

BEFORE THE UTAH STATE TAX COMMISSION

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| PETITIONER,                                  | <b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b> |
| Petitioner,                                  | Appeal No. 08-2409  |
| vs.  | Parcel Nos. ##### - 1   |
| BOARD OF EQUALIZATION OF GRAND COUNTY, UTAH, | ##### - 2   |
| Respondent.                                  | Tax Type: Property Tax/Locally Assessed                         |
|  | Tax Year: 2008  |
|  | Judge: Jensen   |

**Presiding:**

D'Arcy Dixon Pignanelli, Commissioner  
Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, Taxpayer  
For Respondent: RESPONDENT REP 1, Grand County Assessor  
RESPONDENT REP 2, Grand County Clerk Auditor

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on August 13, 2009. On the basis of the evidence and testimony presented at the hearing, the Tax Commission makes its:

FINDINGS OF FACT

1. The Taxpayer is appealing the assessed value of the subject property for the lien date January 1, 2008.
2. The subject property consists of two parcels. One is parcel no. ##### - 1 and is located at ADDRESS 1 in Grand County, Utah ("##### - 1"). The other is parcel no. ##### - 2 and is located at ADDRESS 2 in Grand County, Utah ("##### - 2").
3. The plat map for ##### - 1 shows ownership in the name of PERSON. The lot is roughly rectangular in shape. The plat map shows lot dimensions of 156.8 feet on the East boundary, 156.3 feet on the West boundary, and 75 feet on the North and South boundaries, which is approximately .27 of an acre. There was no evidence of any improvement to ##### - 1.
4. The County Assessor had set the value of ##### - 1, as of the lien date, at \$\$\$\$\$. The parties agree that the County Board of Equalization made no change to this valuation. The Taxpayer requests that the value

be reduced to \$\$\$\$\$. The County requests that the Commission sustain the \$\$\$\$\$ value.

5. Although the parties agree that the board of equalization made no change to the value of ##### - 1 for the 2008 tax year, they disagree as to the reason. The County maintains that neither the owner of ##### - 1 nor the Taxpayer filed an appeal with the board for the 2008 tax year. The County further maintains that even if there had been an appeal, no one presented a basis for the board to have reduced the value. The Taxpayer takes the position that he did file an appeal on behalf of the owner of ##### - 1. The Taxpayer presented evidence of an August 18, 2008 letter from PERSON, the owner of ##### - 1. In that letter, PERSON indicated "PETITIONER has my permission to argue the validity and reasonableness of the recent raise in property taxes on my lot." At the formal hearing before the Commission, the County provided no rebuttal to the Taxpayer's position that he presented this letter to the board of equalization or that he presented a protest to the value of ##### - 1 when he appeared before it on ##### - 2 on August 22, 2008. Taking the evidence regarding a possible board of equalization finding on ##### - 1 in its entirety, the Commission finds as a matter of fact that the Taxpayer presented the August 18, 2008 letter from the owner of ##### - 1 to the board of equalization on August 22, 2008.

6. ##### - 2 consists of a .19-acre lot improved with residence. It is separated from ##### - 1 by an intervening lot. The intervening lot has a triplex built upon it. The Taxpayer argued that the sale of the intervening lot and the construction of a triplex on it were perpetrated through fraud. The residence on ##### - 2 was constructed in the 1950s, has approximately 600 square feet, and was in fair condition as of the lien date with some deferred maintenance. It has no garage and no basement.

7. The County Assessor had set the value of ##### - 2, as of the lien date, at \$\$\$\$\$. This included \$\$\$\$\$ in land value and \$\$\$\$\$ for improvements. The County Board of Equalization sustained the \$\$\$\$\$ land value but reduced the improvement value to \$\$\$\$\$ for a total valuation of \$\$\$\$\$. The Taxpayer requested that the Commission sustain the \$\$\$\$\$ improvement value but reduce the land value to \$\$\$\$\$ for a total valuation of \$\$\$\$\$. The County requests that the Commission sustain the \$\$\$\$\$ value set by the board of equalization.

8. The Taxpayer provided a discussion of some of the problems associated with the subject property. He indicated that the area of surrounding both lots is primarily renters instead of landowners. He noted that the area surrounding the subject property is zoned R-2, but does not fit an R-2 zoning description. He quoted from the CITY 1 zoning regulations indicating that R-2 area should be "characterized by spacious yards and other residential amenities adequate to maintain desirable residential conditions." He testified that although the R-2 zoning would normally require wider frontage than many of the properties surrounding the subject property,

the subdivision was developed before current zoning and therefore allows lesser frontage. The Taxpayer was particularly critical of the local government for allowing the area to have duplexes and triplexes on small lots, which are primarily rental units. He argued that rentals bring tenants and that tenants bring drugs. He indicated that he now faces a choice of either moving or putting up with bad neighbors who deal drugs and leave trash.

9. On the basis of the factors that the Taxpayer described, he requested that the values for ##### - 1 and ##### - 2 be set at one half of their 2008 assessed values. He provided no evidence of comparable sales or any other data to support his theory of valuation.

10. The county provided evidence of three properties in the area of the subject property that sold in 2007. The first comparable was a .31-acre lot with a 1960s mobile home. It sold in September 2007 for \$\$\$\$\$. The second comparable was an 18-acre lot with a singlewide mobile home. It sold in 2007 for \$\$\$\$\$. The third comparable was a .38-acre lot with a 1,053 square foot home built in 1954. It sold in June 2007 for \$\$\$\$\$. The Taxpayer was critical of these comparable sales and indicated that the property that sold for \$\$\$\$\$ was actually two smaller combined lots.

#### 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 provided 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).)

#### CONCLUSIONS OF LAW

1. To prevail in a real property tax dispute, a party requesting a change in value 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. *Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

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2. The Commission finds that the Taxpayer's August 22, 2008 presentation of an August 18, 2008 letter granting him right to protest the value of ##### - 1 is sufficient to constitute an appeal to the board of equalization for ##### - 1. Utah Code Ann. §59-2-1004 provides for a deadline of September 15 or 45 days after the county's mailing of the notice of valuation. Although neither party presented evidence of the date on which the Grand County Assessor mailed its valuation notice for 2008, the August 22, 2008 is early enough that the Commission finds it to be a timely filed appeal for ##### - 1.

3. Any party requesting a change in value must show error in the valuations. *See Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997). The Petitioner did not show error in the valuations. There was reasonable evidence presented to support the values of \$\$\$\$ for ##### - 1 and \$\$\$\$ for ##### - 2 as set by the board of equalization. 4. The Taxpayer presented insufficient evidence to show error in the valuations for either ##### - 1 or ##### - 2 as determined by the board of equalization.

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission sustains the valuations of the board of equalization for both ##### - 1 and ##### - 2 as of January 1, 2008. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Clinton Jensen  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION:

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. 63-46b-13. 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. Sections 59-1-601 and 63-46b-13 et. seq.

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