

09-3514  
LOCALLY ASSESSED PROPERTY  
TAX YEAR: 2009  
SIGNED: 12-16-2010  
COMMISSIONERS: R. JOHNSON, M. JOHNSON, M. CRAGUN  
EXCUSED: D. DIXON  
GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2

Petitioners,  
  
v.  
  
BOARD OF EQUALIZATION OF RURAL  
COUNTY, UTAH,  
  
Respondent.

Appeal No. 09-3514  
  
Parcel No. #####  
Tax Type: Property Tax/Locally Assessed  
Tax Year: 2009  
  
Judges: R. B. Johnson  
M. Johnson

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**Presiding:**

R. Bruce Johnson, Commission Chair  
Marc B. Johnson, Commissioner

**Appearances:**

For Petitioner: PETITIONER 1  
For Respondent: RESPONDENT REP. 1, RURAL COUNTY Assessor  
RESPONDENT REP. 2, Appraisal Supervisor

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 June 16, 2010. The issue in this case is the fair market value of the subject property as of January 1, 2009.

The subject property is a 7,899 sq. ft. ( X ) home on 10 acres of land outside of CITY A. The assessor originally valued the property at \$\$\$\$\$. Pursuant to an appraisal presented by the taxpayer at the Board of Equalization, the Board reduced the value to \$\$\$\$\$. The taxpayer purchased the property in April 2009, three months after the lien date, for \$\$\$\$\$. The taxpayer believes that his purchase price is the best evidence of fair market value of the property as of the lien date. The County relies on the appraisal presented by the taxpayer to the Board.

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.

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.

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.

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 Board of Equalization determined its fair market value based on an appraisal submitted by the taxpayer at the BOE hearing. The appraisal was prepared for the taxpayer at the time of his purchase of the subject property from FINANCIAL INSTITUTION A (“FINANCIAL INSTITUTION A”). FINANCIAL

INSTITUTION A had acquired the property in its acquisition of the assets of FINANCIAL INSTITUTION B in September 2008. FINANCIAL INSTITUTION B had apparently acquired the property in a foreclosure proceeding. Both FINANCIAL INSTITUTION A and its predecessor, FINANCIAL INSTITUTION B, had been actively attempting to market the property. At the time of its sale to the taxpayer, it had been on the market for 648 days. The taxpayer entered into negotiations with FINANCIAL INSTITUTION A which culminated in his purchase of the property in April 2009 for \$\$\$\$\$.

The taxpayer commissioned the appraisal to satisfy himself that he was not paying too much for the property. He argues, however, that the purchase price itself is the best evidence of the fair market value of the property as of the lien date.

The County asserts, on the other hand, that a bank sale is not an arm's length sale. Rather, it is the sale of a distressed property. In this case, however, both banks made serious efforts to market the property at a fair price. The taxpayer presented evidence of at least four offers on the property over the course of the lengthy period in which it was marketed. This evidence indicates that neither bank was willing to liquidate the property at a sacrificed price. Moreover, the taxpayer originally offered a lower price and engaged in extensive negotiations with the bank before the selling price was actually agreed to. Finally, any knowledgeable seller, whether a bank or a private party, would recognize that the subject property is unique in the CITY A market and that relatively few prospective buyers would be both interested in, and able to afford, such a property.

We recognize that a single sale does not make a market. We also recognize that an arm's-length sale of the subject property itself is often the best indication of the fair market value. See Utah Code Ann. §59-2-102(12). Moreover, because of the unique nature of this property, the appraiser was required to use comparables from as far away as CITY B and all of the comparables needed significant adjustments. In particular, we note that size adjustments ranging from \$\$\$\$\$ to \$\$\$\$\$ were made on four of the six comparable sales. Those four sales were all less than 3,600 square feet in size. One CITY B property was 7,400 square feet and sold for \$\$\$\$\$ in March of 2009. It had an adjusted sale price of \$\$\$\$\$.

Finally, although the sale itself was actually consummated after the lien date, it appears that negotiations were initiated very close to the January 1, 2000 lien date, if not before. The sales price agreed to, when considered along with the other offers on the property received by the banks over the previous 648 days, does not indicate any significant reduction in the market in a few months after January 1. And the fact that the property was offered for sale for 648 days overrides any concerns that it was a bank sale.

Accordingly, based on the totality of the evidence, we accept the taxpayer's conclusion that the actual sales price of this property, \$\$\$\$\$, is the best indication of its fair market value for 2009.

#### DECISION AND ORDER

We find the fair market value of the subject property, as of January 1, 2009, is \$\$\$\$\$. The county

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auditor is ordered to adjust its records accordingly.

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 Petitioner's name, address, and appeal number:

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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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