

10-1820  
LOCALLY ASSESSED PROPERTY  
TAX YEAR: 2009  
SIGNED: 09-15-2011  
COMMISSIONERS: R. JOHNSON, M. JOHNSON, M. CRAGUN  
EXCUSED: D. DIXON

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,  Petitioner,  vs.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,  Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 10-1820 Parcel No. #####-1 Tax Type: Property Tax/Locally Assessed Tax Year: 2009</p> <p>Judge: Phan</p>
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**Presiding:**

Bruce Johnson, Commissioner  
Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER  
PETITIONER REP.  
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 al, on June 27, 2011. 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 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") sustained the value. The Property Owner requests that the value be lowered to \$\$\$\$\$. At the hearing the County asked that the value set by the County board of equalization be sustained.
3. The property at issue is Parcel No. #####-1, located at ADDRESS 1, CITY 1, Utah.
4. The property is an unimproved 0.36 acre lot. The lot is level and zoned for residential use.

However, it is currently not an approved residential lot and the Property Owner testified that it is not buildable in its current state until he goes through the process of meeting with the city to get it approved. The Property Owner stated that because the private lane on which it is located is so narrow, there could be problems with the city. There is also currently no water, gas or sewer hook ups. The subject lot is located in a residential area with good access to ski resorts. There are residences that have been built on other lots that are accessed only from the private lane on which the subject is located.

5. The Property Owner requested that the value be lowered to \$\$\$\$\$ for the lien date at issue in this appeal. His request is based on the purchase price that he had paid for this lot on March 24, 2009. The lot had been listed for sale. The Property Owner provided a copy of the Multiple Listing Service Report. The report indicated that the property had been listed for sale January 13, 2009 for a price of \$\$\$\$\$. The property had gone under contract on February 19, 2009 and the purchase closed on March 24, 2009 for \$\$\$\$\$. The remarks in the MLS Report state, “( WORDS REMOVED ).”

6. In addition to the purchase price of the subject, the Property Owner submitted other comparable sales. One property was located very near the subject. It was a 1.16 acre parcel that was improved with an older residence that had 1,740 square feet above grade. The MLS report suggested it could be divided into two residential lots. This property had sold for \$\$\$\$\$.

7. The Property Owner also submitted vacant lots like the subject. A 0.26 acre lot at ADDRESS 2, CITY 1, had sold for \$\$\$\$\$ on December 7, 2009. A 0.63 acre lot located at ADDRESS 3, CITY 1 had sold for \$\$\$\$\$ in July 2010. A 0.63 acre lot located at ADDRESS 4, CITY 2 had sold for \$\$\$\$\$ in November 2009.

8. The County argued that the value should remain as set by the Board of Equalization. The County representative also submitted comparable sales. He found three residential lots in a new subdivision off of STREET 1. These were improved subdivision lots. A lot with 0.46 acres located at ADDRESS 5 had sold for \$\$\$\$\$ on November 24, 2008. A lot at ADDRESS 6 had 0.69 acres and had sold for \$\$\$\$\$ on August 11, 2008. The third lot in the subdivision had 0.65 acres and had sold for \$\$\$\$\$ on August 13, 2009.

9. Additional sales provided by the County included a lot with 0.53 acres off a private lane from ADDRESS 6 in CITY 1 that had sold for \$\$\$\$\$ in July 2008. A lot at ADDRESS 7 had sold for \$\$\$\$\$. This had 0.70 acres and had utilities stubbed. A lot at ADDRESS 8 had sold for \$\$\$\$\$ in May 2009. This was 0.50 acres and had been bank owned.

10. The County's representative acknowledged that his comparable sales were lots that were located in subdivisions while the subject was not in a subdivision. So in addition to the sold properties he did provide some listings of lots, that like the subject lot, were not located in a subdivision. One of these was a lot at ADDRESS 9 which was adjacent to the subject. This lot had been listed on March 10, 2009 through December 11, 2009 and had not sold. This was a 0.50 acre lot that had been listed for \$\$\$\$\$.

11. The Property Owner argued that the comparable sales relied on by the County were not comparable because they were all located in subdivisions and they could be developed for residential use. He pointed out that whether or not his lot was developable was still in doubt. He also stated that the neighboring property that had been listed, but had not sold, at ADDRESS 10, had been listed for sale with a home that would be built on it for the list price. However, there was no indication of this on the MLS report submitted by the County.

12. Both parties agreed that values had continued to decline after the January 1, 2009 lien date and into 2010 at approximately 1% to 2% per month.

13. After reviewing the evidence in this appeal, the weight supports that the Property Owner's purchase of the subject property was below market and the value should not be reduced to \$\$\$\$\$. This lot had been listed just after the lien date for \$\$\$\$\$ and had sold in March 2009 for \$\$\$\$\$. All the other comparables offered by the Property Owner were significantly post lien date, having sold late in 2009 or even into 2010. Although, the comparable sales provided by the County do appear superior in many respects, they sold for significantly more than the value placed on this property by the County at \$\$\$\$\$. Therefore, it appears that the County Board of Equalization value is reflective of some of the negative factors and uncertainty inherent in the subject lot.

#### 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

1. Property tax is based on the fair market value of the property as of the January 1 for the tax year at issue. See 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 County's value and to provide a sound evidentiary basis to support a lower value. Although, he purchased this property for \$\$\$\$ a few months after the lien date, all other sales prior to the lien date had been for significantly higher values. The sales submitted by the Property Owner were significantly post lien date and provide less reliable evidence of market value.

Considering the evidence and the applicable law in this matter, the value should remain as set by the County Board of Equalization for the lien date January 1, 2009.

Jane Phan  
Administrative Law Judge

Appeal No. 10-1820

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 \$\$\$\$\$. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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.

*JKP/10-1820.fof*