

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SUMMIT COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 09-0034</p> <p>Parcel No. #####</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, Property Owner

For Respondent: RESPONDENT REP 1, Summit County Assessor's Office  
RESPONDENT REP 2, Appraiser, Summit 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 April 6, 2009.

At issue is the fair market value of the subject property as of the January 1, 2008 lien date. The subject property is a single-family residence located at ADDRESS in Summit County, Utah. The Summit County Board of Equalization ("County BOE") reduced the \$\$\$\$ value at which the subject property was originally assessed to \$\$\$\$\$. The property owner asks the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to sustain the \$\$\$\$ value established by the County BOE.

APPLICABLE LAW

Tax Commission Appeals. 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. . . .
- (2) The auditor shall:
  - (a) file one notice with the commission;
  - (b) certify and transmit to the commission:
    - (i) the minutes of the proceedings of the county board of equalization for the matter appealed;
    - (ii) all documentary evidence received in that proceeding; and
    - (iii) a transcript of any testimony taken at that proceeding that was preserved; and
  - (c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of the board of equalization as required by Section 59-2-1102.
- (3) In reviewing the county board's decision, the Commission may:
  - (a) admit additional evidence;
  - (b) issue orders that it considers to be just and proper; and
  - (c) make any correction or change in the assessment or order of the county board of equalization.
- (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.

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Burden of Proof. 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 is located in the Highland Estates Subdivision, which its located near the JUNCTION of ( X )and ( X ). The subject property consists of 0.76 acres of land and a two-story home that contains 2,755 square feet of above-grade living space and 1,526 square feet of basement space (1,190 square feet finished). The home was built in 1997 and has a three-car garage.

The SUBDIVISION contains a wide variety of homes that were built from the mid-1970s through 2008. The homes in the subdivision also range greatly in size and quality of construction.

Property Owner's Information. The property owner proffers evidence from the COMPANY website, which shows that the median price of homes in the subject's zip code dropped approximately 1.27% in value from the 4<sup>th</sup> Quarter of 2006 to the 4<sup>th</sup> Quarter of 2007. He also proffers that this information shows that the median home price in the subject's zip code decreased from \$\$\$\$\$ in the 2<sup>nd</sup> Quarter of 2007 to \$\$\$\$\$ in the 4<sup>th</sup> Quarter of 2007, a decrease of approximately 15%. It is unknown, however, whether the website used sales prices or assessed values to determine its median prices.

The property owner also asserts that it is well known that the housing market declined significantly in Summit County after July 2007. For these reasons, he believes it is unreasonable that the County increased the subject property's assessed value from \$\$\$\$\$ for the 2007 tax year to \$\$\$\$\$ for the 2008 tax year, an increase of approximately 18%. He suggests that the Commission apply the negative 1.27% rate of decline to the subject's 2007 assessed value of \$\$\$\$\$ and set the subject's value at \$\$\$\$\$for the 2008 tax year.

County's Information. The County states that its original assessed value was based on a sales ratio factor that it applied consistently to all properties in the subject's subdivision. The County admitted that the sales ratio factor was based primarily on sales that occurred prior to July 2007, more than six months prior

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to the lien date. However, the County stated that while it saw a decline in the number of sales of homes in the latter half of 2007, it did not discern any significant decrease in values during this period.

The County asks the Commission to sustain the subject's current value of \$\$\$\$\$ and proffers an appraisal in support of the current value. In its appraisal, the County compared the subject property to three comparables that sold in the first five months of 2007 and derived a value of \$\$\$\$\$ for the subject property. Two of the comparables were located in the subject's subdivision and sold for prices of \$\$\$\$\$ and \$\$\$\$\$, respectively. These homes were older and significantly smaller than the subject property. If prices did not decline significantly during the latter half of 2007, then these comparables would support the subject's current value of \$\$\$\$\$.

The Commission notes that the County included a third comparable from an adjacent subdivision in its appraisal, as well. This home sold for \$\$\$\$\$. Although RESPONDENT REP 2, the appraiser, originally adjusted this comparable to \$\$\$\$\$, he admitted at the hearing that a mistake was made and the adjusted sales price should actually be \$\$\$\$\$. Because of the mistake, he asked the Commission to exclude this comparable until he could reconsider its use in the appraisal.

Analysis. The Commission is not convinced that the property's owner has shown that the current value of \$\$\$\$\$ is incorrect or that the proposed value of \$\$\$\$\$ is correct. First, there is a question of whether the COMPANY analysis used actual sales information or whether it used assessed values obtained from the County. Second, even if the COMPANY analysis used actual sales prices, a decrease in the median sales price of all homes that sold in a quarter does not necessarily show that prices of all homes decreased. It may merely show that that less valuable homes sold in one quarter when compared to homes that sold in another quarter. Furthermore, the "average" sales prices shown on the COMPANY website are significantly higher than the "median" sales prices and show different market trends. Without additional information, the property owner's information is insufficient to show that the subject's value for 2008 was not \$\$\$\$\$.

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In addition, the County's limited information does not show that the \$\$\$\$\$ value is incorrect. Without information to show that the value of homes decreased in the subject's subdivision during the last half of 2007, the County's information supports the subject's current value of \$\$\$\$\$. For these reasons, the Commission denies the property owner's appeal and sustains the current value of \$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Commission sustains the \$\$\$\$\$ value that the County BOE established for the subject property 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.

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

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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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