

10-0323
LOCALLY ASSESSED PROPERTY- COMMERCIAL
TAX YEAR: 2009
SIGNED: 03-21-2011

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION Appeal No. 10-0323 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2009 Judge: Chapman
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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:

R. Bruce Johnson, Commission Chair
Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP., Representative
For Respondent: No one appeared

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 15, 2011.

Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The tax at issue is property tax.
2. The tax year at issue is 2009, with a lien date of January 1, 2009.

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3. At issue is the fair market value of an undeveloped parcel of land that is 5.12 acres in size. The subject property is identified as Parcel No. 32-17-200-0017.

4. The subject property is owned by PETITIONER (“Petitioner” or “taxpayer”) and is located at ADDRESS 1 (approximately ADDRESS 2) in CITY 1, Utah. PETITIONER is the wife of PETITIONER REP., who represented her at the hearing.

5. The Salt Lake County Board of Equalization (“County BOE”) sustained the \$\$\$\$ value at which the subject property was assessed for the 2009 tax year.

6. The Tax Commission held an Initial Hearing in this matter on May 25, 2010. The Commission issued its Initial Hearing Order on September 14, 2010, and the taxpayer timely submitted a request for a Formal Hearing.

7. PETITIONER REP. asks the Commission to reduce the subject’s value to \$\$\$\$ for the 2009 tax year. No one attended on behalf of the County to request a specific value for the subject.

8. The subject lot is zoned for residential use. The taxpayer purchased the lot in 2006 for \$\$\$\$ and contends the value had not increased in value for the 2009 tax year. In fact, the taxpayer believes that the value may have decreased between 2006 and 2009 and that the purchase price may be high. As a result, the taxpayer believes that it is more than fair to reduce the subject’s 2009 value to \$\$\$\$.

9. The subject property is located on a dirt road and does not currently have access to sewer or natural gas. The lot has a steep grade and would need a long road or driveway built to the portion of the lot on which a house could be built. PETITIONER REP. stated that it would have cost approximately \$\$\$\$ to put in the improvements necessary to get a building permit for the subject lot. The taxpayer submitted evidence in support of these costs. PETITIONER REP. asserts that no buildable lot in the subject’s area sold or was listed for sale in excess of \$\$\$\$ near the lien date. For this reason, the taxpayer does not believe that a person would pay more than \$\$\$\$ for the subject lot when it would require another \$\$\$\$ in costs before

the lot could be built on.

10. The taxpayer listed the subject property for sale in early 2009 for \$\$\$\$\$ and had reduced the list price to \$\$\$\$\$ by late 2009. As of the hearing date, the property is still listed for \$\$\$\$\$. PETITIONER REP. explained that he and his wife originally listed the lot for sale at \$\$\$\$\$ in an attempt to recoup their \$\$\$\$\$ purchase price, as well as significant engineering and surveying costs that had been expended.

11. The taxpayer submitted evidence of three lot sales to show that the eventual sales prices of the lots were much less than their respective list prices. On the average, the lots sold for prices that were 34% less than their sales prices. The subject's May 2009 list price of \$\$\$\$\$, if discounted 34%, would result in a value of \$\$\$\$\$ for the subject property. The subject's September 2009 list price of \$\$\$\$\$, if discounted 34%, would result in a value of \$\$\$\$\$ for the subject. The taxpayer's proposed value of \$\$\$\$\$ falls between these two values.

12. PETITIONER REP. contends that the County erred in assessing the subject property at about the same value in both 2008 and 2009, when it significantly reduced the assessed values of other nearby lots between these two years. PETITIONER REP. testified that the County assessed the subject property at \$\$\$\$\$ in 2008 and at \$\$\$\$\$ in 2009. The taxpayer submitted evidence of three improved lots near the subject that the County assessed at values ranging between \$\$\$\$\$ and \$\$\$\$\$ in 2008 and between \$\$\$\$\$ and \$\$\$\$\$ in 2009. PETITIONER REP. asserts that the subject's value decreased at a similar rate between 2008 and 2009 and that the proposed value of \$\$\$\$\$ for 2009 is more in line with the County's 2009 assessments of other lots.

13. The taxpayer submitted 2008 and 2009 listings of nearby lots that were in excess of 10 acres in size (i.e., twice the size of the subject property). None of these lots were listed for sale for prices in excess of \$\$\$\$\$. One of these lots was listed for sale in April 2009 for \$\$\$\$\$.

14. PETITIONER REP. also testified that after he and his wife found out how much it would cost to build on the subject property, they started looking for a lot in a nearby subdivision that was ready to be built on. In 2007, they put in a bid of \$\$\$\$ for a lot in the nearby subdivision, but walked away from the deal when prices began to fall. He testified that they ended up buying a similar lot in the same subdivision in June 2008 for \$\$\$\$\$, less than half of the \$\$\$\$ price at which they contracted to purchase a similar lot a year earlier.

APPLICABLE LAW

1. Utah Code Ann. §59-2-102(12) defines “fair market value” 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. . . .”

2. UCA §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.”

3. 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”

4. 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).

CONCLUSIONS OF LAW

1. None of the evidence submitted at the Formal Hearing supports the subject's current value of \$\$\$\$\$. Accordingly, the taxpayer has submitted sufficient evidence to call the original assessment into question.

2. To prevail, the taxpayer must also provide the Commission with a sound evidentiary basis for reducing the subject's valuation to her proposed value of \$\$\$\$\$. The taxpayer's information clearly shows that the \$\$\$\$\$ proposed value is not only reasonable, but may even be high. The taxpayer has shown that anyone purchasing the subject property in 2009 for \$\$\$\$\$ would have incurred an additional \$\$\$\$\$ in costs to get a building permit, for a total of \$\$\$\$\$. There is no evidence to show that any nearby lots sold for values or were listed for sale at values in excess of \$\$\$\$\$ near the lien date. Accordingly, it is doubtful that a buyer would have paid \$\$\$\$\$ for a lot that required another \$\$\$\$\$ in improvements in order to get a building permit.

Furthermore, the taxpayer has submitted additional information to show that lot values in the subject's neighborhood decreased significantly between 2008 and 2009. The 2009 assessed value of other lots, as well as sales and listing of nearby lots, clearly supports the taxpayer's request for the subject's value to be reduced to \$\$\$\$\$. Accordingly, the subject's 2009 value should be reduced to \$\$\$\$\$.

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Administrative Law Judge

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DECISION AND ORDER

Based upon the foregoing, the Commission finds that the subject's value should be reduced to \$\$\$\$ for the 2009 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

DATED this _____ day of _____, 2011.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §§59-1-601 et seq. and 63G-4-401 et seq.

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