

10-0444
LOCALLY ASSESSED PROPERTY
SIGNED 08-19-2010

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 10-0444 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2009 Judge: Chapman
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Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, Taxpayer
 PETITIONER REP., Representative
For Respondent: RESPONDENT 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 July 21, 2010.

At issue is the fair market value of the subject property as of January 1, 2009. The subject is a single-family residence located at ADDRESS (approximately STREET 1) in CITY, Utah. The Salt Lake County Board of Equalization ("County BOE") reduced the \$\$\$\$ value at which the subject was originally assessed for the 2009 tax year to \$\$\$\$\$. The taxpayer asks the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to sustain the subject's current value of \$\$\$\$.

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

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otherwise provided by law.”

UCA §59-2-103(2) provides that “the fair market value of residential property located within the state shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2.” UCA 59-2-103(3) provides that “no more than one acre of land per residential unit may qualify for the residential exemption.”

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 is comprised of 2.10 acres of land and a two-story home that was built in or around 1953. The home contains 1,991 square feet of above-grade living space and a finished basement that is 1,406 square feet in size. The property also has a two-car garage and a small barn.

The subject property is landlocked, but has an easement over two properties that allows the taxpayer to access the subject from STREET 2. The access road is a gravel, one-lane road. Given the configuration of the property, it appears that the “back” portion of the subject property could become a separate building lot or lots if permission were given to develop it. The taxpayer, however, indicates that the city has

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denied her request in the past to segregate a portion of the subject property into another building lot due to the subject property being located on a one-lane, gravel road that cannot be paved or enlarged to accommodate emergency vehicles. The County indicated that it thought that it could be developed, regardless of the road issue.

The County has attributed most of the subject's value to its 2.1 acres of land and very little to its improvements. The subject's current value of \$\$\$\$\$ is allocated to land and improvements, as follows: 1) \$\$\$\$\$ to the first 1.00 acre of land; 2) \$\$\$\$\$ to the remaining 1.10 acres of land; and 3) \$\$\$\$\$ to the improvements. The values attributed to the first acre of land and to the improvements have received the 45% primary residential exemption, in accordance with Section 59-2-103(2), (3). The primary residential exemption has not been applied to the \$\$\$\$\$ of value attributed to the 1.10 "overage" acres.

Fair Market Value. The taxpayer proffered an appraisal in which the subject's value is estimated to be \$\$\$\$\$ as of November 24, 2009. The taxpayer asked the Commission to reduce the subject's value to \$\$\$\$\$ on the basis of the appraisal. The County proffered no evidence, but asserted that the taxpayer has not proffered a convincing case to show that the County's assessment should be changed. Specifically, the County pointed out that the taxpayer's appraisal estimates the subject's value approximately 11 months after the January 1, 2009 lien date. As a result, the County asks the Commission to sustain the subject's current value of \$\$\$\$\$.

In the taxpayer's appraisal, the appraiser compares the subject property to eight comparable sales that sold between December 2008 and August 2009 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The appraiser adjusted the eight comparables to prices ranging between \$\$\$\$\$ and \$\$\$\$\$. However, the appraiser did not make any time adjustments to the sales, even though prices were falling throughout 2009. The County indicates that prices fell throughout 2009 at a rate of approximately 1% per month.

Although the appraisal has an effective date in November 2009, three of the comparables in the appraisal sold in December 2008 and do not require a time adjustment to estimate the subject's value as of January 1, 2009. These three comparables sold for prices of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$ and adjusted to adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$.

Many of the comparables in the taxpayer's appraisal have smaller lots than the subject, although none of the comparables' lots are less than 0.83 acres in size. The taxpayer's appraiser estimated the subject's 2.1-acre lot to have a value of \$\$\$\$\$ and adjusted the differences in lot sizes by \$\$\$\$\$ an acre. The County claimed that the appraiser's estimate of value for the subject's lot was too low and that the adjustment for differences in lot sizes was also too low. However, the County proffered no evidence of lot sales to refute the appraiser's conclusions. Without such evidence, the lot values and adjustments estimated by the taxpayer's appraiser will be accepted.

Of the three comparables that sold in December 2008, the one with a home most similar in age and size to the subject's home is the comparable that sold for \$\$\$\$\$ and adjusted to \$\$\$\$\$. It is noted that if the appraisal's \$\$\$\$\$ estimate of value were adjusted upward by 11% (1% per month) to account for the declining market in 2009, the revised estimate of value would be \$\$\$\$\$. As a result, the \$\$\$\$\$ adjusted sales price of the most similar home that sold in December 2008 appears to be a reasonable estimate of the subject's value as of the lien date. The subject's total value should be reduced to \$\$\$\$\$ for 2009.

Apportionment of Value for Primary Residential Exemption Purposes. The Commission has found that the subject's value should be reduced from \$\$\$\$\$ to \$\$\$\$\$. A portion of the subject property qualifies for the primary residential exemption and a portion does not. As a result, the Commission must determine from the evidence proffered at the Initial Hearing how much of the total value of \$\$\$\$\$ is attributable to the 1st acre of land and the improvements, which receives the exemption, and how much is attributable to the 1.10 acres of overage land, which does not receive the exemption.

On November 24, 2009, the taxpayer's appraiser estimated the subject's 2.1-acre lot to have a value of \$\$\$\$\$. However, as explained earlier, property values dropped in 2009. If the \$\$\$\$\$ value for November 2009 were adjusted upward by 11% (1% per month) to account for the declining market, the lot's value as of the January 1, 2009 lien date would be \$\$\$\$\$. As a result, \$\$\$\$\$ of the subject's total value of \$\$\$\$\$ will be allocated to the 2.1-acre lot. The remaining \$\$\$\$\$ of value will be allocated to the improvements.

Because of the primary residential exemption, the Commission must also determine how much of the total lot value of \$\$\$\$\$ should be allocated to the 1st acre of land, which receives the exemption, and how much should be allocated to the remaining 1.10 acres of land, which does not receive the exemption. As of November 2009, the taxpayer's appraiser adjusted overage acres at a rate of \$\$\$\$\$ per acre. If this rate were also adjusted upward by 11% to account for the declining market, the adjustment for overage acres would be \$\$\$\$\$ acre. Multiplying this \$\$\$\$\$ per acre overage rate to the subject's 1.10 overage acres results in a value of \$\$\$\$\$, or approximately \$\$\$\$\$, for the subject's overage acres. For these reasons, the subject's 1.10 overage acres should be reduced to \$\$\$\$\$. Subtracting the \$\$\$\$\$ value of the overage acres from the total land value of \$\$\$\$\$ results in the 1st acre of land having a value of \$\$\$\$\$. As a result, the subject's 1st acre of land, which receives the primary residential exemption, should be reduced to \$\$\$\$\$.

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 2009 tax year. The \$\$\$\$\$ value should be allocated between property that qualifies for the primary residential exemption and property that does not qualify for the exemption, as follows:

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Property Description	Receives Primary Res. Exemption (Yes/No)	Value
1 st acre of land	Yes	\$\$\$\$\$
1.10 overage acres	No	\$\$\$\$\$
Improvements	Yes	<u>\$\$\$\$\$</u>
	Total Value	<u>\$\$\$\$\$</u>

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:

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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