

10-1642
LOCALLY ASSESSED PROPERTY
SIGNED 10-12-2010

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. 10-1642</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2009</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP. 1
PETITIONER REP. 2, Real Estate Appraiser

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. The County Assessor had set the value at \$\$\$\$ and the County Board of Equalization reduced the value to \$\$\$\$\$. The Property Owner requests that the value be lowered to \$\$\$\$\$. At the hearing, Respondent (the "County") requested that the value set by the County Board of Equalization be sustained.

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 is parcel no. ##### and is located at ADDRESS 1, CITY 1, Utah. The property is 0.34 of an acre and is improved with a recreational cabin. The cabin is of a very basic, inexpensive construction, with wood and cinderblock, which is a fair to poor grade. There are 815 square feet above grade and an unfinished basement with 715 square feet. The cabin is approximately 43 years old. There is no garage or other covered parking. It has no sewer hook-ups and there is running water only in the summer months. It is located in the AREA of CITY 1. Access to the property is difficult in the summer months when a four-wheel drive is needed because it is located 2.5 miles from the paved road. There is no car access during the winter months. You can get to the property during winter months on (PORTION REMOVED), but would have to back pack in or have supplies stored in order to use the property.

The Property Owner represented that CITY 1 had very strict laws against further development. He thought he might be able to remodel the current structure, but could not expand

the structure from its current footprint. He indicated if the structure were destroyed he thought he would be able to rebuild, but only to the exact footprint that it currently has.

The Property Owner submitted an appraisal that had been prepared by PETITIONER REP. 2, Certified Appraiser. It was PETITIONER REP. 2's opinion that as January 1, 2009, the value of the subject property was \$\$\$\$\$. In the appraisal he considered ten comparable sales and three listings. His first three comparables were properties that sold near the lien date, although none were located in CITY 1. Neither party was able to submit sales that were both near the lien date and in the AREA of CITY 1. PETITIONER REP. 2 stated that these three sales were in competing recreational areas and he did not make a location adjustment. Comparable No. 2 was on leased forest service land. These comparables had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. The dates of sale had been in August or September 2008. It was his conclusion that these sales indicated values for the subject ranging from \$\$\$\$\$ to \$\$\$\$\$.

The Property Owner also considered properties that were located near the subject but had sold several years prior to the lien date. Two of these were the comparables used in the County's appraisal. A property at ADDRESS 2 had sold for \$\$\$\$\$ in August 2006. He made large negative time adjustments arguing that the values had gone down since 2005. He also made large quality of construction adjustments although he did not dispute that this property had been in poor condition at the time of the sale. It was his contention that this comparable was much more complex in construction, so of a better quality compared to the subject. It was his conclusion that the indicated value for the subject from this property was \$\$\$\$\$.

A property at ADDRESS 3 had sold for \$\$\$\$\$ in June 2005. This property was superior in size, grade and condition with wrap around decks. PETITIONER REP. 2 again made large negative time adjustments and concluded that the indicated value for the subject from this comparable was \$\$\$\$\$. He did find a third sale in CITY 1, but it was a fractional interest sale. He did include this as a comparable and concluded that it indicated a value for the subject of \$\$\$\$\$. Three other comparables he offered were properties located in CITY 2, which he stated were competing recreational neighborhoods. These CITY 2 properties had sold for prices from \$\$\$\$\$ to \$\$\$\$\$.

He stated that he had spent a lot time analyzing the comparables and had concluded that for January 1, 2009 the value of the subject was \$\$\$\$\$.

The County's representative, RESPONDENT REP., submitted an appraisal that he had prepared for the subject property. He considered three comparables, but one was stricken due to failure to meet the exchange deadline. The remaining two comparables were located in CITY 1

near the subject, but significantly predated the lien date of January 1, 2009. His first comparable was the property at ADDRESS 4 which had sold for \$\$\$\$\$ in August 2006. This was one of the comparables considered in PETITIONER REP. 2's appraisal. However, while PETITIONER REP. 2 had concluded the sale indicated a value for the subject of \$\$\$\$\$, RESPONDENT REP.' conclusion was a value for the subject of \$\$\$\$\$. The big difference was the time of sale adjustments and condition or grade adjustments. It was RESPONDENT REP.'s opinion that values had increased substantially in 2006 and 2007 and, therefore, a time adjustment was warranted. PETITIONER REP. 2 opined that values declined from 2005 forward. Further, RESPONDENT REP. thought the condition was inferior while PETITIONER REP. 2 felt the quality of construction was far superior.

RESPONDENT REP.' second comparable was ADDRESS 5 which had sold for \$\$\$\$\$ in June 2005. He concluded that this sale indicated a value of \$\$\$\$\$, while PETITIONER REP. 2's conclusion had been \$\$\$\$\$. The biggest difference in the two appraisals was the time adjustment. PETITIONER REP. 2 made a negative time adjustment of \$\$\$\$\$ because he argued values had gone down since 2005, while RESPONDENT REP.' adjustment was a positive \$\$\$\$\$ as he argued that values had increased substantially after 2005, at least up through the end of 2007. Neither party submitted a publication, analysis or other paired sales study to support their contention regarding the increase or decrease in market values.

After reviewing the information presented by the parties and the appraisals the value should be lowered to PETITIONER REP. 2's appraisal value. PETITIONER REP. 2 did consider sales of recreational cabin properties that had sold near the lien date in the last half of 2008 and also took into account those older sales of properties that were near in location to the subject. The County is relying heavily on the sales which occurred in 2005 and 2006 and has not substantiated time adjustments. The value should be reduced to \$\$\$\$\$ for the lien date at issue.

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 \$\$\$\$\$. 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