

09-0473  
PROPERTY TAX  
SIGNED 04-21-09

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,  Petitioner,  v.  BOARD OF EQUALIZATION OF SUMMIT COUNTY, STATE OF UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No.    09-0473  Parcel Nos.    ##### 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, Property Owner

For Respondent:    RESPONDENT REP, 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 7, 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 in the SUBDIVISION near ( X ) in Summit County, Utah. The Summit County Board of Equalization ("County BOE") reduced the \$\$\$\$ value at which the subject was originally assessed to \$\$\$\$\$. The property owner asks the Commission to reduce the subject's value to an amount of \$\$\$\$ or less. The County asks the Commission to sustain the \$\$\$\$ value established by the County BOE.

APPLICABLE LAW

Utah Code Ann. §59-2-1113 provides that “[h]ousehold furnishings, furniture, and equipment used exclusively by the owner at the owner's place of abode in maintaining a home for the owner and the owner's family are exempt from property taxation.”

Utah Administrative Rule R884-24P-29 clarifies, however, that household furnishings, furniture and equipment are taxable under certain conditions, as follows:

- A. Household furnishings, furniture, and equipment are subject to property taxation if:
  - 1. the owner of the abode commonly receives legal consideration for its use, whether in the form of rent, exchange, or lease payments; or
  - 2. the abode is held out as available for the rent, lease, or use by others.

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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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 0.07-acre lot and a three-story home that is 2,334 square feet in size. The home is located in the SUBDIVISION near ( X ), a complex that has a large number of ( PORTION REMOVED ). The subject is a single-family residence.

Property Owner's Information. The property owner proffered four comparables sales and made adjustments to three of them. The first comparable sold for \$\$\$\$\$ in November 2007. It has similar upgrades to the subject property. The property owner adjusted this property to a value of \$\$\$\$\$, after making deductions for furnishings, plantation shutters, air conditioning, etc. The second comparable sold for \$\$\$\$\$ in August 2008, and the property owner adjusted it to \$\$\$\$\$. The third comparable, which was corporate-owned, sold for \$\$\$\$\$ in December 2007, and the property owner adjusted it to \$\$\$\$\$. Based on an average of these three adjusted prices, the property owner determined that the subject property's value should be \$\$\$\$\$. As a result, she requested that the Commission reduce the subject's value to an amount no greater than \$\$\$\$\$.

The property owner also submitted a fourth comparable, a corporate-owned property that sold for \$\$\$\$\$ in May 2008. Although the County argued that the two corporate-owned properties should not be considered, the property owner stated that they should be because a great number of the properties have been foreclosed in the subdivision. The County stated that while it has seen a significant number of bank and corporate-owned properties in the subdivision listed for sale in 2008, it only saw one or two in 2007.

County's Information. The County first proffers that the subject property was listed for sale at \$\$\$\$\$ in January 2008. However, the subject never sold. In addition, the County proffered three comparable sales of similar properties in the subdivision that sold between February 2007 and February 2008. Prices decreased significantly during this period, as the County's comparable #1 sold in February 2007 for \$\$\$\$\$ the County's comparable #2 sold in November 2007 for \$\$\$\$\$ (also one of the property owner's comparables), and the County's comparable #3 sold in February 2008 for \$\$\$\$\$. All three properties were furnished.

Based on County comparable #1 and #3, the County determined that a time adjustment of approximately \$\$\$\$\$ per month was appropriate to account for the declining market. The County also adjusted for furnishings, based on 7% of sales price. In addition, some units had kitchen and other upgrades for which the County estimated a \$\$\$\$\$ adjustment. After applying its adjustments, the County determined approximate adjusted sales prices of \$\$\$\$\$ for comparable #1, \$\$\$\$\$ for comparable #2 and \$\$\$\$\$ for comparable #3. The County determined that the subject's current value of \$\$\$\$\$ was close to the range of adjusted prices and recommended no change in value.

Analysis. The Commission notes that it appears that the bank and corporate-owned properties may have had more of an influence on prices in the subject's subdivision in 2008 than in 2007. The influence for January 1, 2008 lien date appears minimal. As a result, the Commission gives little weight to the sales of such properties for purposes of determining the subject's value for the 2008 tax year.

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Of the parties' remaining comparables, two sold near the lien date, one on November 2007 for \$\$\$\$ and the other in February 2008 for \$\$\$\$\$. The County adjusted both of these comparables properties to \$\$\$\$\$. The Commission finds that the County's adjustments, which were made by an appraiser, are more persuasive than the property owner's adjustments. Furthermore, the comparable that sold for \$\$\$\$ and adjusted to \$\$\$\$ is most like the subject in upgrades than any other comparable. For these reasons, the Commission finds that the subject's value should be reduced to \$\$\$\$ for the 2008 tax year.

DECISION AND ORDER

Based upon the foregoing, the Commission reduces the \$\$\$\$ value that the County BOE established for the subject property for the 2008 tax year to \$\$\$\$\$. The Summit County Auditor is ordered to adjust its records to reflect the Commission's decision. 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

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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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