

10-1528
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2009
SIGNED: 03-15-2012
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: R. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION Appeal No. 10-1528 Parcel No. ##### 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
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 seq., on February 7, 2012. 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 valued the property at \$\$\$\$ and the County Board of Equalization (the "County") had reduced the value to \$\$\$\$\$. The Property Owner requests that the value be lowered to \$\$\$\$\$. At the hearing the County recommended that the value remain as set by the County Board of Equalization.
3. The property at issue is Parcel No. #####, located at ADDRESS 1, CITY 1, Utah.

4. The property is a 1.03 acre parcel of land located in a residential neighborhood. The property is improved with a residence that was a “basement” home. It was the County’s opinion that the residence added no value to the subject property and if sold, this property would be purchased as a residential building lot. The residence would be demolished. The Property Owner testified that his grandfather had built the residence in the 1930’s. He had started this residence as a basement with a roof over it with the intent to eventually add a main floor over the basement level. The County records show the property to be built in 1945. It has 611 square feet and a low grade of construction. However, the residence is habitable and the Property Owner’s cousin had been living there. There is also a detached garage of 960 square feet.

5. The Property Owner requested a reduction to \$\$\$\$\$. He agreed with the County that the value in this property was in the land. It was his testimony that he had obtained a bid for the demolition and removal of the existing residence and it was \$\$\$\$\$. He indicated that it was hard to find comparable sales near the subject property around the lien date for this appeal. Only one of the sales he submitted was located in CITY 1. The rest were from other cities and areas in the County. His comparables were as follows:

Subject: ADDRESS 1		1.03		
ADDRESS 2	\$\$\$\$\$	8/12/09	0.90	Mountain Views, House on property a tear down.
ADDRESS 3	\$\$\$\$\$	12/3/08	0.50	Property with a residence sold “as is.”
ADDRESS 4	\$\$\$\$\$	10/08/08	0.30	Was offered as sale of the residence.
ADDRESS 5	\$\$\$\$\$	10/03/08	0.44	Located in CITY 1. MLS said “value in lot.”
ADDRESS 6	\$\$\$\$\$	8/21/09	0.50	Existing home on property “sold as-is.”
ADDRESS 7	\$\$\$\$\$	7/30/09	0.77	Sold with a home, bank owned.

6. The County pointed out that the subject property is located in a much better area than the comparables that were located on STREET 1 or further west from there. He also indicated that the Property Owner’s first comparable, at ADDRESS 8, was a bank owned property. The property at ADDRESS 9 was in a westside neighborhood that was not comparable. He indicated that the property at ADDRESS 10 was a significantly post lien date sale. The property at ADDRESS 11 was also a post lien date sale and was bank owned or a short sale. It was his contention that values were declining during 2009 at a rate of about 1% per month. He did note that the one sale at ADDRESS 12 was located in CITY 1 and a good comparable area, but noted it was significantly smaller than the subject lot, so a size adjustment would be needed.

7. The County submitted an appraisal that indicated that as of the lien date January 1, 2009, the

value of the subject property was \$\$\$\$\$. However, he did not request an increase in value to the appraisal value. He found four comparable sales, one of which was located in CITY 1 like the subject, the remaining three in eastside CITY 2 neighborhoods. All four were land only parcels. The County did make an adjustment of \$\$\$\$\$ for the demolition and removal of the residence on the subject property. Additionally, the County considered the subject to have only a neighborhood view. For comparables with superior views he made an adjustment. The County's comparables were as follows:

Subject: ADDRESS 1			1.03	
ADDRESS 13	\$\$\$\$\$	8/18/08	1.00	Near subject in CITY 1. Equal view
ADDRESS 14	\$\$\$\$\$	7/2/08	0.70	Equal view
ADDRESS 15	\$\$\$\$\$	8/11/08	0.69	Superior valley view
ADDRESS 16	\$\$\$\$\$	5/20/08	0.94	Superior valley view

8. The Property Owner testified that the purchaser of the County's comparable no. 1 had tried to get the lot re-zoned to commercial after the purchase. The Property Owner testified that the neighbors had protested and the zoning change was not made. The County pointed out that it was zoned residential at the time of the sale, the buyer would have known it was residential and that a zone change might not be granted.

9. At the hearing the Property Owner testified that part of the subject lot was under the main road. It was his contention that a portion of the 1.03 acres attributed to the subject was actually under the public road and another under a gravel road along the west side of the property that provides access to a house behind. It was his contention that the gravel road took up 30 feet along the east side of the property and the main road 25 feet across the front of the property. The County's representative indicated that he was unaware of this and had gone by the acreage listed in the County recorder's office. There was a plat map submitted in the County's appraisal. It does show a 30-foot right of way along the side of the subject, but it actually appears that much of the roadway frontage is from the parcels across the street from the subject.

10. After reviewing the information submitted in this matter the evidence supports the value of \$\$\$\$\$ for the January 1, 2009 lien date. All but one of the Property Owner's comparables were located in different areas from the subject and the one comparable that was near the subject, at ADDRESS 17, had sold for \$\$\$\$\$ and was only 0.44 acres in size, much smaller than the subject even accounting for easements on the subject. The County has submitted an appraisal that indicated a value of \$\$\$\$\$. The County did not make an adjustment for easements in the appraisal. The appraisal indicates a value just over \$\$\$\$\$ higher than the value set by the County Board of Equalization for this property. The County had made an adjustment of \$\$\$\$\$ for

demolition and removal of the existing residence. The Property Owner indicated this would be \$\$\$\$\$. Accepting this, the appraisal still indicates a value more the \$\$\$\$ higher than the County Board of Equalization value. There was no evidence submitted by the Property Owner to show exactly how much of this property was affected by the easements and how that would have affected the value. There is no information that this would be more than a \$\$\$\$ difference to market value. The value should remain as set by the County Board of Equalization at \$\$\$\$.

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 (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

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1. Property tax is based on its “fair market value” pursuant to 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. The evidence indicated that a buildable residential lot in the area of the subject would have sold for at least the \$\$\$\$ set by the County Board of Equalization.

2. The Property Owner has not shown error in the value set by the County Board of Equalization, nor provided an evidentiary basis to lower the value.

The value should remain as set by the County Board of Equalization.

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 \$\$\$\$\$. It is so ordered.

DATED this _____ day of _____, 2012.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

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.