

10-1779 & 11-1445
LOCALLY ASSESSED PROPERTY
TAX YEARS: 2009 & 2010
SIGNED: 03-23-2012
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: R. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2, Petitioners, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION Appeal Nos. 10-1779 & 11-1445 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Years: 2009 & 2010 Judge: Phan
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Presiding:

Michael Cragun, Commissioner
Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1
For Respondent: RESPONDENT REP. 1 Certified Residential Appraiser, Salt Lake County
RESPONDENT REP. 2, Certified Residential 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 9, 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 property for the lien dates January 1, 2009 and January 1, 2010.
2. For both lien dates at issue in this matter the values set by the County and requested by the Property Owner are the same. The County Assessor had valued the property at \$\$\$\$ and the County Board of Equalization (the "County") sustained the value. The Property Owner requests that the value be lowered to \$\$\$\$\$. At the hearing the County requested that the values remain as set by the County Board of Equalization

for both years.

3. The property at issue is Parcel No. ##### and is located at ADDRESS 1, CITY 1, Utah.

4. The property is a residence in the CONDOMINIUM. This development consists of (#) detached, single family residences with landscaped common areas that include water features such (WORDS REMOVED). Some of the units in the development were constructed along (WORDS REMOVED) and enjoy excellent GOLF COURSE and valley views. These units are called UNITS 1 units. They are larger in size and have daylight, walk-out basements. The rest of the units are the interior properties where the views are of the other units and the landscaping in the development. These units are smaller in size. The subject is one of these smaller, interior UNITS 2 units, so its view is of the landscaping and surrounding residences. The UNITS 2 units are nearly identical, with the exception that some have a two-car garage and some a three-car garage.

5. The subject residence is a UNITS 2 unit that has 1,918 square feet above grade and a basement of 2018 square feet of which 1818 square feet are finished. It has an attached two-car garage. The residence was constructed in 2005 of a very good quality of construction. It was considered to be in very good condition on the lien date.

6. The Property Owners request that the value be lowered to \$\$\$\$\$ based on a calculation he made by subtracting the land value from a larger unit to get a price per square foot for the subject building. It was his position that the last time a UNITS 2 unit sold had been in 2007. It was his contention that because there were no sales of units similar to the subject, the County was valuing the subject based on sales of the larger UNITS 1 units, but not making a large enough adjustment for the difference in land value and location.

7. He states that the builder of the development had told him that when they originally sold in the development, they had priced the ridge lots for \$\$\$\$\$ to \$\$\$\$\$ higher than the interior lots. The Property Owner also pointed out that the appraisal from the County for the 2010 tax year had made a \$\$\$\$\$ adjustment for the difference in location between the ridge lots and interior lots.

8. The Property Owner argued that the County had assessed his residence and others in the complex based on a UNITS 1 unit that had sold on January 16, 2009. This was ADDRESS 2 and had sold for a price of \$\$\$\$\$. However, the Property Owner's calculation was based on the 2009 assessed value which had been \$\$\$\$\$ in total and not the sale price. The County had attributed from this total assessment \$\$\$\$\$ to the land value for this unit and \$\$\$\$\$ to the building value. The building value was \$\$\$\$\$ per square foot. The information presented indicated that because this development was a condominium, the County automatically

attributes 30% of the total value to the land and 70% to the building.

9. The 2009 assessment for the subject unit had been a total of \$\$\$\$\$, with \$\$\$\$\$ attributed to the land value by the County and the remainder to the building value, which equaled \$\$\$\$\$ per square foot for the building. The Property Owner argued that if land value of the UNITS 1 unit was \$\$\$\$\$ more than the land value for the subject unit, then the land value for the UNITS 1 unit should be determined by adding the \$\$\$\$\$ to the land value attributed by the County for the subject unit of \$\$\$\$\$. This results in a land value of \$\$\$\$\$ for the UNITS 1 unit. When \$\$\$\$\$ is subtracted from the total value of the UNITS 1 unit of \$\$\$\$\$, it was his calculation that this would indicate a building value of \$\$\$\$\$ or only \$\$\$\$\$ per square foot. The Property Owner's requested value of \$\$\$\$\$ was based on the \$\$\$\$\$ per square foot applied to the subject residence for a building value of \$\$\$\$\$, to which he added the County's land value for the subject of \$\$\$\$\$.

10. The County had submitted both comparable sales and listings from the CONDOMINIUM DEVELOPMENT for the 2009 tax year, as well as an appraisal that indicated a value for the subject of \$\$\$\$\$ for January 1, 2010. It was the County's argument that it was the total or overall assessed value that equated to fair market value and that it was improper to try to determine a value based on the separate land and building values.

11. The County was able to provide only limited sales of UNITS 2 units near the lien dates at issue. There had been some sales in 2007 and one that sold early in 2008. There were three sales of UNITS 1 units. Some of these sales were provided in an appraisal prepared by RESPONDENT REP. 2, Certified Residential Appraiser and for those he made appraisal adjustments and determined an indicated value for the subject. Some of the sales were not in an appraisal, but the County submitted the Multiple Listing Report for these properties and did not make appraisal adjustments or determine an indicated value for the subject. The sales of units are as follows:

Sale Date	Price	Above Grade	View Adjustment	Indicated Value for Subject
Subject		1,918	Interior View	
1/16/09	\$\$\$\$\$	2,359	-\$\$\$\$\$	\$\$\$\$\$
10/27/10	\$\$\$\$\$	2,359	-\$\$\$\$\$	\$\$\$\$\$
10/20/2011	\$\$\$\$\$	2,359	-\$\$\$\$\$	\$\$\$\$\$
1/17/08	\$\$\$\$\$ *	1,918		Not Provided
7/17/07	\$\$\$\$\$	1,918		Not Provided

7/18/07 \$\$\$\$\$ 1,918 Not Provided

*Model Home sold fully furnished & furnishings included in the price.

12. Also provided were listings of units more similar to the subject which had expired unsold. In the appraisal for the 2010 tax year the County did consider these and made a negative 10% off the list price as an adjustment for it being a listing rather than a sale as well as other adjustments to determine an indicated value for the subject from the listings. Other listings submitted were not contained in the appraisal so appraisal adjustments had not been made. The listings are as follows:

Sale Date	Price	Above Grade	View Adjustment	Indicated Value for Subject
5/2/08	\$\$\$\$\$	1,879		Not Provided
8/16/08	\$\$\$\$\$	1,900	Pond & Waterfall	Not Provided
9/30/08	\$\$\$\$\$	1,879		Not Provided
9/4/08	\$\$\$\$\$	1,874		Not Provided
11/09/09	\$\$\$\$\$	1,874	Interior View	\$\$\$\$\$
5/10/09	\$\$\$\$\$	1,918	Interior View	\$\$\$\$\$
8/7/09	\$\$\$\$\$	2,371	Interior view	\$\$\$\$\$

13. There was a Planned Unit Development called UNITS 3, just to the South of the CONDOMINIUM DEVELOPMENT project. The properties in this UNITS 3 PUD had been assessed for significantly less than those in UNITS 4. However, the County did provide information that indicated that the units in UNITS 3 have traditionally sold for substantially less than UNITS 4. The same information was provided for the neighboring street to the north of UNITS 4. This street is STREET 1 and has single family residences on lots ranging in size from 0.27 acres to 0.73 acres. These properties also sold for substantially less than the condominiums in UNITS 4.

14. From the information provided neither of the neighboring developments is comparable to units in CONDOMINIUM DEVELOPMENT and the best comparables for the subject are other units in UNITS 4.

15. The Property Owner’s method of determining a value based on abstracting the amount attributed to the lot is not a market value analysis. The Property Owner is applying the County’s adjustment of \$\$\$\$\$ for the view, which was calculated by the County to be subtracted from the sale price, not the assessed value. The property at ADDRESS 2 had sold for \$\$\$\$\$. The appraiser had concluded that a 20% adjustment

to the sale price was warranted for the superior view of this comparable. The Property Owner, however, applied the County's \$\$\$\$ adjustment to the County's assessed value for this property, which had been only \$\$\$\$\$. The Property Owner's method of determining value assumes that the amount attributed to the land is an accurate value for the land, while the County had acknowledged it automatically attributes 30% of the value of a condominium to the land, not actual market evidence. The County's primary concern is to determine the total fair market value for the property.

16. Although the market evidence is very limited in this matter, the sales information and listings available are generally supportive of the value set by the County Board of Equalization for both years at issue.

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 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 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

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.

2. The Property Owner has the burden of proof to establish error in the value set by the County and to provide a sound evidentiary basis to support the lower value. The Property Owner in this matter has made a calculation combining market value and assessed value elements and relying on the portions of value attributed the land. There is no indication that the portion attributed to the land actually represents the fair market value of the land and overvaluing the land leads to a lower value to apply to the residence of the subject property in his calculation. The Property Owner’s analysis is not a sound evidentiary basis to show error in the value set by the County Board of Equalization or support a new value. The actual sales in the development supports the value generally set by the County Board of Equalization. It is clear that there have been no sales or even listings in the development near the \$\$\$\$ that the Property Owner is requesting in this matter.

Considering the evidence and the applicable law in this matter, 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 and January 1, 2010, is \$\$\$\$ for each year at issue. 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 Sec. 63G-4-302. A Request

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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.