

09-3850
LOCALLY ASSESSED PROPERTY TAX
TAX YEAR: 2009
SIGNED 10-21-2010
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF IRON COUNTY, UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 09-3850</p> <p>Parcel Nos. #####-1 #####-2</p> <p>Tax Type: Property Tax/Locally Assessed Tax Year: 2009</p> <p>Judge: Cragun</p>
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This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Michael J. Cragun, Commissioner

Appearances:

For Petitioner: PETITIONER REP., Trustee
For Respondent: RESPONDENT REP., Iron County Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. The parties presented their arguments in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on July 20, 2010. Petitioner (the "Property Owner") appeals the assessed value established for the subject property by the Iron County Board of Equalization as of the January 1, 2009 lien date. The valuations originally set by County Assessor, the value set by the County Board of Equalization, the Property Owner's requested value reductions and the Respondent's (the "County") requested value reductions are summarized in the following table:

Parcel Number	Original Valuation	BOE Valuation	Property Owner's Valuation Request	County's Valuation Request
#####-1	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####-2	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

APPLICABLE LAW

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. 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).

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)

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. Utah Code Ann. Sec. 59-2-1006(4)

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). See also Utah Code Sec. 59-1-1417 which provides, “In a proceeding before the commission, the burden of proof is on the petitioner . . .”

DISCUSSION

The subject properties are adjacent parcels of unimproved land located west of CITY, Utah. The Property Owner’s Request for Determination form indicates that the parcels were combined sometime subsequent to the January 1, 2009 lien date. Parcel number #####-1 consists of (#) acres and parcel number #####-2 is (#) acres.

The Property Owner presented the Utah State Tax Commission’s March 18, 2010 Findings of Fact, Conclusions of Law and Final Decision order that set the value of parcel #####-

2 at \$\$\$\$ as of January 1, 2008. He also presented an analysis of the sales price and 2009 valuation assessments of four of the comparable properties included by the County in the appraisal is prepared for the 2008 tax year appeal. The following table presents the Property Owner's data:

Parcel Number	Sale Date ¹	Sale Price	2009 Valuation	Ratio
#####-3	DATE	\$\$\$\$	\$\$\$\$	1.19
#####-4	DATE	\$\$\$\$	\$\$\$\$	1.09
#####-5 ²	DATE	\$\$\$\$	\$\$\$\$	1.32 ³
#####-6	DATE	\$\$\$\$	\$\$\$\$	1.03

After calculating the average sale price to valuation ratio at 1.15⁴, the Property Owner argued that the 2008 valuation established by the Tax Commission should receive a 15% reduction thus establishing the 2009 value of both subject properties at \$\$\$\$.

The following table illustrates a similar analysis by the Property Owner of selected properties submitted by the County for this appeal and described by the Property Owner's evidence as non-comparable sales:

Parcel Number	Sale Date ⁵	Sale Price	2009 Valuation	Ratio
#####-7	DATE	\$\$\$\$	\$\$\$\$	1.71
#####-8	DATE	\$\$\$\$	\$\$\$\$	1.06
#####-9	DATE	\$\$\$\$	\$\$\$\$	1.06
#####-10 & #####-11	DATE	\$\$\$\$	\$\$\$\$	1.13
#####-12	DATE	\$\$\$\$	\$\$\$\$	1.95 ⁶
#####-13	DATE	\$\$\$\$	\$\$\$\$	1.15

¹ The Property Owner did not include sale dates in his analysis. This information came from the Property Owner's source documentation or the County's evidence.

² The Property Owner's source documentation accompanying his analysis indicates that the parcel number for this property is #####-5.

³ Increasing the 2009 Valuation of this parcel, based upon the information contained in note 2 above, to \$\$\$\$ changes the ratio to 1.26.

⁴ The ratio revision calculated in note 3 above results in a 1.14% average ratio.

⁵ The Property Owner did not include sale dates in his analysis. This information came from source documentation or the County's evidence.

⁶ Increasing the 2009 Valuation of this parcel, based upon the information contained in note 7 above, to \$\$\$\$ changes the ratio to 1.17.

#####-14 ⁷	DATE	\$\$\$\$\$	\$\$\$\$\$	1.09
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The Property Owner calculated the average sale price to valuation ratio of these properties at 1.28⁸.

The County's representative submitted a list of eleven comparable sales with transaction dates between February 9, 2007 and December 15, 2008. Unadjusted sales prices ranged from \$\$\$\$\$ to \$\$\$\$\$ per acre with an average price of \$\$\$\$\$ per acre and a median price of \$\$\$\$\$ per acre. While the lot sizes varied between (#) and (#) acres, none matched the nearly (#) acres each of the subject properties. Accordingly, the County's evidence includes a note that size adjustment is warranted. However, the County's representative presented no such adjustment. The County's evidence also indicates that the two properties most comparable to the subject properties in location and terrain (but not size as they are (#) acre parcels) sold about 21 months apart for nearly identical amounts of approximately \$\$\$\$\$ per acre.

The foregoing evidence notwithstanding, the County's Representative asked the Commission to set the value of both parcels at \$\$\$\$\$ dollars per acre. This value reflects a 10% reduction in value from that established by the Tax Commission in its March 18, 2010 Findings of Fact, Conclusions of Law and Final Decision order. The County's representative presented no evidence to justify the 10% reduction.

The Property Owner's argument is essentially an equalization claim that the assessed values of the subject properties deviate by more than 5% from the assessed value of the properties relied upon in adjudicating the January 1, 2008 valuation for the subject properties. He demonstrates the deviation by comparing the 2007 sales prices of the comparable properties with the corresponding 2009 valuation assessments and then requests a reduction 2008 adjudicated value based upon the derived 15% deviation. The County did not refute the Property Owner's analysis. However, this analysis, which is akin to a sales ratio study, does not demonstrate a deviation between the assessed value of the subject and comparable properties. At most it shows that, assuming that the 2009 valuation assessments are correct, the comparable properties values declined by an average of 15% from 2007 to 2009.

While the evidence does show that the ratio of selling prices for all sales to assessments range from 1.03 to 1.71, that is not a valid basis for comparison in establishing equity. The appropriate method is to compare current assessments of similar properties using a common basis

⁷ At the hearing, the County's representative noted that the Property Owner included information about this parcel twice.

⁸ The ratio revision calculated in note 8 above along with removing the double entry mentioned in note 9 above results in a 1.20% average ratio.

of measurement. In this case however, neither party provided a valid analysis. In fact, the County simply made a 10% adjustment from the 2008 decision of the Commission, without any factual basis at all.

In spite of these problems, we are reluctant to deny the appeal when both parties recommend not only a reduction in the assessment made by the BOE, but a reduction from the Commission's 2008 decision. Accordingly we will examine all of the evidence provided. Rather than comparing the sales prices to assessments, we will examine the assessments themselves, which have been provided by the Taxpayer, and were not contested by the County.

To begin, we will disregard the assessments for the comparable sales provided by the County in its market analysis. Those sales, which were in the same area as the subject property, were considerably smaller than 80 acres. Instead we will consider the 2009 assessments for the comparable properties used by the Commission to establish the 2008 value:

Parcel	2009 Assessment	Size	Value/Acre
#####-15	\$80,000	82.43	\$970.52
C-0657-0658-0000	\$220,200	220	\$1,000.91
E-1901-0000-0000	\$220,000	320	\$687.50
C-0648-0001-0005	\$102,400	160	\$640.00
Average			\$824.73

Three of the four comparable properties were considerably larger than (#) acres, ranging from (#) to (#) acres. The first sale, parcel #####-15, is (#) acres in size and was assessed at \$\$\$\$ per acre. Although this figure is higher than the County's recommendation, we are not persuaded that the assessment should be set at a higher value than recommended by either party. Similarly, while the average assessment of all four parcels is \$\$\$\$ per acre, we do not believe the Taxpayer's requested value of \$\$\$\$ per acre is warranted due to the size differences.

While both parties agree and the evidence demonstrates that the valuations set by the County Board of Equalization are erroneous, neither party established an alternative value with a sound evidentiary basis. As neither party has requested a value greater than \$\$\$\$ per acre, the Tax Commission should set the January 1, 2009 value of the subject properties using that standard.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the values of the subject properties as of January 1, 2009, are \$\$\$\$ for parcel number #####-2 and \$\$\$\$ for parcel number #####-1. The County Auditor shall 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

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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 _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

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