

09-1374
LOCALLY ASSESSED PROPERTY
SIGNED 12-23-2009

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 09-1374</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2008</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REP, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah Code Sec. 59-1-502.5, on October 15, 2009. Petitioner (the "Property Owner") is appealing the assessed value as established for the subject property by the Salt Lake County Board of Equalization, as of the lien date January 1, 2008. The County Assessor had set the value at \$\$\$\$ and the County Board of Equalization sustained the value. The Property Owner requests that the value be lowered to \$\$\$\$\$. At the hearing, Respondent (the "County") requested that the value set by the County Board of Equalization be sustained.

APPLICABLE LAW

All tangible taxable property 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 provide by law. (Utah Code Ann. Sec. 59-2-103 (1).)

“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. (Utah Code Ann. 59-2-102(12).)

(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. (Utah Code Ann. Sec. 59-2-1006(1).)

To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

DISCUSSION

The subject property is parcel no. ##### and is located at ADDRESS 1, CITY, Utah. The property consists of .24-acres of land improved with a two-story style residence. The residence was constructed in 1990. The County considers the residence to be of good quality of construction and in good condition. There are 4,189 square feet above grade and a basement of 2,178 square feet, of which 2,000 square feet are finished. There is a kitchen in the basement of this property in addition to the main kitchen. There is also an attached three-car garage. The flooring on the main is hardwood or travertine. The kitchen has granite counters. It was the opinion of the appraiser for the county that the quality of the construction was better than other homes in the neighborhood because the exterior was all brick and the roof a wood shake shingle. He stated that the other homes nearby were of a lower grade with exteriors of stucco and some brick trim and asphalt shingles.

The Property Owner asked that the value be reduced to \$\$\$\$\$. This was based on three comparable sales she had submitted. Two of the properties were in the same neighborhood as her property. One comparable, at ADDRESS 2, was across the street and up one lot from her property. This property had sold for \$\$\$\$\$ on May 30, 2008. Like the subject it was a two-story and had been built in 1990. It had 3,641 above grade square feet and a basement of 2,786 square feet of which 2,300 were finished. The second property at ADDRESS 3 was also near the subject in the same neighborhood. This property had sold for \$\$\$\$\$ on June 20, 2008. This property has 4,040 above grade square feet, 1912 basement square feet of which 1,700 are finished. This property was constructed in 1994.

The Commission gives no weight to the third comparable offered by the Property Owner as it is a much older residence, constructed in 1978, is of a different style, lower in grade and condition. It is also located in a different neighborhood.

At the hearing the representative for the County, RESPONDENT REP, Licensed Appraiser, submitted an appraisal that he had prepared for the subject property. He did consider four comparables in his appraisal, two were located in the same neighborhood as the subject property, and two were a little further in distance. His comparables all had dates of sale during 2007. He pointed out the lien date at issue in this appeal is January 1, 2008 and he was trying to determine a value as of that date. He represented that the residential property market had been increasing during the first two quarters of 2007 and then started to soften in the last half of the year. In 2008 values began to decline. It was his opinion that the post lien date sales offered by the Property Owner would need a time adjustment to get back to the value on January 1.

The two comparables offered in the same neighborhood were located at ADDRESS 4, which had sold for \$\$\$\$\$ on March 30, 2007. This property has 5,401 above grade square feet and a basement of 2,110 square feet, which is fully finished. Like the subject, the residence was constructed in 1990. This property has a large lot of .72 acres. ADDRESS 5 had sold for \$\$\$\$\$ on April 27, 2007. This property has 3,475 square feet above grade and a basement of 1,825 square feet of which 1,733 are finished. This property was constructed in 1991. Although further in location from the subject property, the comparable at ADDRESS 6 had sold for \$\$\$\$\$ on November 20, 2007. Of all the comparables offered this was the sale that occurred the nearest to the lien date at issue in this matter. This property had been constructed in 1989 with 3,659 above grade square feet and a 2,403 square foot basement that was fully finished.

RESPONDENT REP made appraisal adjustments for differences between his comparables and the subject including quality of construction and condition adjustments, as well as to account for differences in size of residence and lot. After making his adjustments his indicated range of values for the subject from these comparables was from \$\$\$\$\$ to \$\$\$\$\$.

RESPONDENT REP asserted that the Property Owner's first comparable at ADDRESS 2 was of a lower grade than the subject as it has stucco with brick trim and an asphalt shingle roof. He also pointed out that there was less above grade square feet. It was his opinion a time adjustment alone to account for the market decline after the lien date to May 30, 2008 when this property sold would support a value of \$\$\$\$\$. He also stated that the comparable at ADDRESS 6 was lower in grade and condition and would need a time adjustment. The Property Owner had not

submitted photographs of these comparables that were large enough for the Commission to make any determination about the exterior grade.

Upon reviewing the evidence submitted in this matter, the issue before the Commission is the fair market value of the property as of January 1, 2008. The County asserted information regarding the residential market conditions during 2007 and 2008 that was un-refuted by the Property Owner and consistent with the Commission's general understanding. The Commission would prefer comparable sales in the same neighborhood as the subject that occurred near the end of 2007 to determine the value for the lien date. However, neither side was able to find these. Taking into account a declining market in 2008, the Commission is unable to find the Property Owner's sales meet the burden of proof to lower the value below that set by the County Board of Equalization. Despite early sales in 2007, the appraisal offered by the County is supportive of the Board of Equalization value.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2008, is \$\$\$\$\$. The County Auditor is hereby ordered to adjust its records in accordance with this decision. 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
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.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

Appeal No. 09-1374

D'Arcy Dixon Pignanelli
Commissioner
JKP/09-1374.int

Michael J. Cragun
Commissioner