

10-1309
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2009
SIGNED: 09/16/2011
COMMISSIONERS: R. JOHNSON, M. JOHNSON, M. CRAGUN
EXCUSED: D. DIXON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION Appeal No. 10-1309 Parcel Nos. #####-1 & #####-2 Tax Type: Property Tax/Locally Assessed Tax Year: 2009 Judge: Phan
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Presiding:

Michael Cragun, Commissioner
Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1
For Respondent: RESPONDENT REP., Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing pursuant to Utah Code Secs. 59-2-1006 and 63G-4-201 et al, on June 14, 2011. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner (the "Property Owner") is appealing the assessed value of the subject properties for the lien date January 1, 2009.
2. For the lien date the County Assessor had originally valued parcel #####-1 (Parcel 060) at \$\$\$\$\$. The County Board of Equalization reduced the value to \$\$\$\$\$. The Property Owner asks for a reduction to \$\$\$\$\$. The representative for the County had submitted an appraisal that indicated a value for each parcel of \$\$\$\$\$. However, the appraisal was offered only as support of the County's value at \$\$\$\$\$.
3. Parcel #####-2(#####-2) was originally valued by the County Assessor at \$\$\$\$\$ and the County Board of Equalization reduced the value to \$\$\$\$\$. The Property Owner asked that the value of this

parcel be reduced to \$\$\$\$\$. The representative for the County asked that the value remain as set by the County Board of Equalization (the "County").

4. The subject parcels are located at ADDRESS 1 and ADDRESS 2, CITY 1, Utah. These properties are adjacent residential building lots that were vacant on the lien date. The lots are each 0.34 acres in size and located in the SUBDIVISION. This is a small, new subdivision that is surrounded by older homes and horse properties. Although 0.34 acres, each lot had a wide frontage on ADDRESS 3 and are only (X) feet deep. The Property Owner stated that this configuration made the lots undesirable to a number of prospective purchasers because it would mean the back yard would be very narrow. Utilities are available to the lots and the lots are level.

5. The Property Owners had purchased both of the subject parcels on May 6, 2009. For Parcel #####-1 they had paid \$\$\$\$\$ and for Parcel #####-2 they had paid \$\$\$\$\$. The Property Owner testified that he had intended to build a residence for himself and his wife on one of the lots and a residence for the in-laws on the adjoining lot. He documented their purchase by providing copies of the Settlement Statements. At the time of the purchase these parcels were bank owned properties. These lots had been listed for sale on January 1, 2009, for \$\$\$\$\$. They had been listed previously for even higher amounts beginning in 2007 with the original listing of \$\$\$\$\$, which expired. In May 2008 each lot was re-listed for \$\$\$\$\$ but the price was quickly reduced in June to \$\$\$\$\$. By January the list price had been reduced to \$\$\$\$\$ per lot and the property had gone into foreclosure. It did not sell until the Property Owner's purchased the property in May for less than the list price.

6. It was the Property Owner's position that the real estate market had changed dramatically between about September 2008 and January 1, 2009. He argued that little weight should be given to sales that occurred before the fourth quarter of the year. He pointed to the financial crisis that began in the summer of 2008 and then the credit freeze which he indicated began in about September of 2008. He also noted that the number of foreclosures jumped dramatically in the fourth quarter of 2008 and consumer confidence declined. It was his contention that all these factors combined so that the market was very different in December 2008 than had been prior to September 2008.

7. The Property Owner did provide lists of residential building lots that had sold in CITY 1, but the lists did not include the date of sale or any of the other details.

8. The County did look up some of the properties on the list that had been provided by the

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Property Owner and provided the Multiple Listing Reports. In reviewing these sales, there were a number that had sold very near the lien date and are good comparables for the subject, although they were bank owned or foreclosure properties. The sale date listed is the date the sale closed not the contract date. These relevant sales, all located in CITY 1, are as follows:

Address	Sale Date	List Price	Sold Price	Lot Size	Comments
ADDRESS 4	1/23/09	\$\$\$\$\$	\$\$\$\$\$	0.26	Bank Owned
ADDRESS 5	12/9/08	\$\$\$\$\$	\$\$\$\$\$	0.40	Bank Owned, Price Reduced
ADDRESS 6					
ADDRESS 7	1/23/09	\$\$\$\$\$	\$\$\$\$\$	0.21	Bank Owned, Terrific Views
ADDRESS 8	1/23/09	\$\$\$\$\$	\$\$\$\$\$	0.18	Bank Owned
ADDRESS 9	12/26/08	\$\$\$\$\$	\$\$\$\$\$	0.33	Bank Owned, On Busy Street
ADDRESS 10	12/26/08	\$\$\$\$\$	\$\$\$\$\$	0.33	Bank Owned
ADDRESS 12	12/26/08	\$\$\$\$\$	\$\$\$\$\$	0.34	Bank Owned

9. The County submitted an appraisal prepared by RESPONDENT REP., Certified Residential Appraiser. It was his conclusion in the appraisal that each of these properties values would be \$\$\$\$\$ as of January 1, 2009. He also argued that his comparables proved that there continued to be sales of residential lots in 2008 that were not foreclosure and bank owned properties and had sold for higher prices. He did not request that the values be raised to the appraisal value.

10. However, the appraisal provided only four comparables that sold and none occurred during the fourth quarter of 2008. Additionally one was located in CITY 1. RESPONDENT REP.'s four sales were as follows:

Address	Sale Date	Sold Price	Lot Size
ADDRESS 13, CITY 2	8/11/08	\$\$\$\$\$	0.28
ADDRESS 14, CITY 2	8/18/07	\$\$\$\$\$	0.40
ADDRESS 15, CITY 1	6/12/08	\$\$\$\$\$	0.35
ADDRESS 16, CITY 2	9/18/08	\$\$\$\$\$	0.36

11. The County provided data on land sales in the southwest quadrant of Salt Lake County that indicated values had begun to decline in July 2008 and continued to decline through May 2010. The Property Owner did not disagree with this information.

12. Upon review of the evidence, although the County argued that there was still a market for non-distressed properties in 2008, he did not present one sale in the last quarter of 2008 in his appraisal. It even appears that there was difficulty in finding properties that sold in CITY 1 during the third quarter of the year.

While the County's non-distressed properties had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$ during the time period of June 2008-September 2008, all properties submitted that sold during the last quarter of that year were bank owned and had sold for less, from \$\$\$\$\$ to \$\$\$\$\$. The evidence supports that the market for residential building lots in CITY 1 by the end of 2008 was comprised solely of bank owned properties and that was what was setting the market value.

13. The subject lots had been listed for sale for \$\$\$\$\$ as of the January 1, 2009 lien date. The Property Owners purchase the lots in May 2009 for \$\$\$\$\$ and \$\$\$\$\$. However, values had continued to decline during 2010, so it would indicate that the value of the property was actually higher as of January 1, 2009, than when the properties were purchased in May 2010. This does not support the Property Owner's request that the values be lowered to \$\$\$\$\$ and \$\$\$\$\$, but would indicate a value around \$\$\$\$\$. The sales that occurred around the lien date, which are both similar in size to the subject and not on a busy street also support a value for the subject lots of \$\$\$\$\$ each.

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. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (Utah Code Ann. Sec. 59-2-103.)

"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. (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

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(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 assessment contained error, and (2) provide the Commission with a sound evidentiary upon which the Commission could adopt a lower valuation. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

CONCLUSIONS OF LAW

1. Property tax is based on the fair market value of the property as of January 1 of the tax year at issue. Utah Code Sec. 59-2-103. Fair market value is defined by statute as the amount for which property would exchange hands between a willing buyer and seller. See Utah Code Sec. 59-2-102. In this appeal there is evidence that the subject parcels were listed for sale on the MLS for some period of time and finally sold in May, after the lien date, for \$\$\$\$\$ and \$\$\$\$\$. The evidence also indicates that prices had continued to decline during 2010. There were other sales that supported a value of \$\$\$\$\$ as of the lien date, although they had been bank owned properties. The County did not provide any nonbank owned comparables that sold during the last quarter of 2008, supporting the Property Owner's contention that it was a different market by December 2008, than the market during the summer of 2008.

Considering the evidence and the applicable law in this matter, a reduction to \$\$\$\$\$ for each lot is supported.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2009, is \$\$\$\$\$ for each of the subject parcels. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order.

DATED this _____ day of _____, 2011.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

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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. Sec. 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 Sec. 59-1-601 et seq. and 63G-4-401 et seq.

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