

08-2993  
LOCALLY ASSESSED PROPERTY  
SIGNED 07-06-2009

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER 1 &amp; PETITIONER 2</p> <p>Petitioners,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 08-2993</p> <p>Parcel No. 34-04-451-015</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2008</p> <p>Judge: Chapman</p>
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**Presiding:**

Kerry R. Chapman, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER 2, Property Owner

PETITIONER 1, Property Owner

For Respondent: RESPONDENT REP, from the Salt Lake County Assessor's Office

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 June 29, 2009.

At issue is the fair market value of the subject property as of January 1, 2008. The subject is a single-family residence located at ADDRESS 1 (approximately ( X )) in CITY 1, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$value at which the subject was originally assessed for the 2008 tax year. The property owners ask the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to sustain the current value of \$\$\$\$\$.

APPLICABLE LAW

UCA §59-2-1006 provides that a person may appeal a decision of a county board of equalization to the Tax Commission, pertinent parts as follows:

(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. . . .

. . . .

(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.

. . . .

Any party requesting a value different from the value established by the County BOE 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.

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 contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the County BOE 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 Commission*, 530 P.2d. 332 (Utah 1979).

#### DISCUSSION

The subject property consists of a 0.13-acre lot and a home that was built in 2002. The home contains 1,912 square feet of above-grade living space and a basement that is also 1,912 square feet in size (approximately 95% complete). The home has a two-car garage and unobstructed valley views. The property owners purchased the subject property for \$\$\$\$\$ in July 2006. The property owners assert that the home was built with cheap carpeting and has no curtains in the basement.

The property owners submit both valuation and equalization arguments to contest the subject's current assessed value of \$\$\$\$\$. The Commission will address the arguments separately.

Fair Market Value. The property owners submitted a CMA report prepared by a real estate firm in which the subject's value was estimated to be \$\$\$\$\$\$ as of August 20, 2008. The property owners admit that the CMA report contains error because it shows the subject property to have zero bedrooms and zero baths, which resulted in erroneous adjustments to the comparables. They believe that once the errors are removed, the CMA report would show a value of \$\$\$\$\$\$ for their home. For these reasons, they ask the Commission to reduce the subject's value to \$\$\$\$\$\$.

In the CMA report, the subject is compared to four comparables that sold for prices ranging between \$\$\$\$\$\$ and \$\$\$\$\$\$. The two comparables that sold for the lowest amounts were located on ( X ) and ( X ), respectively, locations that are at least 13 blocks further west than the subject. It is possible that homes so much further west than the subject may not be comparable to the subject. However, the CMA report does not provide for a location adjustment, should one be necessary.

The remaining two comparables in the CMA report are located within two blocks of the subject property. These two properties sold in June and August 2008 for prices of \$\$\$\$\$\$ and \$\$\$\$\$\$, respectively. The Commission notes that the comparable that sold for \$\$\$\$\$\$ is in the same development as the subject, yet is approximately 15% smaller than the subject. The County proffered evidence and testimony to show that values did not decrease throughout 2007 and probably rose 5% to 6%. As a result, it appears evident that the subject's value, as of the lien date, was in excess of the \$\$\$\$\$\$ price at which the comparable in the same subdivision sold. The County also proffered evidence and testimony showing that prices began to drop in the first or second quarter of 2008. If a time adjustment of 0.5 % per month were applied to the sales prices for these two comparables, which sold in 2008, to account for the declining market and if the other corrections mentioned above were made to CMA report, their adjusted sales would be \$\$\$\$\$\$ and \$\$\$\$\$\$, respectively. The comparable that adjusted to \$\$\$\$\$\$ is in the same subdivision as the subject property. The Commission finds that these adjusted sales prices support the subject's current assessed value of \$\$\$\$\$\$.

The property owners agree that prices have dropped significantly since the lien date and proffered a number of listings to show that properties similar to the subject are being offered for sale between \$\$\$\$\$ and \$\$\$\$\$ in late 2008 and early 2009. However, because of the declining market, these sales are not as convincing as sales that occurred in late 2007 in determining the subject's value as of the January 1, 2008 lien date.

The Division also points out that the property owners purchased the subject property for \$\$\$\$\$ on July 31, 2006 and that property values appreciated in the subject's area in the seventeen months between the purchase date and the January 1, 2008 lien date. As a result, the Division claims that the current value of \$\$\$\$\$ may be low.

Based on the evidence submitted at the Initial Hearing, the Commission finds that the property owners have not shown that the subject's current value of \$\$\$\$\$ is incorrect. Accordingly, the Commission finds that the subject's fair market value, as of the lien date, is \$\$\$\$\$.

Equalization. The Commission has found that the property owners have not shown that the subject's fair market value, as of January 1, 2008, is less than its current value of \$\$\$\$\$. Nevertheless, the subject's value may be reduced if the evidence shows that subject's value deviates more than 5% from the values at which other comparable properties are assessed. Section 59-2-1006(4)(b). *See also ( X ). v. San Juan County*, 681 P.2d 184 (Utah 1984), in which the Utah Supreme Court found that even though a property's assessed value may properly represent its "fair market value," the assessed value should be reduced to a value that is uniform and equitable if it is higher than the values at which other comparable properties are assessed.

The property owners provide evidence showing the 2008 assessed values for 14 other properties in the subject's subdivision. This information also shows that the assessed values of the 14 properties increased between 6.49% and 15.87% from the 2007 tax year to the 2008 tax year. The subject's

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assessed value increased 11.02% between 2007 and 2008, which is higher than the percentage at which 4 of the 14 properties increased (i.e., 10 of the properties increased at a greater rate than the subject). Because the subject's rate of increase was greater than that of 4 of the properties, the property owners believe that their 2008 value should be decreased for equalization purposes.

The Commission does not believe the percentage increase from one year to the next is necessarily relevant to an equalization argument. First, it is unknown if the percentage increases were due to changes in the properties' characteristics. If so, comparing percentage increases in value would have little importance in determining whether the subject's assessment was inequitable. Second, there is no evidence to show that the 2007 assessed values, on which the percentage increases are dependent, accurately reflect the value of each property in 2007. Furthermore, even if the percentage increases are relevant, the range of the increases is relatively small and the subject's percentage of increase was lower than those of most of the other properties. The Commission finds that these percentage increases in value from 2007 to 2008 do not show that the subject was inequitably assessed.

The property owners also compare the 2008 assessed values of the 14 properties to the subject's 2008 assessed value. The information shows that the subject property's assessment of \$\$\$\$ is higher than 3 of the 14 comparables, yet lower than the other 11 comparables. Two of the comparables were assessed at \$\$\$\$ and \$\$\$\$\$, respectively. Information on these two properties shows that each of them have unfinished basements and that one of the properties is smaller than the subject. Because the subject has a finished basement and is larger than the property assessed at \$\$\$\$\$, it is to be expected that the subject's assessed value would be higher than the assessed values of these properties.

The third comparable with a lower assessed value has an assessed value of \$\$\$\$\$. County records also show that this comparable's basement is unfinished and that its square footage is approximately 4% larger than the subject square footage. The property owners proffer evidence to show that when this

property was listed for sale in April 2008, its basement was completely finished. However, even if this property were underassessed in comparison to the subject, its current assessed value is only \$\$\$\$ less than the subject, which equates to 2.2% lower than the subject. If another \$\$\$\$ of value were added to the \$\$\$\$ difference to account for the comparable's larger square footage and basement finish (based on rates found in the CMA report), the subject would be underassessed \$\$\$\$ in comparison to the subject. This disparity would equate to approximately 4.4%. Section 59-2-1006(4)(b) requires there to be a 5.0% discrepancy before values are equalized. Furthermore, one example of a disparity at 5.0% would be insufficient to require equalization. In *( X ) v. Utah State Tax Commission*, 2004 UT 86 (2004), the Utah Supreme Court found that a property owner whose property was assessed at fair market value could not establish a violation of its constitutional right to a uniform and equal assessment without providing evidence of more than one comparable property with a valuation disparity. For these reasons, the Commission finds that the \$\$\$\$ value at which the subject was assessed appears to be equitable and does not require adjustment.<sup>1</sup>

In summary, the Commission finds that the property owners have not shown that the subject's current value of \$\$\$\$ should be reduced because of fair market value or equalization arguments.

#### DECISION AND ORDER

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<sup>1</sup> The Commission notes that the property owners also believe that their land value is inequitably assessed when compared to the assessed land values for other improved parcels in their subdivision. However, the Commission has already found that the subject's total value of \$\$\$\$ has not been shown to be inequitable. The subject and all other comparables were assessed with a market approach that determined the total value of the properties. They were not assessed with a cost approach, in which total value is determined by adding a value separately determined for the land to a value separately determined for the improvements. As a result, any reduction to the subject's land value would necessitate an corresponding increase to the subject's improvements value, in order to obtain the same total value of \$\$\$\$\$. Accordingly, the Commission need not determine whether the land value is inequitable when compared to other land values. Lastly, the Commission notes that the property owners claim that their lot is only 0.10 acres in size. County records and the Multiple Listing Service information from the sale of the subject property all show that the subject's lot is 0.13 acres in size.

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Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be sustained at \$\$\$\$\$, as established by the County BOE, for the 2008 tax year. It is so ordered.

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 taxpayer'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.

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Kerry R. Chapman  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

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The Commission has reviewed this case and the undersigned concur in this decision.

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

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

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