
BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioners,

v.

BOARD OF EQUALIZATION OF BOX
ELDER COUNTY, UTAH,

Respondent.

INITIAL HEARING ORDER

Appeal No. 08-2539

Parcel No. MULTIPLE-30

- 1 through

- 2

Tax Type: Property Tax/Locally Assessed

Tax Year: 2008

Judge: Phan

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 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 order, specifying the commercial information that the taxpayer wants protected.

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP

For Respondent: RESPONDENT REP 1, Box Elder County Assessor

RESPONDENT REP 2, Appraiser

RESPONDENT REP 3

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Sec. 59-1-502.5, on October 27, 2009. Petitioner (the “Property Owner”) is appealing the assessed value as established for the subject property by the Box Elder County Board of Equalization, as of the lien date January 1, 2008. The County Assessor had set the value at \$\$\$\$ for each of the thirty parcels at issue in this matter and the County Board of Equalization sustained the value. The Property Owner requests that the value be lowered to \$\$\$\$ for each of the parcels at issue. At

the hearing, the representatives for Respondent (the “County”) requested that the value set by the County Board of Equalization be sustained.

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. . . . (4) In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

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). Additionally Utah Code Sec. 59-1-1417 places the burden of proof on the Petitioner.

DISCUSSION

The subject property consists of 30 individual parcels located in a platted, but unimproved subdivision at approximately ADDRESS, CITY Utah. The parcels at issue are consecutive parcel numbers ##### - 1 through ##### - 2. Together the parcels comprise just over 11 acres of land. The subdivision has been platted and recorded and is a subdivision on paper. However, no physical improvements have been made to the property and it currently sits as raw, undeveloped, land. There are no roads into the property. Utilities would be available at the current public street, but have not been brought into the subdivision. The property in total is a flag type lot with only a narrow access wide enough for a roadway from the public street.

The Property Owner explained that he had purchased all the subject lots together, with one additional commercial lot on January 4, 2007, for a total price of \$\$\$\$\$. It was his contention that \$\$\$\$\$ of the price was for the one commercial lot and the 30 residential lots at issue had been purchased for \$\$\$\$\$ each. The commercial lot was not appealed. The Property Owner requested that the values of the subject residential lots be reduced to the \$\$\$\$\$ per lot. He states that he thought that the lots had been listed for sale at the time that he purchased them. However, the owner who had been trying to sell the land had approached him about purchasing the property. The Property Owner stated since purchasing the property in 2007 he has been trying to sell all the subject parcels together as one property and there has been no interest. It was his contention that he purchased this property right at the height of the real estate market and that values have been declining since that time. He also stated that he would sell the land for what he had purchased it for, but acknowledged it was listed for more than \$\$\$\$\$.

Additionally, the Property Owner submitted a study of how the County had valued other nearby residential land. And it was his contention that overall other land values were lower than his property. However, none of these equalization comparables were unimproved subdivision lots. In fact, all his subdivision equalization comparables were properties with residences already constructed. For his comparison, the Property Owner was considering the portion of the total value that the County Assessor had allocated to land of these improved comparables. He did also provide some valuations of agricultural land that had not been subdivided.

Although the Property Owner placed a lot of effort in finding assessments for property near in location and similar in size to the subject lots, this information is not sufficient to support his requested value for the subject property as the market value set by the County Assessor for the subdivision lots was generally \$\$\$\$\$ or higher and his property is not comparable to the agricultural land. Additionally, the Property Owner had chosen more of a scattered approach in finding the equalization comparables. He chose one or two comparable in one block and one or two comparable in another block instead of providing all subdivision land values within the nearest locations to the subject property.

The County valued this property based on sales of improved residential subdivision lots in the area and then applied a factor to account for the fact that the subject lots are unimproved. The county did not consider the Property Owner's purchase price for all the parcels. The County indicated this was a bulk sale. Because the subject lots were all legally subdivided into individual lots, the County felt that they needed to be valued as if they sold individually.

The County had determined from sales of individual improved residential subdivision lots that the value of the lots when they were improved with the roadways and utilities to the lots were selling for about \$\$\$\$\$. To account for the fact that the subject lots were not improved they multiplied this value by 57%, which resulted in the \$\$\$\$\$ the County had placed on each lot. The representatives for the County explained that they had used 57% because that is what they had been told by the Utah State Tax Commission to do in a prior decision regarding unimproved subdivision lots. It was the County's position that the values had risen in 2007 and did not begin to decline until 2008. However, like the Petitioner, they did not submit a study or printout from the Multiple Listing Service or other entity supporting this contention.

In weighing the evidence presented in this matter, the Property owner does have the burden of proof to show error in the County's value and provide a sound evidentiary basis to support a lower value. In his case he has presented the purchase price of the subject property one year prior to the lien date that is at issue in this appeal. He purchased all lots together for one price. According to what the Property Owner stated at the hearing these had already been subdivided on paper into 30 residential lots. The Property Owner did then list the properties for sale as one unit, without making the improvements that would be necessary to sell the lots as individual lots.

Given the condition of the lots on the lien date, the fact that they were sold in bulk in 2007 and currently offered for sale in bulk supports the position that these are not yet sellable as separate individual subdivision lots. Therefore, the sale price is the best evidence of market value submitted in this matter. Once these lots begin to be sold off individually, the Commission would expect the value to be on the price of the individual lot sales.

Further, the Commission notes that the County provides no evidence that the 57% adjustment made to sales of improved subdivision lots represented the market value for these unimproved properties. Certainly if comparing improved subdivision lots to the unimproved subject lots, some amount of adjustment would be warranted. The factor is just a means to estimate the value for an unimproved lot when there are no sales of unimproved lots. The County provided no sales of unimproved subdivision lots to show what that value difference might be or to use as a direct comparable for the subject property. The factor estimate used in a prior appeal in another set of facts and circumstances may have no relation to the market value in this matter.

However, the evidence indicates in its current state the lots would be sold as one unit and not separately. The only information to support the unit value is the sale price that works out to be

\$\$\$\$ per lot. Neither side provided market data that showed that values would have increased or decreased significantly from January 1, 2007 to January 1, 2008.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of each of the 30 subject lots that are at issue in this matter is \$\$\$\$ per lot, as of January 1, 2008. The County Auditor is hereby ordered to adjust its records in accordance with this decision. 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.

DATED this ____ day of _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

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