

10-1388  
 LOCALLY ASSESSED PROPERTY  
 TAX YEAR: 2009  
 SIGNED: 05-26-2011  
 COMMISSIONERS: R. JOHNSON, M. JOHNSON, D. DIXON, M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

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| <p>PETITIONER 1 &amp; PETITIONER 2,<br/><br/>         Petitioners,<br/><br/>         v.<br/><br/>         BOARD OF EQUALIZATION OF SALT<br/>         LAKE COUNTY, UTAH,<br/><br/>         Respondent.</p> | <p><b>INITIAL HEARING ORDER</b><br/><br/>         Appeal No. 10-1388<br/><br/>         Parcel Nos. #####-1, #####-2<br/>                           #####-3, #####-4<br/>         Tax Type: Property Tax/Locally Assessed<br/>         Tax Year: 2009<br/><br/>         Judge:       Phan</p> |
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**Presiding:**  
 Jane Phan, Administrative Law Judge

**Appearances:**  
 For Petitioner: PETITIONER 1  
 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 January 11, 2011. 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 original values set by the County Assessor, the values that resulted from appeal to the County Board of Equalization, the values requested at the Initial Hearing by the Property Owners and those supported by the representative for the County Board of Equalization (the "County") are as follows:

| Parcel No. | Original Value | BOE Value  | Owner's Request | County Request |
|------------|----------------|------------|-----------------|----------------|
| #####-1    | \$\$\$\$\$     | \$\$\$\$\$ | \$\$\$\$\$      | \$\$\$\$\$     |

|         |            |            |            |            |
|---------|------------|------------|------------|------------|
| #####-2 | \$\$\$\$\$ | \$\$\$\$\$ | \$\$\$\$\$ | \$\$\$\$\$ |
| #####-3 | \$\$\$\$\$ | \$\$\$\$\$ | \$\$\$\$\$ | \$\$\$\$\$ |
| #####-4 | \$\$\$\$\$ | \$\$\$\$\$ | \$\$\$\$\$ | \$\$\$\$\$ |

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 parcels are all condominiums in the CONDOMINIUM 1 project. This is a project located at approximately ADDRESS 1 in CITY 1, Utah. The project has amenities that include a swimming pool, clubhouse, tennis court, and exercise room.

Parcel #####-1 (“#####-1”) is located at ADDRESS 2. It is a single level condominium located on the second floor of the building with 1206 square feet and a 1-car garage. #####-1 is a middle unit.

Parcel #####-5 (“#####-5”) is located at ADDRESS 3. This is also a single level condominium with 876 square feet and a single car garage.

Parcel #####-2 (“#####-2”) is located at ADDRESS 4. This is a two story unit that has 728 main floor square feet and 780 upstairs square feet (1508 in total) with a 2 car garage.

Parcel #####-5 (“#####-5”) is similar to #####-2. #####-5 is located at ADDRESS 5. It is a two-story unit with 726 main floor square feet, 761 upstairs square feet (1487 in total) and a two car garage.

The Property Owners’ value requests were based on purchases they had made in the project as well as other sales. The Property Owners had purchased #####-5 for \$\$\$\$ in October 2007. They stated that they purchased #####-5 for this price fully furnished. They had also purchased a unit that is not the subject of this appeal, #####-6 in July 2009, for \$\$\$\$\$. Based on the Multiple Listing Information submitted by the County, #####-6 had 876 square feet and a single car garage.

The Property Owners purchased #####-2 on January 13, 2009 for \$\$\$\$\$. This was a two story property with a two car garage. This was a short sale property that had been listed on the MLS for many months for \$\$\$\$\$. The Property Owner stated that he had paid the full list price which was more than they thought was market value for this parcel, because it was located right across from the unit that he lived in. He states he wanted to keep his rental units together. The County had lowered the value for this unit to the purchase price.

Additionally, the Property Owner offered an equalization comparable. He stated that parcel #####-7, which is not the subject of this appeal, was very similar to his Parcels #####-5 and #####-4, except that it had only a 1 car garage while Parcels #####-5 and #####-4 had two car garages. The County Board of Equalization had reduced the value of parcel #####-7 to \$\$\$\$ for the 2009 tax year. The Property Owner argued that the difference between a one car garage and a two car garage should only be about \$\$\$\$\$. He was asking that the value of Parcels #####-5 and #####-4 be lowered to \$\$\$\$ acknowledging the difference in the value from the extra garage. The Property Owner did not provide additional information about parcel #####-7. From review of the County Assessor’s web site, the Property Owner is correct that parcel #####-7 was reduced to \$\$\$\$ for the 2009 tax year and had a 1 car garage. However, the unit size was also smaller, with only 1316 square feet.

The County’s representative submitted seven comparable sales that supported his requested values. At the hearing he offered a time adjustment for each of these sales to indicate a value as of the lien date. He indicated the time adjustments would be necessary to account for the

market depreciation that occurred at the end of 2008 and throughout 2009. Several of the County's sales were the same as those discussed by the Property Owner. The County's sales were as follows:

| Property | Sale Price  | Sale Date | Levels | Total Size | Garage | Time Adjusted |
|----------|-------------|-----------|--------|------------|--------|---------------|
| #####-6  | \$\$\$\$\$  | 7/20/09   | 1      | 876        | 1      | \$\$\$\$\$    |
| #####-8  | \$\$\$\$\$* | 9/11/08   | 1      | 876        | 1      | \$\$\$\$\$    |
| #####-9  | \$\$\$\$\$* | 9/17/08   | 1      | 1206       | 1      | \$\$\$\$\$    |
| #####-10 | \$\$\$\$\$* | 8/29/08   | 2      | 1411       | 1      | \$\$\$\$\$    |
| #####-11 | \$\$\$\$\$* | 8/29/08   | 2      | 1411       | 1      | \$\$\$\$\$    |
| #####-2  | \$\$\$\$\$  | 1/9/09    | 2      | 1508       | 2      | \$\$\$\$\$    |
| #####-12 | \$\$\$\$\$* | 8/28/08   | 2      | 1508       | 2      | \$\$\$\$\$    |

\*This amount represents the purchase price minus concessions.

After reviewing the information submitted by the parties, the sales in the complex near the lien date do support some reduction in value for some of the subject parcels, but not as low as that requested by the Property Owners. The Property Owners have the burden of proof to establish error in the value set by the County and to provide a sound evidentiary basis to support a lower value. From the sales and information provided by both parties, the evidence supports that Parcels #####-1 and #####-3 were overvalued and should be reduced to the values requested by the County representative at the hearing, \$\$\$\$\$ and \$\$\$\$\$ respectively. The market information supported a value of \$\$\$\$\$ for #####-2, which was the purchase price in January 2009, as well as the value set by the County Board of Equalization. The Property Owners statement that he overpaid for #####-2 is not supported, as this property was in a short sale and the Property Owner was a very knowledgeable buyer in this complex.

For #####-5 the value is more difficult to determine because there was no sale of a unit exactly the same. #####-5 is a two story unit with 1487 square feet in total and a two car garage. It had been valued by the County Board at \$\$\$\$\$. Having a two car garage, it is most similar to comparables #####-5 and #####-12. These two comparables had sold for \$\$\$\$\$ and \$\$\$\$\$ but adjusted for time were \$\$\$\$\$ and \$\$\$\$\$. Based on the fact that #####-5 is similar to these comparables, but just a few square feet smaller, it would be appropriate to go with the lower sale and value #####-5 at \$\$\$\$\$.

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Jane Phan

Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the values of the subject properties as of January 1, 2009, are as follows:

|         |            |
|---------|------------|
| #####-1 | \$\$\$\$\$ |
| #####-3 | \$\$\$\$\$ |
| #####-2 | \$\$\$\$\$ |
| #####-4 | \$\$\$\$\$ |

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 \_\_\_\_\_, 2011.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

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