

11-255
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2010
SIGNED: 08-17-2011
COMMISSIONERS: R. JOHNSON, M. JOHNSON, D. DIXON, M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 AND PETITIONER 2, Petitioners, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 11-255</p> <p>Parcel No. #####-1 Tax Type: Property Tax/Locally Assessed Tax Year: 2010</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2
PETITIONER 1

For Respondent: RESPONDENT REP., Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioners (the "Taxpayers") bring this appeal from the decision of the Salt Lake County Board of Equalization ("the County") pursuant to Utah Code § 59-2-1006 on the assessed value of the subject property for the lien date January 1, 2010. This matter was argued in an Initial Hearing on May 5, 2011 in accordance with Utah Code Ann. §59-1-502.5. The Salt Lake County Assessor's Office valued the subject property at \$\$\$\$ as of the lien date. The County Board of Equalization sustained the value. The Taxpayer is requesting the value of the subject property be reduced to \$\$\$\$\$. At the hearing the representative for the County asked that the value be raised to \$\$\$\$\$ based on an appraisal that was submitted in this matter.

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 subject property is parcel #####-1 and is located at ADDRESS 1, CITY 1, Utah. This property is .69 acres in size and is improved with a 2-story residence. The residence was 8 years old. It has 4,058 square feet above grade with a 2,816 square foot basement that is fully finished. There is an attached 4-car garage. This property is located near the mouth of CANYON.

The Property Owners ask that the value be reduced to \$\$\$\$\$ based on time adjustment information. It was the Property Owners’ position that their home had been valued by the County at the peak of the market in 2007 at \$\$\$\$\$. They provided a Home Sales Graph Report from the COMPANY 1 generated for their neighborhood and for larger homes like the subject. It was their conclusion that from the peak of the market in 2007 to the beginning of 2010 the values had declined by 40%. Subtracting 40% from \$\$\$\$\$ resulted in their requested value of \$\$\$\$\$.

Additionally the Property Owner, PETITIONER 2, submitted comparable sales and Market Analysis reports which he had prepared. The first report contained three sales of properties that had all sold post lien date during 2010. He indicated that he thought the market had been stable during 2010 so he had used these properties. These properties had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. However, in addition to being post lien date sales, they were inferior to the subject in a number of areas. The first comparable at ADDRESS 2 had only .28 of an acre lot and only 3,000 square feet above grade. It was the Property Owners' conclusion that this sale indicated a value of \$\$\$\$\$ for the subject property. The second comparable at ADDRESS 3 was much older than the subject and of a dated style. The Property Owner explained that he considered this comparable because it was located very near to the subject. It had sold for \$\$\$\$\$ on June 30, 2010. This property had been constructed in 1984 and had 0.48 acres of land. It was the Property Owner's conclusion that this property indicated a value of \$\$\$\$\$ for the subject. The third comparable was at ADDRESS 4 had sold for \$\$\$\$\$ on June 15, 2010. This property was a rambler with 2600 square feet above grade. It was the Property Owner's conclusion that this priority indicated a value for the subject of \$\$\$\$\$.

The County submitted an appraisal for the subject that had been prepared by RESPONDENT REP., Certified Residential Appraiser. It was RESPONDENT REP.'s conclusion that the value of the subject property was \$\$\$\$\$, as of the lien date January 1, 2010. In the appraisal, RESPONDENT REP. considered seven comparable sales which had ranged in sale price from \$\$\$\$\$ to \$\$\$\$\$. From these sales his indicated value range for the subject was from \$\$\$\$\$ to \$\$\$\$\$. However, as noted by the Property Owners, two of these comparables were considerably distant from the subject, being 3.19 and 1.93 miles from the subject respectively. The remainder of RESPONDENT REP.'s comparables were much nearer to the subject, being 0.33 miles or less. The Property Owners also noted that three of these near comparables indicated a much tighter range for the subject from \$\$\$\$\$ to \$\$\$\$\$ based on RESPONDENT REP.'s appraisal adjustments.

In looking at the comparables offered by RESPONDENT REP., although the two comparables that were considerably further in distance from the subject may have had similar residences to the subject, the distance does make them less reliable evidence to support a value for the subject. The remaining properties were ADDRESS 5 which had sold for \$\$\$\$\$ on November 25, 2009, very near the lien date. This comparable, however, had both a larger lot, with 1.35 acres, and larger above grade square footage in the residence. From the photograph this property also was considerably different in style to the subject. RESPONDENT REP. concluded

that this property indicated a value of \$\$\$\$ for the subject. There was a comparable at ADDRESS 6 which had sold for \$\$\$\$ on August 1, 2008. This significantly predated the January 1, 2010 lien date at issue in this appeal and a large time adjustment was made for this difference. Additionally this property was significantly larger than the subject in above grade square feet and appeared superior as far as grade from the photograph. There was a property at ADDRESS 7, which was very near the subject. This property had sold for \$\$\$\$ on June 1, 2009. This property was a little inferior to the subject as far as size and other factors. It was the RESPONDENT REP.'s conclusion that this property indicated a value for the subject of \$\$\$\$.

A comparable at ADDRESS 8 had sold for \$\$\$\$ on February 6, 2009. This property from the photograph appeared to be of superior grade to the subject and was only 1 year old. The County made some downward adjustments for this property and concluded that it indicated a value for the subject of \$\$\$\$.

There also a comparable very near the subject at ADDRESS 9 that had sold for \$\$\$\$ in July 2009. This property however had a much larger lot (1.87 acres) with a residence that was significantly larger above grade (5,666 square feet). The County concluded an indicated value for the subject from this comparable of \$\$\$\$.

The Property Owner ran two of the County's comparables through his market analysis. For the comparable at ADDRESS 10 which had sold for \$\$\$\$, he concluded this indicated a value for the subject of \$\$\$\$. This property did appear to be the most similar to the subject as far as neighborhood area of the comparables but inferior as far as size. The County's conclusion from this property was that it indicated a value for the subject of \$\$\$\$. One reason for the different conclusions was the time adjustment. The County made an adjustment of ½% per month while the Property Owner's appears to be 2.33% per month. Even considering the MLS sales information graph submitted by the Property Owner, the County's adjustment appears more supported. The Property Owner's MLS chart shows values had decreased substantially from about the fourth quarter of 2007 to the fourth quarter of 2008 but were leveling off some in 2009.

The Property Owner also ran the property at ADDRESS 11 through his market analysis and concluded that this property, which had sold for \$\$\$\$, indicated a value for the subject of \$\$\$\$. The County's concluded value from this comparable had been \$\$\$\$. However, this comparable is less similar to the subject than other comparables due to the fact that both the residence and the land are significantly larger than the subject. The residence is also very different in style than the subject residence.

After reviewing the information presented in this matter from both parties, the evidence is supportive of lowering the value for the subject property to \$\$\$\$. Little weight is given to the

post lien date sales offered by the Property Owner because there were numerous sales pre lien date sales that were near in location to the subject. Little weight is given to the two sales offered in the County's appraisal that were 1.93 of a mile or even further in distance to the subject. Of the remaining five County comparables, three indicate a range from about \$\$\$\$\$ to \$\$\$\$\$. The other two indicate values of over \$\$\$\$\$ for the subject, but these two are both larger in land size and the above grade square foot of the residence. The two most similar of the properties indicate a value for the subject of approximately \$\$\$\$\$.

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, 2010, lien date. The Salt Lake County Auditor is hereby ordered to adjust its records accordingly. 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