

09-1321  
LOCALLY ASSESSED PROPERTY  
SIGNED 09-10-2009

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,  Petitioner,  vs.  BOARD OF EQUALIZATION FOR SALT LAKE COUNTY, UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No. 09-1321  Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2008  Judge: Marshall
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**Presiding:**

Jan Marshall, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, *Pro Se*

For Respondent: RESPONDENT REP, Appraiser for Salt Lake County

STATEMENT OF THE CASE

Taxpayer brings this appeal from the decision of the Salt Lake County Board of Equalization (“the County”). This matter was argued in an Initial Hearing on August 4, 2009. The Salt Lake County Assessor’s Office assessed the subject property at \$\$\$\$\$ as of the January 1, 2007 lien date, which the Board of Equalization sustained. The County is requesting the Commission reduce the value to \$\$\$\$\$. The Taxpayer is requesting the value of the subject property be reduced to \$\$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible taxable property located within the state 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 provided by law.
- (2) Subject to Subsections (3) and (4), beginning on January 1, 1995, the fair market value of residential property located within the state shall be reduced by 45%, representing a

residential exemption allowed under Utah Constitution Article XIII, Section 2.

- (3) No more than one acre of land per residential unit may qualify for the residential exemption.

Utah Code Ann. §59-2-103 (2008).

For property tax purposes, “fair market value” is defined in Utah Code Ann. §59-2-102(12), as follows:

“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. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

Utah Code Ann. §59-12-102(12) (2008).

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part below:

- (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 values plus or minus 5% from the assessed value of comparable properties.

Utah Code Ann. §59-2-1006 (2008).

Any party requesting a value different from the value established by the County Board of Equalization 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. To prevail, a party must: 1) demonstrate that the value established by the County Board of Equalization contains error; and 2) provide the Commission with a sound evidentiary basis for changing the value established by the County Board of Equalization to the amount proposed by the party. The Commission relies in part on *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332, 335 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996) and *Utah Railway Co. v. Utah State Tax Comm'n*, 5 P.3d 652 (Utah 2000).

#### DISCUSSION

The subject property is parcel no.#####, located at ADDRESS 1 in CITY. It is a 0.40-acre parcel improved with a 104-year old two-story home with a brick exterior. The home has 4,998 square feet above grade and a 2,199 square foot basement, with 1,760 square feet finished. The residence has eight bedrooms, four and three-quarter bathrooms, five fireplaces, and a two-car garage.

Taxpayer is requesting the value of the property be reduced to \$\$\$\$\$. He purchased the property for that amount on May 22, 2008, and provided a copy of the settlement statement. The County provided a copy of the MLS report for the purchase, which notes that the home was being sold "as is" and was subject to third party approval. Taxpayer argued that that the third party was a bank, and that the bank would want to sell the property at the highest price because they held the mortgage. Taxpayer disputes that the subject would have sold for 15% higher on the lien date.

Taxpayer testified that the interior of the home was in very poor condition when he purchased the property. He stated that at one time the property was used as a ( X ), and had been sitting vacant for at least six months when he purchased it. He testified that there was a lot of debris in the home, that the bathrooms were not operating, that the carpeting was old, and the light fixtures and wiring were hanging down from the ceilings. Taxpayer stated that the County's appraisal identifies the subject as having asphalt shingles, and testified that the home had asbestos shingles, which were very expensive to replace. In addition, Taxpayer stated that the appraisal did not indicate whether the appraiser had conducted an interior or exterior inspection.

The County's representative stated that he did not perform a complete inspection of the property, and that the information used in his appraisal he gathered from the County records. He

stated that the market in the subject neighborhood was relatively stable from January through mid-2008. He stated that it is difficult to say what the value would have been on the lien date because he did not know the condition of the property.

In support of the County's requested value, the County's representative submitted a retrospective appraisal of the subject property. The appraisal compared the subject property to four properties, and determined the value of the subject, as of the lien date, to be \$\$\$\$\$.

- a. The County's first comparable is located ADDRESS 2 in CITY, 0.19 miles from the subject. It is a .11-acre lot improved with a 109-year old brick Victorian home. The home has 2,656 square feet above grade and a 464 square foot unfinished basement. The residence has three bedrooms, two and one-half bathrooms, a fireplace, and a two-car garage. The County made adjustments for seller concessions, lot size, bathrooms, square footage, garage, and fireplaces. The home sold for \$\$\$\$\$ on July 2, 2007, and has an adjusted sales price of \$\$\$\$\$.
- b. The County's second comparable is located at ADDRESS 3 in CITY, 1.04 miles from the subject. It is a .14-acre lot improved with a 100-year old brick and stucco Victorian home. The home has 3,109 square feet above grade and a 1,550 square foot basement with 775 square feet finished. The residence has four bedrooms, two and three-quarter bathrooms, and two fireplaces. The County made adjustments for the lot size, bathrooms, square footage, garage, and fireplaces. The home sold for \$\$\$\$\$ on May 21, 2007, and has an adjusted sales price of \$\$\$\$\$.
- c. The County's third comparable is located at ADDRESS 4, 0.21 miles from the subject. It is a .14-acre lot improved with a 101-year old two story brick and wood home. The home has 3,321 square feet above grade and a 1,200 square foot basement with 1,150 square feet finished. The residence has three bedrooms, four bathrooms, three fireplaces, and a two-car garage. The County made adjustments for the lot size, bathrooms, square footage, garage, and fireplaces. The home sold for \$\$\$\$\$ on October 24, 2007, and has an adjusted sales price of \$\$\$\$\$.
- d. The County's fourth comparable is located at ADDRESS 5 in CITY, .28 miles from the subject. It is a .14-acre lot improved with a 109-year old brick two story home. The home has 4,091 square feet above grade and a 1,450 square foot unfinished basement. The residence has five bedrooms, three and a quarter half bathrooms, a fireplace, and a two-car carport. The County made adjustments for seller concessions, lot size,

bathrooms, square footage, garage, and fireplaces. The home sold for \$\$\$\$\$ on January 1, 2007, and has an adjusted sales price of \$\$\$\$\$.

The County's representative stated that he did not know what the condition of the subject was on January 1, 2008, but that the property was listed for sale in August of 2008 with an asking price of \$\$\$\$\$. He noted that the photographs on the flyer showed the home to be in good condition, with a lot of nice woodwork. The Taxpayer responded that the agent took photographs to highlight the most pleasing views in the home, and that they photographs were taken after several months of hard labor. He explained that the listing price was determined by his three children. Taxpayer stated that renovating the home was a family project, and that the children would get a share in the profits in exchange for their work on the property.

A party seeking a value other than that established by the board of equalization, has the burden of proof and must demonstrate not only an error in the valuation set by the County Board of Equalization, but must also provide an evidentiary basis to support a new value. The Taxpayers provided testimony regarding the condition of the subject, as well as a closing statement showing he purchased the home for \$\$\$\$\$ in May of 2008. The Commission finds the Taxpayer has provided sufficient information to call into question the value established by the Board of Equalization.

Property tax is based on the market value of the property as of January 1 of the tax year at issue under Utah Code Ann. §59-2-103. Utah Code Ann. §59-2-102 defines "market value" as the amount for which property would exchange hands between a willing buyer and seller. The Commission has reviewed the evidence submitted by both parties. In support of his requested value of \$\$\$\$\$, the Taxpayer provided a copy of his closing statement. The County provided a retrospective appraisal report that determined a value for the subject of \$\$\$\$\$. The County's appraiser acknowledged that he did not do an inspection of the property, and that he did not know about the condition of the property. He testified that the market in the subject neighborhood was relatively stable from January through mid-year 2008. The Commission is concerned that the County's appraisal used three comparables that sold under \$\$\$\$\$ and made significant upwards adjustments to those sale prices. In addition, the appraiser made a \$\$\$\$\$ adjustment on comparables one and three for the garage, which not only seems excessive, but the appraisal report shows that the subject and both comparables all had two-car garages. In light of the County's testimony regarding the market conditions in the subject neighborhood and the concerns with the appraisal, the Commission finds the Taxpayer's purchase price, although post lien date, to be the better indication of value for the subject as of the January 1, 2008 lien date.

DECISION AND ORDER

Based on the foregoing the Commission finds that the value of the subject property as of the January 1, 2008 lien date is \$\$\$\$\$. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order. 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  
CITY, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

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

\_\_\_\_\_  
Jan Marshall  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The agency 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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