

10-0703
LOCALLY ASSESSED PROPERTY
SIGNED 10-12-2010

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioners,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 10-0703</p> <p>Parcel Nos. #####-1, #####-2 & #####-3</p> <p>Tax Type: Property Tax/Locally Assessed Tax Year: 2009</p> <p>Judge: Phan</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 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 order, specifying the commercial information that the taxpayer wants protected.

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

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 3, 2010. Petitioner (the “Property Owner”) is appealing the assessed value as established for the subject properties by the Salt Lake County Board of Equalization, as of the lien date January 1, 2009. The County Assessor’s original values had been reduced by the County Board of Equalization for each parcel. At the hearing the County requested that the value set by the County Board be sustained. The original values, Board of Equalization values and values that the Property Owner is requesting for each parcel are as follows:

Parcel No.	Original Value	B of E Value	Property Owner
#####-1 (#####-1)	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####-2 (#####-2)	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####-3 (#####-3)	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

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

There are three parcels at issue in this appeal. Each parcel is comprised of 0.19 acres of land improved with a four-unit apartment building. All three properties are located near or adjacent to each other in a pocket neighborhood consisting of four-plex rental units located near commercial and industrial development in CITY. Parcel #####-1 is located at ADDRESS 1. Parcel #####-1 is located at ADDRESS 2 and Parcel #####-3 is located at ADDRESS 3. The

four-plexes are similar in size, age, style and functionality. They have 3,374 square feet of gross living area. Each apartment unit has two bedrooms and one bathroom.

The Property Owner asks that the value for the subject properties be lowered to \$\$\$\$\$ each. He provided documentation that the County had agreed to a value of \$\$\$\$\$, as of the January 1, 2009 lien date, for a fourth property that he owned. This fourth property was parcel no. #####-4 which was a nearly identical four-plex and located in the same pocket neighborhood as the three properties at issue in this appeal. The Property Owner argued that \$\$\$\$\$ was a fair value for each of the subject parcels. The Property Owner stated that the subject parcels were in an undesirable location, that there were problems with vacancies and that as of lien date the rents had been only \$\$\$\$ per month. He acknowledged that the rents were currently \$\$\$\$\$ per month. He stated that it was difficult to pay the taxes on these properties, he was now unable to finance them and he had tried to sell them but had been unable to do so.

At the hearing, the Property Owner submitted a number of comparable four-plex sales. He had submitted with the original appeal three pre-lien date sales. Of the pre lien date sales, one was a property at ADDRESS 4, in the same pocket neighborhood as the subject, which had sold for \$\$\$\$\$ on August 28, 2008. A property at ADDRESS 5 had sold for \$\$\$\$\$ on October 25, 2008 and a property at ADDRESS 6 had sold for \$\$\$\$\$ on November 26, 2008. At the hearing he submitted seven additional sales in CITY and a number of other comparables in other neighboring cities. Of his seven post lien date CITY comparables, the nearest in location was at ADDRESS 4, across the street from the subject properties and in the same pocket neighborhood. This was a four-plex, very similar to the subject properties, which had sold for \$\$\$\$\$ on April 9, 2010. The MLS information on this property indicated that it was "subject to 3rd party approval." The seven CITY post lien date sales ranged in sale date from July 2009 to April 2010. These four plex comparables had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. The Property Owner states that there is currently a four-plex listed for sale for \$\$\$\$\$ that is located in front of the subject properties.

The County's representative, RESPONDENT REP., submitted an appraisal in which he considered both a gross rent multiplier approach to value and a sales comparison approach. RESPONDENT REP. concluded that as of January 1, 2009, the value for each of the parcels was \$\$\$\$\$ which he offered as support of the County Board's value. He indicated that his value was conservative and toward the low end of the range because he did think the location of the subject parcels was less desirable than some of the comparables.

Of his nine comparables, two were located in the same pocket neighborhood as the subject parcels. These comparables were ADDRESS 1, which is the property that had sold for \$\$\$\$\$ on August 28, 2008, and ADDRESS 2, which had sold for \$\$\$\$\$ on May 5, 2008. Both of these properties were very similar to the subject as far as age, size, style and had the same number of bedrooms and bathrooms per unit. The rest of his nine comparables were located a considerable distance from the subject and most were in different cities. These other comparables all sold for higher prices than the two properties in the pocket neighborhood where the subject properties were located, with sale prices ranging from \$\$\$\$\$ to \$\$\$\$\$. Further, of the nine comparables submitted, the only one that sold during the last six months of 2008 was the neighboring property which had sold for \$\$\$\$\$. Two of the seven comparables had sold post lien date, the rest had sold during the first half of 2008. In his sales comparison indicator, RESPONDENT REP. did not make a date of sale/time adjustment.

The property owner argues that the most weight should be given to the comparables from the same pocket neighborhood as the subject parcels. He also argued that the May 5, 2008 sale at a price of \$\$\$\$\$ occurred right at the peak of the market. It was his contention that by the time of the August 28, 2008 sale at \$\$\$\$\$ the market had already started to drop. He requested that the most weight should be given this later sale because it occurred nearest to the lien date. These two comparables appear very similar in the County's appraisal and the County did not provide information that would otherwise indicate why the prices were so different. Neither appeared to be foreclosures or bank owned properties.

After considering all of the evidence submitted by the parties the value should be reduced to the \$\$\$\$\$ per unit requested by the Property Owner. The County submitted a number of comparables in its appraisal but most were either distant in location to the subject parcels or occurred far from the lien date. The most relevant sales are those that were in the same neighborhood as the subject. Further, the comparables that sold nearest to the lien date were submitted by the Property Owner, including the sale for \$\$\$\$\$, and support the requested value of \$\$\$\$\$.

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 \$\$\$\$ for each of the three parcels at issue in this appeal. The County Auditor is hereby 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. 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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