

10-1589  
LOCALLY ASSESSED PROPERTY  
TAX YEAR: 2009  
SIGNED: 01-06-2011

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 10-1589</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2009</p> <p>Judge: Chapman</p>
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**Presiding:**  
Kerry R. Chapman, Administrative Law Judge

**Appearances:**  
For Petitioner: PETITIONER, Taxpayer  
For Respondent: RESPONDENT REP., from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on December 6, 2010.

At issue is the fair market value of the subject property as of January 1, 2009. The subject is a cabin property located at ADDRESS at RESORT, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was assessed for the 2009 tax year. The taxpayer asks the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to reduce the subject's value to \$\$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103(1) provides that "[a]ll 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

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otherwise provided by law.”

UCA §59-2-1006(1) provides that “[a]ny 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 . . . .”

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must: 1) demonstrate that the value established by the County BOE contains error; and 2) provide the Commission with a sound evidentiary basis for reducing or increasing the valuation to the amount proposed by the party. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm’n*, 590 P.2d 332, (Utah 1979); *Beaver County v. Utah State Tax Comm’n*, 916 P.2d 344 (Utah 1996); and *Utah Railway Co. v. Utah State Tax Comm’n*, 5 P.3d 652 (Utah 2000).

#### DISCUSSION

The subject property consists of a 0.29-acre lot and a cabin that was built in the 1940s or 1950s. The subject property is located in an area that is surrounded by RESORT. The subject property is on the side of a ( X ) where the lots have running water and year-round access on a paved road, unlike lots on the other side of the ( X ) that do not. The County states that the property’s highest and best use is as vacant land; i.e., for the subject’s old cabin to be removed. For this reason, the County’s appraisal estimates the value of the subject’s land only with a deduction to tear down the current cabin.

The taxpayer submits an appraisal of a property that is adjacent to the subject. The appraisal shows that the adjacent property was appraised at a value of \$\$\$\$ as of October 22, 2010, almost 2 years after the 2009 lien date. The appraised property is 0.41 acres in size and has a cabin on it that was built around 1900. In addition, the taxpayer provides a comparative market analysis of the subject property, in which the

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subject's value is estimated to be \$\$\$\$ as of March 1, 2010. The taxpayer also submits six comparables of cabins in CANYON 1 and CANYON 2 that sold in 2008 and 2009 for prices ranging between \$\$\$\$ and \$\$. Based on this evidence, the taxpayer asks the Commission to reduce the subject's value to \$.

The taxpayer's evidence, however, does not convincingly show that the subject's value would have been \$\$\$\$ on the January 1, 2009 lien date. The subject property is in an area surrounded by RESORT \$, where prices for lots appear to be much higher than \$, especially as of January 1, 2009. First, The County produced two comparables in areas surrounded by RESORT that sold in 2008 for prices of \$ and \$. Second, the taxpayer states that she believes that the lot adjacent to her lot, which appraised for \$ in October 2010, sold for \$ two or three years ago, which may be near the lien date.

Third, the \$ appraisal for the property adjacent to the subject property is not very convincing because it uses comparables two to five miles further down CANYON 2 without adjusting for location. Although none of the comparables were in the area surrounded by RESORT, the appraiser did not adjust for location, even though RESPONDENT REP. stated that the difference in value could be as much as \$. Fourth, this same problem exists with the comparable market analysis that the taxpayer obtained for the subject property. The market analysis did not provide for any adjustment due to location, even though all of its comparables were some distance away from RESORT. Finally, the taxpayer's comparables are also located some distance from RESORT.

The County proffered an appraisal in which RESPONDENT REP. estimated the subject's value to be \$\$\$\$ as of the January 1, 2009 lien date. The appraisal relies on comparables located very close to the subject property, as they are all surrounded by the ski resort. The comparables, however, are all superior to the subject because their purchase price includes membership in the RESORT (i.e., property owners may use the RESORT spa facilities in exchange for a monthly HOA fee), whereas the subject property does not include such an amenity. The County has adjusted each of these comparables by 10% to account for this difference.

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The County's comparables indicate that properties surrounded by RESORT are more valuable than properties two or more miles down CANYON 2. The County's appraisal would be more convincing were it to contain comparables near the subject that did not come with a membership to the RESORT. In fact, if the comparable adjacent to the subject actually sold for \$\$\$\$ near the lien date and, like the subject, does not come with a membership to the RESORT, it may offer a better estimate of the subject's value than the County's appraisal. However, without evidence of the date of sale and the sales price of this comparable, the County's appraisal is the best evidence of value. Accordingly, the subject's 2009 value should be reduced to \$\$\$\$\$, with all of the value reflected in the land and \$\$\$\$\$ value attributed to the improvements.

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Kerry R. Chapman  
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's value should be reduced to \$\$\$\$ for the 2009 tax year. The entire \$\$\$\$\$ value should be attributed to the subject's land, with \$\$\$\$\$ attributed to the subject's improvements. The Salt Lake County Auditor is 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. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files 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 taxpayer's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

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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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