

10-1434
LOCALLY ASSESSED PROPERTY
SIGNED 04-09-2010

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</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. 10-1434</p> <p>Parcel Nos. #####-1 #####-2</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 REP. 1
PETITIONER REP. 2
PETITIONER REP. 3

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 23, 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. For Each Parcel the County Board of Equalization (“County”) had

sustained the County Assessor's value, although at the hearing, the County submitted an appraisal for each parcel and agreed to the reduction in value indicated by the appraisals. The values set by the County and requested by the parties are as follows for each parcel:

Parcel No.	County BOE	Property Owner's Request	County's Request
#####-1	\$\$\$\$	\$\$\$\$-\$\$\$\$	\$\$\$\$
#####-2	\$\$\$\$	\$\$\$\$	\$\$\$\$

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

Parcel #####-1 is LOT A in SUBDIVISION Phase (#) PUD and is located at ADDRESS, SUBDIVISION, Utah. The property is a residential building lot that consists of 1.1

acres of land. The lot is located in a (X) subdivision. (SENTENCE REMOVED) is lot is particularly steep and does not have a view.

The Property Owner asked that the value for Parcel #####-1 be reduced to \$\$\$\$\$ or \$\$\$\$\$. He submitted an appraisal for this lot along with some current listings and sales. The appraisal he submitted had been prepared by APPRAISER, MAI. APPRAISER considered two different approaches to determining the value and concluded from these the value of the lot was \$\$\$\$\$ as of December 9, 2008. The Property Owner's requested value was higher than the \$\$\$\$\$ appraisal conclusion because they thought the value was realistically in the \$\$\$\$\$ to \$\$\$\$\$ range.

APPRAISER's first approach was a typical market sales comparison, from which he concluded that the value of the subject was \$\$\$\$\$. He considered three comparable sales and two listings in this approach. One of the sales was also from SUBDIVISION PUD. It was a 1.95 acre lot that had sold for \$\$\$\$\$ on October 22, 2008. He made adjustments for the smaller size of the subject, lack of view and (WORDS REMOVED). Photos and the description of this lot from the Property Owner indicate this lot does not have significant views. From these sales APPRAISER concluded that the value based on the market comparison of Parcel #####-1 was \$\$\$\$\$. His other sales comparables were further in location from the subject property and not in the same PUD. However, the sales had occurred in August and September 2008, during the last half of 2008.

Instead of placing most weight on this market comparison approach, APPRAISER considered a second approach, a land residual value. For the land residual value he looked at an assumed value of a typical residences in the neighborhood and then attempted to determine a cost value for the residence. He subtracted the cost value from the total sales price to get a value for the land. He indicated that this type of approach could be used where comparable sales were lacking. However, in doing this the residual value he came up with was zero. It is apparent in reaching the reconciled or overall conclusion of \$\$\$\$\$ for this property that he gave equal weight to this approach as to his sales comparison approach. The Property Owner did not ask that the value be reduced to the \$\$\$\$\$ because it was his opinion that the market value was nearer the market sales comparison value.

The Property Owner submitted three sales and some active listings. However, the sales and listings were significantly post lien date and tended to indicate a further decline in value. The sales had been for prices ranging from \$\$\$\$\$ to \$\$\$\$\$ and had sold between November 2009 and

February 2010. These sales are more relevant for determining a value for the 2010 tax year, than for the January 1, 2009 lien date at issue in this appeal.

The County did submit an appraisal for Parcel #####-1, which had been prepared by RESPONDENT REP., Certified General Appraiser. It was RESPONDENT REP.'s conclusion that the value of the subject based on a market sales comparison approach was \$\$\$\$\$. He did find three lot sales located near the subject in the SUBDIVISION development. However, two comparables had sold early in 2008. A 1.45 acre lot had sold for \$\$\$\$\$ on March 17, 2008. A 3.26 acre parcel had sold for \$\$\$\$\$ on May 15, 2008. His third comparable was the same comparable used in APPRAISER's appraisal, the 1.95 acre parcel which sold for \$\$\$\$\$ on October 22, 2008. This third comparable was the nearest of all comparables to the lien date of January 1, 2009, that is the issue in this matter. To his comparables, RESPONDENT REP. made some time of sale adjustments to account for the market depreciation and adjusted for lot size and topography. He did not, however, adjustment for view. The difference between the two appraisal conclusions from this comparable is primarily the view adjustment.

After reviewing the evidence submitted on Parcel #####-1, the value should be reduced to \$\$\$\$\$ which is the sales comparison indicator from APPRAISER's appraisal because the value does take into account the lack of view on this lot. The Commission should place no weight on the Residential Land Residual value approach as it is highly speculative and there were other lot comparables from which a value could be derived in the market comparison approach.

Parcel #####-2 is a 2.06 acre residential building lot located at ADDRESS, SUBDIVISION, Utah. This lot has more typical views compared to other properties in the PUD, but is relatively (X). The Property Owner asked that the value of Parcel #####-2 be reduced to \$\$\$\$\$. The Property Owner had submitted the same comparables and listings, which were all significantly post lien date. The Property Owner also submitted an appraisal prepared by APPRAISER for this lot. It was APPRAISER's conclusion again giving weight to both a sales comparison approach and a land residual approach that the value as of December 9, 2008 was \$\$\$\$\$. However, his conclusion from his sales comparison approach was a value of \$\$\$\$\$. In this appraisal he considered the same comparables but made adjustments specific to this lot which was larger than Parcel #####-1 and had a better view.

The County also submitted an appraisal for Parcel #####-2, in which RESPONDENT REP. concluded that the fair market value as of January 1, 2009 was \$\$\$\$\$. He used the same comparables as he had in his appraisal for Parcel #####-1, but made adjustments specific to Parcel #####-2.

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The weight of the evidence does support a reduction to \$\$\$\$ for this parcel as the County's appraisal is supported by the sales comparison indicator in the appraisal submitted by the Property Owner. Again the use of the land residual approach does not appear to be warranted in this situation.

Parcel #####-1 should be lowered to \$\$\$\$ and Parcel #####-2 should be lowered 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 \$\$\$\$ for Parcel #####-1 and \$\$\$\$ for Parcel #####-2. 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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