

11-623
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2010
SIGNED: 09-30-2011
COMMISSIONERS: R. JOHNSON, M. JOHNSON, M. CRAGUN
EXCUSED: D. DIXON

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER 1 & PETITIONER 2, Petitioners, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 11-623</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2010</p> <p>Judge: Chapman</p>
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Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1, Taxpayer

For Respondent: RESPONDENT REP., from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on September 14, 2011.

At issue is the fair market value of the subject property as of January 1, 2010. The subject is a single-family residence located at ADDRESS in CITY 1, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was assessed for the 2010 tax year. The taxpayers ask the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to sustain the subject's current value of \$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103(1) provides that "[a]ll tangible taxable property shall be assessed and taxed

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at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.”

UCA §59-2-1006 provides that a person may appeal a decision of a county board of equalization to the Tax Commission, pertinent parts as follows:

(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. . . .

....
(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.

....

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must: 1) demonstrate that the value established by the County BOE contains error; and 2) provide the Commission with a sound evidentiary basis for reducing or increasing the valuation to the amount proposed by the party. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm’n*, 590 P.2d 332, (Utah 1979); *Beaver County v. Utah State Tax Comm’n*, 916 P.2d 344 (Utah 1996); and *Utah Railway Co. v. Utah State Tax Comm’n*, 5 P.3d 652 (Utah 2000).

DISCUSSION

The subject property consists of a 0.18-acre lot and a brick cottage/bungalow that was built in 1898. The subject’s home has 1,449 square feet of “above-grade” living space (on main floor and in loft that was added three of four years ago). The subject does not have a basement and does not have a garage or carport. The home has one bathroom. The taxpayer stated that the subject does not have sprinklers and has lathe and

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plaster walls with no insulation. Certain features of the subject property have been updated, including the wiring and bathroom fixtures. The kitchen, however, has not been remodeled since the 1970's.

The parties submit both valuation and equalization information to contest and to support the subject's current value of \$\$\$\$\$. The taxpayers ask the Commission to reduce the subject's value to \$\$\$\$\$ on the basis of an equalization argument. The County asks the Commission to sustain the subject's current value of \$\$\$\$\$ on the basis of its fair market value. The Commission will address the arguments separately.

Fair Market Value. Both parties submit evidence of the subject's fair market value. The taxpayers submit a Property Comparative Market Analysis ("CMA report"), in which the subject's fair market value is estimated to be \$\$\$\$\$ as of July 9, 2010. However, it appears the subject's square footage was mistakenly listed at 1,340 square feet in the report instead of 1,449 square feet. If the CMA report were revised to reflect the subject's 1,449 square feet, it would have estimated the subject's fair market value at \$\$\$\$\$,¹ which is nearly identical to the subject's current value of \$\$\$\$\$.

RESPONDENT REP., a County appraiser, prepared an appraisal in which he estimated the subject's value to be \$\$\$\$\$ as of the January 1, 2010 lien date. Because the appraisal's estimate of value is nearly identical to the subject's current value of \$\$\$\$\$, the County asks the Commission to sustain the subject's current value.

In the appraisal, RESPONDENT REP. compared the subject property to five comparable sales that are located between two and seven blocks from the subject property. The five comparables sold between September 2009 and February 2010 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. RESPONDENT REP. adjusted the comparables to adjusted sales prices that ranged between \$\$\$\$\$ and \$\$\$\$\$.

1 The CMA report proffered at the Initial Hearing only included every other page of the report (specifically the odd-numbered pages only). However, from the pages provided, it can be determined what the estimated fair market value would have been had the report been based on the subject having 1,449 square feet of above-grade living space.

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The subject property appears to have more above-grade square footage than many of the homes in the surrounding neighborhoods. The County's two comparables with the most above-grade square footage sold for \$\$\$\$\$ and \$\$\$\$\$, and the County adjusted them to adjusted sales prices of \$\$\$\$\$ and \$\$\$\$\$. It is noted that the County's adjusted sales prices for these two comparables may be low, as the appraiser made no adjustments for location. These two comparables are located on busy streets (STREET 1 and STREET 2), and the subject is located on a street with comparatively light traffic (STREET 3).

Based on the evidence proffered at the Initial Hearing, the subject's current value of \$\$\$\$\$ appears to be a reasonable estimate of its fair market value.

Equalization. The subject's fair market value, as of January 1, 2010, has not been shown to be less than its current value of \$\$\$\$\$. Nevertheless, the subject's value may be reduced for equalization purposes if the evidence shows that subject's value deviates more than 5% from the values at which other comparable properties are assessed. Section 59-2-1006(4)(b). *See also Rio Algom Corp. v. San Juan County*, 681 P.2d 184 (Utah 1984), in which the Utah Supreme Court found that even though a property's assessed value may properly represent its "fair market value," the assessed value should be reduced to a value that is uniform and equitable if it is higher than the values at which other comparable properties are assessed.

The taxpayers have submitted two regression charts that they contend show the subject's current value of \$\$\$\$\$ to be inequitable when compared to the assessed values of other comparable properties. They contend that these charts show that the subject's assessed value would need to be reduced to \$\$\$\$\$ in order for the subject to be equitably assessed with other comparable properties. As a result, the taxpayers ask the Commission to reduce the subject's value to \$\$\$\$\$.

The charts are not convincing. It is commonly known that above-grade square footage is generally more valuable than finished basement square footage and even more valuable than unfinished basement square footage. The taxpayers' equalization charts are based on total square footage, including not only above-grade

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square footage but also finished and unfinished basement square footage. The subject property's total square footage is all above-grade square footage, while most of the comparables' total square footages include finished and/or unfinished basement square footage. As a result, charts comparing the subject's more valuable above-grade square footage to comparables' less valuable basement square footage would probably underestimate the subject's value. Although the charts themselves are not convincing, the taxpayers proffered the County records for the comparables they used to create the charts. These records can be reviewed to see if they show a pattern of inequitable assessment.

The taxpayers proffer the County records for 16 comparable properties. Only 2 of the 16 properties were assessed at values at or below the \$\$\$\$ value the taxpayers are requesting for the subject property. The remaining 14 properties were assessed at value ranging between \$\$\$\$ and \$\$\$\$\$. 5 of the 16 properties were assessed at values in excess of \$\$\$\$\$, thus higher than the subject's assessed value of \$\$\$\$\$. In addition, only 1 of the 16 properties has as much above-grade square footage as the subject. Only 6 of the 16 comparables have above-grade square footages in excess of 1,000 square feet, while the subject has 1,449 above-grade square feet. In addition, the subject's lot is larger, and in many cases significantly larger, than all of the comparables' lots. Furthermore, many of the comparables are located on busy streets, while the subject's street has light traffic. When the assessed values and features of the 16 comparables are compared to the subject's assessed value and features, it would appear that the subject's value should be higher than most of the comparables, which it is. For these reasons, the subject's current value of \$\$\$\$\$ appears to be equitable. Accordingly, the taxpayers have not shown that the subject's value should be reduced due to equalization.

In summary, the taxpayers have not shown that the subject's current value of \$\$\$\$\$ should be reduced on the basis of either fair market value or equalization arguments.

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DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's current value of \$\$\$\$ should be sustained for the 2010 tax year. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files 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 taxpayer's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
CITY 1, 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

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