

10-1044
LOCALLY ASSESSED PROPERTY
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. 10-1044 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. 1, 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 24, 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 reduced the value to \$\$\$\$\$. The Property Owner requests that the value be lowered to \$\$\$\$\$. At the hearing, Respondent (the "County") requested that the value set by the County Board of Equalization be sustained.

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, Utah. The property has 0.19-acres of land improved with a rambler style residence. The residence was constructed in 1974 and has 1,483 square feet above grade with a basement of 1,038 square feet. The residence was considered by the county to be of fair grade and in fair condition. There is an attached two-car garage.

The Property Owner stated that when he purchased the property in May 2009 it had a lot of damage and based on the sales history it appears that would have been the condition on the lien date. There was no longer any lawn left as a previous owner used the front yard for parking, and the Property Owner had to repaint all the interiors and replace the carpet. He asked that the value be reduced to \$\$\$\$ because that is what he had paid for the property in May 2009 and also that was what the prior owner had paid when he purchased the property in February 2009.

The Property Owner explained the sales history of the property. The residence had been listed for sale for 250 days before the prior owner had purchased the property in February 2009.

It had been listed for sale on the lien date and the listing price at that time had been \$\$\$\$\$. It was in disrepair and the MLS indicated "Corporate owned, Sold as-is 10.2. . . Needs a lot of work." The prior owner then purchased the property for \$\$\$\$\$ and closed on February 24, 2009. The representation from the current Property Owner was that after the purchase a neighbor told the prior owner that the residence had been a "(WORDS REMOVED)." That worried the prior owner to the extent that he turned and sold the property to the current Property Owner for what he had paid for the property. When the Property Owner purchased the property in May 2009 it was still in a state of disrepair.

The Property Owner also submitted three comparable sales that were located near the subject, one on the same street. These comparables had sold as follows:

Address	Sale Date	Price	Size	Comments From MLS Report
ADDRESS 2	12/8/09	\$\$\$\$\$	1078	New paint, water heater and insulation, newer roof.
ADDRESS 3	10/2/09	\$\$\$\$\$	1269	Home sold as-is, by electric bid.
ADDRESS 4	2/6/10	\$\$\$\$\$	1564	Sold as-is. Home in need of major cosmetic work.

It was the representative for the County's position that the purchase price of the subject property at \$\$\$\$\$ was below market. He indicated that there had been duress in the prior owner's purchase because it was likely a foreclosure sale and duress in the prior owner's decision to turn around and sell the property to the current Property Owner. He indicated that all other valid sales near the lien date had sold for more than \$\$\$\$\$ in the neighborhood of the subject property. He also pointed out that the comparables offered by the Property Owner were substantially post lien date sales.

The County did not submit an appraisal or provide the MLS Reports for sales comparables. He did verbally go over a number of sales during the hearing and argued they more than supported the County's value of \$\$\$\$\$ for this property. One of his comparables was also on the same street as the subject, located at ADDRESS 2. He stated that this property was in bad condition and had sold for \$\$\$\$\$ in January 2009. However, without the MLS printout it is difficult to consider or compare these properties to the subject property to determine a value.

Upon review of the evidence submitted in this matter, the subject property had been listed for sale for 250 days, meaning there was significant market exposure. It had been listed for sale before the lien date, it was listed on the lien date for \$\$\$\$\$ and eventually sold for \$\$\$\$\$ in February 2009. If it was worth more on the lien date it should have sold for at least its listing price, but it did not sell for even that amount. From the information provided by the Property

Owner and supported by the MLS report the property was in disrepair. The Property Owner also represented that the property had the stigma of being a “(WORDS REMOVED)”. These factors could reasonably reduce the market value. The County argues there were sales for higher but does not provide sufficient evidence on these sales to compare the condition with that of the subject residence. The evidence supports a reduction in value to \$\$\$\$\$.

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 \$\$\$\$\$. 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
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Michael J. Cragun
Commissioner