

09-0182
LOCALLY ASSESSED PROPERTY
SIGNED 05-07—09

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 09-0182 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2008 Judge: Chapman
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Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1, Taxpayer

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 May 4, 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 (approx. (X)) in CITY, Utah. The Salt Lake County Board of Equalization ("County BOE") reduced the \$\$\$\$ value at which the subject was originally assessed for the 2008 tax year to \$\$\$\$\$. The property owners ask the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to increase the subject's value to \$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §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

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determination of any exemption in which the person has an interest, may appeal that decision to the commission”

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 0.29-acre lot and a one-story rambler that was built in 1998. The home has 2,483 square feet of living space on the main floor and a basement that is 2,531 square feet in size (95% finished). The home has one fireplace and a three-car garage. The subject property sold for \$\$\$\$\$ in April 2005, almost three years prior to the lien date.

Property Owners' Information. The property owners ask the Commission to reduce the subject's value to \$\$\$\$\$, based on an appraisal that estimates the subject's value at this amount as of March 25, 2009, approximately 15 months after the lien date. The appraisal was prepared by APPRAISER for purposes of the property owners refinancing their mortgage. In his appraisal, APPRAISER compared the subject to three comparable sales that sold in the last three months of 2008, more than nine months after the lien date. The three comparables sold for prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. All of the comparables are located between one-half mile and one mile from the subject property. All of the comparable homes are

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similar in size to or are larger than the subject home. APPRAISER adjusted the three comparables to prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$.

The property owners also submit six comparable sales in the subject's immediate neighborhood. All but one of these comparables sold in the latter half of 2008 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. It is unknown how similar each of these comparables is to the subject, as the total square footage of each comparable is unknown. The square footages provided for the comparables is total finished area, not total area (i.e., unfinished basement areas are excluded). This information is from the website www.niteowlplus.net.

Finally, the property owners submit Multiple Listing Service ("MLS") information for two homes that sold in the first half of 2008 for prices of \$\$\$\$\$, and \$\$\$\$\$. One of these comparables, which sold in January 2008 for \$\$\$\$\$, is similar in size to the subject property but has an unfinished basement. However, the MLS information indicates that this property is a "short sale" property "in pre-foreclosure."

County's Information. The County proffers an appraisal in which it estimates the subject's value to be \$\$\$\$\$ as of January 1, 2008. The County asks the Commission to increase the subject's current value of \$\$\$\$\$ to \$\$\$\$\$, based on its appraisal.

In its appraisal, the County compares the subject to four comparables that sold for prices ranging between \$\$\$\$\$ to \$\$\$\$\$. The four comparables are all located between one-half mile and one and one-half miles from the subject property. Three of the homes sold between April 2007 and August 2007 (five to eight months prior to the lien date) for prices ranging between \$\$\$\$\$ to \$\$\$\$\$. These comparable homes were between one and five years old as of the lien date, while the subject was ten years old.

The fourth comparable sold in December 2008 for a lower price, \$\$\$\$\$. This comparable home was nine years old as of the lien date, nearly the same age as the subject. All of the County's comparables are slightly smaller in size than subject property. The County adjusted the four comparables,

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deriving adjusted sales values ranging between \$\$\$\$\$ and \$\$\$\$\$. The comparable nearly the same age as the subject property was adjusted to \$\$\$\$\$.

The County states that by January 1, 2009, one year after the lien date, prices in the subject's area have decreased dramatically. The County states that many homes have decreased in value by \$\$\$\$\$ or \$\$\$\$\$ due to the number of foreclosures in the area during 2008. For these reasons, the County states that the property owners' appraisal, in which the subject's value is estimated to be \$\$\$\$\$, reasonably estimates the subject's value as of January 1, 2009. However, the County contends that the subject's value as of January 1, 2008 is \$\$\$\$\$, asserting that prices had not fallen as of the lien date at issue in this appeal and that foreclosures had not "taken over" the market until mid-2008.

Analysis. Most of the County's comparables sold at least a year before the property owners' comparables. Together, the parties' comparables show that prices decreased significantly between mid-2007 and mid-to-late 2008. Based on the evidence submitted at the hearing, the subject's value appears to have decreased from around \$\$\$\$\$ in mid-2007 to around \$\$\$\$\$ as of late-2008. At issue, however, is whether either party has shown that the subject property's current value of \$\$\$\$\$ is incorrect as of January 1, 2008, which falls in between these periods.

The County has shown that three comparables sold between \$\$\$\$\$ and \$\$\$\$\$ in mid-2007 and that one property sold for \$\$\$\$\$ a few days before the lien date. However, the County has not provided evidence of more than one comparable near the lien date to show that the market continued to support values in excess of \$\$\$\$\$ after January 1, 2008. Such information might have convinced the Commission that the one sale in December 2007 at \$\$\$\$\$ was not an anomaly in a market that may have already decreased tremendously prior to the lien date. The property owners show that a property affected by foreclosure and similar in size to the subject was selling for \$\$\$\$\$ in the month after the lien date. Without additional information, the Commission is not convinced that the \$\$\$\$\$ value established by the County BOE is

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incorrect. For these reasons, the Commission denies the County's request to increase the subject's value to \$\$\$\$\$.

The property owners have shown that after mid-2008, comparables regularly sold for prices below the subject's current value of \$\$\$\$\$. They also proffer one comparable that sold in January 2008 for \$\$\$\$\$. However, they have not provided additional comparables near the lien date to convince the Commission that the subject's fair market value had fallen to a value below \$\$\$\$\$ as of January 1, 2008. For these reasons, the Commission also denies the property owners' request to decrease the subject's value to \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax 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.

Kerry R. Chapman
Administrative Law Judge

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BY ORDER OF THE UTAH STATE TAX COMMISSION.

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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