

10-0533  
LOCALLY ASSESSED PROPERTY  
TAX YEAR: 2009  
SIGNED: 03-21-2011  
COMMISSIONER: R. JOHNSON, M. JOHNSON, M. CRAGUN  
EXCUSED: D. DIXON

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,

Petitioner,

v.

BOARD OF EQUALIZATION FOR  
WEBER COUNTY, STATE OF UTAH,

Respondent.

**INITIAL HEARING ORDER**

Appeal No. 10-0533

Account No. #####

Tax Type: Locally Assessed Property Tax

Tax Year: 2009

Judge: Marshall

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**Presiding:**

Jan Marshall, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, *Pro Se*

For Respondent: RESPONDENT REP., Appraiser for Weber County

STATEMENT OF THE CASE

Taxpayer brings this appeal from the decision of the County Board of Equalization (“the County”). This matter was argued in an Initial Hearing on October 26, 2010. The County Assessor’s Office assessed the subject property at \$\$\$\$ as of the January 1, 2009 lien date. The Board of Equalization initially reduced the value of the subject property to \$\$\$\$; however, after a hearing, the Board determined a value of \$\$\$\$\$. The County is asking the Commission to sustain the Board of Equalization. The Taxpayer believes the value is somewhere between \$\$\$\$ and \$\$\$\$\$, but is requesting the Commission reduce the value back to \$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

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:

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 subject property is parcel no. #####, located at ADDRESS in CITY. It is a 0.15-acre vacant residential lot located in the SUBDIVISION 1. The subject property does not have year round access.

In support of a reduction in value, the Taxpayer submitted settlement statements on three lots that sold in the SUBDIVISION 2. The lots were larger than the subject, and sold between January 30, 2009 and August 14, 2009 with sales prices ranging from \$\$\$\$\$ to \$\$\$\$\$. The Taxpayer also testified that he listed the property for sale in 2008 and did not receive any offers. He stated in 2009 the property was listed for sale at \$\$\$\$\$, and reduced to \$\$\$\$\$. Taxpayer testified that he believes the value of the property was between \$\$\$\$\$ and \$\$\$\$\$; however, he would be satisfied if the Commission reduced the value to \$\$\$\$\$.

The County’s representative provided a listing history for the subject property which shows the asking price was reduced from \$\$\$\$\$, to \$\$\$\$\$ on February 28, 2008. It also shows that the price was reduced from \$\$\$\$\$ to \$\$\$\$\$ on August 18, 2009. The County’s representative explained that the value of the subject was

raised by the Board of Equalization because of an equity issue. She provided a spreadsheet showing the assessed value of properties in the SUBDIVISION 1, the majority of which were assessed in the \$\$\$\$ range.

The County's representative provided a spreadsheet showing that lots in the SUBDIVISION 2 had an average sales price of \$\$\$\$ in 2007, \$\$\$\$ in 2008, and \$\$\$\$ in 2009. She also provided a spreadsheet showing that the average sales price for lots in the subject subdivision was \$\$\$\$ from October 2005 through May 2007; and the average list price as of the lien date was \$\$\$\$\$, with the median list price being \$\$\$\$\$. From this, the County's representative determined a value of \$\$\$\$\$ for the subject property as of the lien date.

In seeking a value other than that established by the board of equalization, a party has the burden of proof to demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. Property tax is based on the market value of the property as of January 1 of the tax year at issue under Utah Code Ann. §59-2-103. Utah Code Ann. §59-2-102 defines "market value" as the amount for which property would exchange hands between a willing buyer and seller.

Taxpayer submitted three comparable sales that ranged in price from \$\$\$\$ to \$\$\$\$\$. The first two sold in January and February of 2009, shortly after the lien date. However, all of the comparables were located in the SUBDIVISION 2, which appears to have lower average sales prices than the subject subdivision, and thus would likely require an upwards adjustment. Taxpayer also testified that he had the subject listed for sale at \$\$\$\$ in 2009. The County's representative provided a copy of the listing history for the subject property, which was listed on August 8, 2008 at \$\$\$\$\$. It was reduced several times, and as of December 28, 2008, the asking price was \$\$\$\$\$. The subject property was not listed at \$\$\$\$ until August 18, 2009, several months after the lien date at issue. Listing prices can be useful in setting a value ceiling, and it appears the subject property has been on the market for a while. The list price on the lien date was \$\$\$\$\$, which would indicate the value of the property was no higher than that. The Board of Equalization value of \$\$\$\$ is in line with a \$\$\$\$ list price, and does not appear to be unreasonable under the circumstances. It is supported by prior sales and current listings in the subject subdivision. The Taxpayer has not sustained his burden of proof to show an error in the Board of Equalization value, or support a value in the \$\$\$\$ to \$\$\$\$ value range for the January 1, 2009 lien date.

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Jan Marshall  
Administrative Law Judge

DECISION AND ORDER

On the basis of the foregoing, the Commission finds the value of the subject to be \$\$\$\$ as of the

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January 1, 2009 lien date, and sustains the Board of Equalization. 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 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 \_\_\_\_\_, 2011.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

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