

09-1790
LOCALLY ASSESSED PROPERTY TAX
TAX YEAR: 2008
SIGNED: 01-31-2011

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 & PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 09-1790</p> <p>Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2008</p> <p>Judge: Chapman</p>
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Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1, Taxpayer
 PETITIONER REP., Witness
For Respondent: RESONDENT 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 April 12, 2010.

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 1 (approximately STREET) in CITY, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was originally assessed for the 2008 tax year. The property owners ask the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to reduce the subject's value to \$\$\$\$\$

APPLICABLE LAW

Utah Code Ann. §59-2-103(1) provides that “[a]ll 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 provided by law.”

“Fair market value” is defined in UCA §59-2-102(12) to mean “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. . . .”

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

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 contains error; and 2) provide the Commission with a sound evidentiary basis for reducing or increasing the valuation 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 Comm’n*, 590 P.2d 332, (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 consists of a 2.50-acre lot and a one-story, log home that was built in 1996. The home contains 1,727 square feet of above-grade living space and a basement that is 983 square feet in size (approximately 80% complete). The home has a three-car garage. The road the subject is located on is unpaved. The subject’s 2.5 acres of land is steep, and very little of it is buildable.

Taxpayers' Income Approach. The taxpayers ask the Commission to reduce the subject's value to \$\$\$\$ on the basis of "an income approach." The taxpayers state that they purchased the subject property for \$\$\$\$ in 2002. They assert that they could afford a \$\$\$\$ home in 2002 based on the income they earned at that time. They also assert that their income has not increased since 2002. As their 2008 income is the same as it was when they purchased the subject property in 2002, they contend that the subject's value should be the same in 2008 as the \$\$\$\$ amount they purchased it for in 2002.

Utah law, however, provides for a different methodology for valuing property in Utah for property tax purposes. Section 59-2-103(1) provides that a property's value for property tax purposes is based on its "fair market value" as of January 1 of the tax year at issue. Section 59-2-102(12) provides that "fair market value" is the value "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." The value of a property for property tax is not based on the property owner's income. It is based on the price it would sell for on January 1 of the tax year at issue. As a result, the Commission is not convinced that the subject's 2008 value is \$\$\$\$ on the basis of the taxpayers' income approach.

County's SIGMA System. The taxpayers also state that the subject's current value was calculated by the County with its SIGMA computer model and contend that the model is deficient and produces unreliable values. At the Initial Hearing, however, the County is relying on an appraisal prepared by RESPONDENT REP., a County appraiser, and is asking for the subject's value to be reduced based on the appraisal. As the County is no longer relying on a value produced by its SIGMA computer model, this argument is moot.

Land Value. The subject's 2.5-acre lot is currently assessed at \$\$. The taxpayers' contend that this value is too high because the subject lot has very steep topography that results in very little "usable" land. The evidence proffered at the Initial Hearing does not show that the current land value of \$ is

Appeal No. 09-1790

incorrect. First, neither party proffered any information to show whether steep lots in the subject's neighborhood sell for less than relatively flat lots. Second, the County prepared a chart of 2.5-acre lot sales in the subject's subdivision from 2006 and 2007. None of these lots appear to have sold for less than \$\$\$\$\$, and most sold between \$\$\$\$\$ and \$\$\$\$\$. For these reasons, the taxpayers have not met their burden of proof to show that the subject's land value is incorrect.

Market Information. The taxpayers also submitted market information. They provided four comparable sales of homes that sold between March 2008 and February 2009. The four comparables sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. They also provided an appraisal of a home in their neighborhood that appraised for \$\$\$\$\$ in July 2008. The appraisal contained three comparables, two of which are among the four comparables provided by the taxpayers. The third comparable in the appraisal is a 1.0-acre property that sold for \$\$\$\$\$ and appears least similar to the subject.

The County submitted an appraisal in which RESPONDENT REP. compared the subject to seven comparables that sold between February 2007 and March 2008 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. RESPONDENT REP. adjusted the comparables and originally estimated the subject's value to be \$\$\$\$\$. At the hearing, RESPONDENT REP. stated that he thought a barn currently on the property had been built prior to the lien date. Because the barn was not built until 2009, RESPONDENT REP. stated that his estimated value should be reduced by \$\$\$\$\$ to \$\$\$\$\$. The County asks the Commission to reduce the subject's value to \$\$\$\$\$ based on the appraisal and the adjustment for the barn.

After the deduction of \$\$\$\$\$ for the barn, the seven comparables in the County's appraisal adjust to prices that ranged between \$\$\$\$\$ and \$\$\$\$\$. However, four of the seven comparables should receive another adjustment. The subject and three of the comparables are 2.5 acres in size. Four of the comparables, however, are approximately 5.0 acres in size. RESPONDENT REP. determined that no adjustment was necessary for the difference in size between a 2.5-acre lot and a 5.0-acre lot. RESPONDENT REP. provided a

Appeal No. 09-1790

chart of 2006 and 2007 lot sales to show that 2.5-acre lots and 5.0-acre lots sell for similar prices. However, it appears from the chart that the majority of 2.5-acre lots sell for about \$\$\$\$ less than the average sales price of 5.0-acre lots. In addition, in the appraisal proffered by the taxpayers, that appraiser determined that homes on 5.0-acre lots were worth approximately \$\$\$\$ more than homes on 2.5-acre lots. For these reasons, the four comparables in the County's appraisal with 5.0-acre lots should be adjusted downward by \$\$\$\$\$. With these adjustments, the County's seven comparables show adjusted sales prices ranging between \$\$\$\$ and \$\$\$\$.

The taxpayers contend that the subject property is worth less than most other properties in their neighborhood because it is located on an unpaved road and has steep topography. RESPONDENT REP. indicated that he did not think that these features made any difference in value. In addition, no evidence was submitted to show what difference in value, if any, these features made. As a result, no adjustment will be made because of the subject being located on an unpaved road and having steep topography.

The County also made time adjustments to the comparables in its appraisal. The adjustments appear reasonable. The parties both indicated that prices in the subject's neighborhood begin to fall in mid-2007 and continued to fall throughout 2008. The County determined that prices fell approximately 1% per month between mid-2007 and the January 1, 2008 lien date at issue in this appeal. The County also determined that prices fell approximately 2.5% per month between the January 1, 2008 lien date and the spring of 2008. The County prepared a chart that showed that prices fell even more dramatically in mid and late-2008. The taxpayers' witness proffered that prices in the last half of 2008 fell as much as 5% or 6% per month. Based on these market conditions, homes that sold in late 2007 and the first few months of 2008 would offer a better estimate of the subject's value as of the lien date than homes that sold in mid-2008 or later.

Most of the taxpayers' comparables sold in mid-2008 or later when prices were falling or had fallen significantly. The appraisal of another property that they provided was also prepared in mid-2008 when prices were falling more dramatically. One of the taxpayers' comparables sold in March 2008 and is also a

Appeal No. 09-1790

comparable that the County used in its appraisal. The adjusted sales price of this comparable is \$\$\$\$\$, after the revisions to the adjustments discussed earlier.

All of the County's comparables sold in or before March 2008, when prices began to fall even more dramatically. Three of the comparables are, like the subject, log homes on 2.5-acre lots. These three comparables, after revised adjustments, show adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. The one that adjusts to \$\$\$\$\$ was built in 1986 and is 10 years older than the subject. The two that adjust to \$\$\$\$\$ and \$\$\$\$\$ were built in 1992 and are four years older than the subject. The subject is more similar in age to the two properties that adjusted to \$\$\$\$\$ and \$\$\$\$\$. Of these three comparables, the subject is also most similar in size to the comparable that adjusts to \$\$\$\$\$. For these reasons, the County's proposed value of \$\$\$\$\$ appears reasonable. The taxpayers have not met their burden to show that the value should be lower.

In conclusion, the information provided at the Initial Hearing shows that the subject's value should be reduced to \$\$\$\$\$ for the 2008 tax year.

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's current value of \$\$\$\$\$ should be reduced to \$\$\$\$\$ for the 2008 tax year. The Salt Lake County Auditor is 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. 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:

Appeal No. 09-1790

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 _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

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