

10-2138
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2009
SIGNED: 05-09-2011
COMMISSIONERS: R. JOHNSON, M. JOHNSON, D. DIXON, M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 & PETITIONER 2, Petitioners, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 10-2138</p> <p>Account No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2009</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP., Representative
For Respondent: RESPONDENT REP., Appraiser Salt Lake County

STATEMENT OF THE CASE

Petitioners (the Property Owners) bring this appeal from the decision of the Salt Lake County Board of Equalization (the County). This matter was scheduled for an Initial Hearing on February 7, 2011, in accordance with Utah Code §59-1-502.5. As of the lien date at issue, January 1, 2009, the Salt Lake County Assessor's Office valued the subject property at \$\$\$\$\$. The County Board of Equalization lowered the value to \$\$\$\$\$. The Taxpayer is requesting the value of the subject property be reduced to \$\$\$\$\$. The County asks that the value set by the 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).

DISCUSSION

The property at issue is parcel no. ##### and is located at ADDRESS 1, CITY 1, Utah. It is a vacant residential lot, 2.27 acres in size. This property is located in the Pepperwood Subdivision, which has community amenities such as pool and walking trails. Although 2.27 acres, the lot is steeply sloped with only 1 acre level enough to use for construction of a residence. Even for that portion, the Property Owners’ representative indicates it is steep enough that construction will be difficult and more costly than with a level lot. Also she thought the size of the residence would be limited. The Property Owners’ representative explained that they have not started construction of a residence on the lot. She did not have bids for the costs. However, due to the slope, the lot has both mountain and valley views.

The Property Owners asked that the value of the subject property be reduced to \$\$\$\$ which was the price for which they had purchased the property on August 10, 2009. The Property Owners provided supporting documentation and the County did not refute this fact. The representative indicated that the market in the subdivision had declined substantially, noting one neighboring house that had been for sale for \$\$\$\$ for a long period of time and had recently sold for only \$\$\$\$.

It was the County's position that the Property Owners had purchased the subject lot for a price lower than market value. It had been a bank owned property and it had been listed for sale for a number of years. According to the County's representative, in 2007 the lot had been listed for sale at \$\$\$\$\$. It did not sell and the property went into foreclosure. At the end of 2008 the subject property had been listed for \$\$\$\$\$. It was relisted again in February 2009 for \$\$\$\$\$ and eventually sold to the Property Owners in August for the price of \$\$\$\$\$. The County provided a copy of the Multiple Listing Report when the lot had sold. This stated in the comments, "BANK OWNED* OUTSTANDING OPPORTUNITY FOR SALT LAKE'S (WORDS REMOVED)* SPECTACULAR VIEWS OF MOUNTAIN PEAKS AND VALLEY LIGHTS ON QUIET PRISTINE SETTING".

Additionally, the County relied on a number of comparable sales for other lots in Pepperwood, although some appeared to be in different tracts in that development. These sales supported the County's position that the Property Owners' purchase price had been below market. The sales are as follows:

Property	Size	Sale Date	Price
Subject	2.27 acres	8/11/09	\$\$\$\$\$
ADDRESS 2	.60 acres	9/9/08	\$\$\$\$\$
ADDRESS 3	.87	8/22/08	\$\$\$\$\$
ADDRESS 4	.80	1/3/08	\$\$\$\$\$
ADDRESS 5	.84	5/1/07	\$\$\$\$\$
ADDRESS 6	.50	9/14/09	\$\$\$\$\$

The representative for the County also discussed that values had been declining in 2009 from the lien date to the date the Property Owner's purchase the property in August 2009. He noted that there were a lot of residential lots listed during this time period that just sat on the market and did not sell and it was his conclusion that market values are based on the properties that actually sold.

In seeking a value other than that established by the County Board of Equalization, a party has the burden of proof to demonstrate not only an error in the valuation set by the County, but also provide an evidentiary basis to support a new value. Property tax is based on the market value of the property as of January 1 of the tax year at issue under Utah Code Ann. §59-2-103. Utah Code Ann. §59-2-102 defines "market value" as the amount for which property would exchange hands between a willing buyer and seller. Although the Property Owners did purchase the subject property after the lien date at issue, there were sales that support the value set for the subject lot as of January 1, 2009. Due to the number of sales presented, the County has supported

its contention that the Property Owners purchase was for less than market value. The Property Owners did not submit any lot sales in Pepperwood during this period that were as low as their purchase price of the subject. The value should remain as set by the County.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property was \$\$\$\$ as of the January 1, 2009 lien date. 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 _____, 2011.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner