

09-3950
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2009
SIGNED: 10-12-2010

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 & PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER Appeal No. 09-3950 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2009 Judge: Phan</p>
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Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER 1
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 August 5, 2010. 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, 2009. 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, the representative for Respondent (the "County") requested that the value set by the County Board of Equalization be sustained, although he submitted an appraisal that valued the property at \$\$\$\$\$.

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 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).)

(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 value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(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 property is parcel no. ##### and is located at ADDRESS 1, CITY 1, Utah. The property has 1.14-acres of land improved with a two-story residence. The residence was constructed in 1998. There are 5,044 square feet above grade and a basement of 2,584 square feet, of which 2,373 square feet are finished. The residence has a stone and stucco façade with European style finishes. There is marble on the front porch and in the entry way. There is also an attached 4-car garage. The property has a very good grade quality of construction and is in very good condition. The property is located in SUBDIVISION. The lot is triangular shaped. While the front where the residence is located is relatively level, the entire rear portion is steep and mountainous with little utility. There is a creek that runs across the lot. The usable portion of the lot is nicely landscaped and the back mountainous portion is left with its natural foliage.

The Property Owner asked that the value be reduced to \$\$\$\$ which was a 10% reduction from the assessed value. He explained that over the years the assessed values for his property increased at a higher rate than three neighboring properties. For the years 2000 through

2005 his three neighbors' property values had increased a total of 11.89% to 16.24%, while his had increased 53.40%. He states then again for the years 2005 through 2009 these same neighbors' properties increased from 20% to 24% while his saw a higher increase. He argued a 10% adjustment was reasonable given the economic conditions. He stated that in 2009 no homes actually sold on his street and that eventually three homes on his street had been foreclosed on. He also presented information regarding three homes that sold in SUBDIVISION in 2010. Two of these homes sold for more than 30% less of the County's assessed value for the 2009 year, while a third sold for the County's value.

The Property Owner stated that the market had begun to decline by the end of 2008. He stated November and December 2008 "were the start of the worst part of the current economic downturn" with major unemployment increases and a sharp drop in real estate values. He also wanted to make the point that instead of continuing to collect more in property taxes from the residents, the County, and other taxing jurisdictions, should control their costs and reduce spending, something which he pointed out the taxpayers all had to do with their own personal finances.

The County's representative, RESPONDENT REP., submitted an appraisal in support of the value set by the County Board of Equalization. The appraisal did indicate a higher value, at \$\$\$\$ as of the lien date January 1, 2009, but RESPONDENT REP. did not ask that the value be raised to that amount. It was his opinion, as an appraiser, that the finishes and style of the subject home did make it one of the nicer homes in the neighborhood. In the appraisal he considered ten comparable sales. The three comparables that were the nearest in location to the subject based on driving distance and located in SUBDIVISION were as follows:

Address	Lot Size	Above Grade	Yr Blt	Sale Date	Sale Price
Subject	1.14	5,044	1998		
ADDRESS 2	.61	3,439	1993	10/28/08	\$\$\$\$
ADDRESS 3	.59	5,044 ¹	1998	2/10/09	\$\$\$\$
ADDRESS 4	.55	5,006	1992	5/28/08	\$\$\$\$

Four other comparables were also located in SUBDIVISION and are as follows:

ADDRESS 5	.69	3,789	1976	7/21/08	\$\$\$\$
ADDRESS 6	.55	4,091	1991	7/14/08	\$\$\$\$
ADDRESS 7	.67	4,746	1993	11/26/08	\$\$\$\$
ADDRESS 8	.62	4,204	1994	8/18/08	\$\$\$\$

¹ The fact that the size listed in the appraisal for the comparable of above grade square feet, below grade square feet and basement finish is identical to that listed for the subject raises the question of whether this and other factors about this comparable are accurate or are in error in the appraisal.

RESPONDENT REP. made adjustments for differences between the subject and the comparables. As noted by the Property Owner, the two largest adjustments generally were for the difference in lot size and for the quality of construction. RESPONDENT REP. considered the subject property to be superior to all but one comparable in both of these areas and made positive adjustments generally around \$\$\$\$ (depending on lot & residence size) for these two items. He did not consider any of the comparables to be equal to the subject in either of these areas. One comparable he did consider to be superior to the subject, but it was a property 1.43 miles away and not in SUBDIVISION. This property had sold for \$\$\$\$ on February 2, 2008 and had 2.01 acres of land. However, this sale is an outlier, more than twice the price of any other comparable and has little relevance to the value of the subject. Because of all the positive adjustments, the indicated range for the subject was from \$\$\$\$ to \$\$\$\$ and for all but the one outlier, the indicated value for the subject was higher than the sale price.

The Property Owner disputed such a large lot size adjustment, due to the fact that much of the subject lot was mountainous and unusable. He also contested the quality of construction adjustments arguing that the items that they had used in the construction and finishing of their home were not necessarily more expensive, just a different style or taste from the comparables.

Upon review of the information submitted by the parties in this matter, the value set by the County Board of Equalization should be sustained. There were a number of sales in SUBDIVISION, with three that were within three months of the lien date January 1, 2009. Although these sales were a bit lower than the County Board's value, the subject does appear to be somewhat superior. The larger lot would add some value, but not as much as if it were level, usable space. The quality of finishes did appear better than the comparables and, in fact, the residence was newer and larger than most of the comparables. Therefore, the indicated fair market value for January 1, 2009 is nearer where the County Board of Equalization has set the property. Further, the foreclosures and much of the market decline has occurred after January 1, 2009 as the market continued to deteriorate. The Commission must place the assessed value at the fair market value on the lien date and there is no basis to make a 10% deduction because the County's value is reflective of market conditions on the lien date. The Commission should sustain the value set by the County Board of Equalization.

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, 2009, is \$\$\$\$\$. 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 _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

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