

08-2281
LOCALLY ASSESSED PROPERTY
TAX YEARS:2008
SIGNED 07-16-2009
COMMISSIONERS: R. JOHNSON, M. JOHNSON, D. DIXON, M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 & PETITIONER 2</p> <p>Petitioners,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF RURAL COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 08-2281</p> <p>Parcel Nos. ##### - 1, ##### - 2, ##### - 3 & ##### - 4</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2008</p> <p>Judge: Chapman</p>
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This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Michael J. Cragun, Commissioner
Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2, Taxpayer
PETITIONER 1, Taxpayer
For Respondent: RESPONDENT REP, RURAL County Assessor

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on December 14, 2009. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The tax at issue is property tax.

Appeal No. 08-2281

2. The tax year at issue is 2008, with a lien date of January 1, 2008.

3. At issue is the fair market value of four vacant recreational lots as of the lien date. Each of the lots is 1.00 acre in size. The four lots are identified as: 1) Parcel No. ##### - 1 (“##### - 1”); 2) Parcel No. ##### - 2 (“##### - 2”); 3) Parcel No. ##### - 3 (“##### - 3”); and 4) Parcel No. ##### - 4 (“Lot ##### - 4”) (collectively referred to as “subject properties” or “subject lots”).

4. The subject lots are owned by PETITIONER 1 & 2 (“Petitioners” or “taxpayers”) and are located in the SUBDIVISION subdivision in RURAL County, Utah.

5. The RURAL County Board of Equalization (“County BOE”) sustained the \$\$\$\$ value at which each of the subject lots was assessed for the 2008 tax year.

6. An Initial Hearing was held in this matter on January 27, 2009. The Commission issued an Initial Hearing Order on July 16, 2009, in which it sustained the value established by the County BOE for each of the subject lots.

7. The taxpayers submitted a timely request for a Formal Hearing.

8. The County BOE asks the Commission to sustain the \$\$\$\$ value at which each subject lot is currently assessed. The taxpayers ask the Commission to reduce the value of each subject lot to \$\$\$\$.

9. The taxpayers purchased ##### - 3 on January 31, 2008 for \$\$\$\$\$. Exhibit P-1. ##### - 3 was listed for sale through a realtor when the taxpayers made their offer to purchase it for \$\$\$\$\$.

10. The taxpayers purchased ##### - 4 on April 2, 2008 for \$\$\$\$\$, after submitting an offer directly to the prior owner. Exhibit P-3. ##### - 4 had been listed for sale through a realtor in September 2007, when the taxpayers initially submitted an offer to purchase it for \$\$\$\$\$. The September 2007 offer was rejected. Prior to April 2008, the listing for ##### - 4 through the realtor expired.

11. The taxpayers submitted evidence of a lot in SUBDIVISION that sold for \$\$\$\$ in October 2007. This lot is 0.43 acres in size and was listed for sale in May 2007 for \$\$. Exhibit P-5. Both parties stated that lots in SUBDIVISION sell for similar prices, regardless of their size. Both parties agreed that a 0.43-acre lot and a 1.00-lot in the subdivision would sell for similar prices.

12. The taxpayers also submitted evidence of another 1.00-acre lot in SUBDIVISION that was listed for sale through a realtor. It was listed for sale at \$\$\$\$ until September 1, 2007, when its list price was reduced to \$\$. Exhibit P-7.

13. PETITIONER 2 also prepared a “trend” study for all vacant recreational land sales that she could find between January 22, 2007 and January 22, 2008. Exhibit P-8. The trend line chart shows that there was a general decline in square foot prices for vacant recreational properties in RURAL County during this period.

14. RESPONDENT REP, the RURAL County Assessor, prepared an appraisal for each subject property, in which she estimated the value of each subject property to be \$\$\$\$ as of the lien date. Exhibits R-1, R-2, R-3 and R-4. In each appraisal, RESPONDENT REP compared the subject lot to five comparables that sold in February 2007 and March 2007. The five comparables are all located in SUBDIVISION and sold for prices ranging between \$\$\$\$ and \$\$\$\$.

APPLICABLE LAW

1. Utah Code Ann. §59-2-102(12) defines “fair market value” to mean “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. . . .”

2. UCA §59-2-103(1) provides that “[a]ll 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.”

3. UCA §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”

4. 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 contains error; and 2) provide the Commission with a sound evidentiary basis for reducing or increasing the valuation 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 Comm’n*, 590 P.2d 332, (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

- 3 was purchased in January 2008 for \$\$\$\$\$. In addition, ##### - 4 was purchased in April 2008 for the same price. At issue is whether these post-lien date sales can be used to help establish the fair market value of these two lots, as well as the other two subject lots. The Commission is hesitant to reduce a property’s assessed value based on post-lien information alone. At the Formal Hearing, however, the taxpayers submitted additional information showing that prices of vacant lots in the SUBDIVISION declined between March 2007 and the end of 2007. Specifically, the taxpayers submitted evidence of a sale in October 2007 and a listing price reduction in September 2007 that support the \$\$\$\$\$ prices at which ##### - 3 and ##### - 4 sold in early 2008. The Commission is not convinced that the subject lots had fair market values of \$\$\$\$\$ as of the lien date. Although evidence suggests that the \$\$\$\$\$ value may have been appropriate as of March 2007, the evidence shows that \$\$\$\$\$ is a more reasonable value for the subject lots as of January 1,

Appeal No. 08-2281

2008. For these reasons, the Commission finds that the fair market value of each subject lot should be reduced to \$\$\$\$\$ for the 2008 tax year.

Both parties asked the Commission to address the use of post-lien date information for purposes of the appeals process. The Commission believes that post-lien date information is useful in the appeals process to help establish a property's fair market value as of a lien date. That being said, however, the Commission is reluctant to reduce a property's value based on post-lien date information only. For example, if the only evidence of value is a sale that occurred five months after the lien date, the Commission would be reluctant to reduce a property's value based on the sale alone. As the Commission noted in the its Initial Hearing Order for this case, in most instances "post-lien date sales may be used to corroborate value estimates, but not to establish fair market value." However, in "extreme cases where the only relevant market information is after the lien date . . . we may find it necessary to base our decision on market transactions occurring after January 1."

CONCLUSIONS OF LAW

1. The Commission finds that the taxpayers have met their burden of proof and have shown that the 2008 value for each subject lot should be reduced from \$\$\$\$\$ to \$\$\$\$\$.

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Commission finds that the \$\$\$\$\$ value established by the County BOE for each of the four subject lots should be reduced to \$\$\$\$\$ for the 2008 tax year. The RURAL County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

Appeal No. 08-2281

DATED this _____ day of _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
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. §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 Ann. §§59-1-601 et seq. and 63G-4-401 et seq.

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