ##### - 7 was listed on the sales ratio study as having sold for \$\$\$\$\$ in June, 2007. What is uncertain the difference in characteristics when using them to value ##### -1. The comparables were 9.6 acres and 9.64 acres in size, respectively. These equate to unit values of \$\$\$\$\$ and \$\$\$\$\$. The subject property is 19.26 acres, and is assessed at \$\$\$\$\$ per acre. The only 20-acre sale identified in the hearing is for Serial# ##### - 6, which sold for \$\$\$\$\$ or \$\$\$\$\$ per acre in March, 2007 according to the sales ratio document. Even the Taxpayer argues that his property should be valued this low. Although the Commission believes that a 20-acre parcel would be valued at a lower unit rate than an otherwise equivalent smaller parcel, there is no evidence to indicate that the assessment of \$\$\$\$\$ is excessive. Also, at a price of \$\$\$\$\$, the sale was lower than all but one of the four other sales that took place in 2006 or 2007.

Based on the evidence presented, the Commission finds that there is no sound evidentiary basis for changing the market value for ##### -1. The County has not supported its \$\$\$\$\$ value for ##### -1. There is, however, not enough evidence to support the Taxpayer's value of \$\$\$\$\$, or even \$\$\$\$\$ as of the lien date.

We note further that we are concerned with a possible equity problem in the area. The two property records submitted at the hearing indicate assessments for property in the immediate area that are

far below the subject and other properties. However, the Taxpayer did not raise this issue, nor was there sufficient information in total to make a finding.

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission sustains the BOE and finds that the value of Parcel No. ##### -1 as of January 1, 2008 is \$\$\$\$\$. It is so ordered.

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.

BY ORDER OF THE UTAH STATE TAX COMMISSION:

DATED this ____ day of _____, 2009.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

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