

11-887
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2010
SIGNED: 09-30-2011
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: R. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	INITIAL HEARING ORDER
Petitioner,	Appeal No. 11-887
v.	Parcel No. #####
BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,	Tax Type: Property Tax / Locally Assessed
Respondent.	Tax Year: 2010
	Judge: Chapman

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, Taxpayer
PETITIONER REP., Witness

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 21, 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 1 (approximately STREET 1) 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 taxpayer asks the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to reduce the subject's value to \$\$\$\$\$.

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(1) provides that “[a]ny 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”

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 0.24-acre lot and a two-story home that was built in 2007. The home contains 1,457 square feet on the main floor and 1,536 square feet on the second floor, for a total of 2,993 “above-grade” square feet of living space. The subject also has an unfinished basement that is 1,488 square feet in size. The home has three-car garage. The taxpayer purchased the subject property in August 2009 for \$\$\$\$\$.

Taxpayer’s Information. The taxpayer proffered three Property Comparative Market Analysis reports (“CMA reports”). In the first CMA report, the subject’s value is estimated to be \$\$\$\$\$ as of September 14, 2010. In the second CMA report, the subject’s value is estimated to be \$\$\$\$\$ as of February 8, 2011. In the third CMA report, the subject’s value is estimated to be \$\$\$\$\$. Although the third CMA report is dated

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September 20, 2011, it appears to be estimating value in late 2010 (approximately one year after the lien date), based on the sales dates of the comparables used in the report. In addition, the realtor who prepared the third CMA report indicates the subject's value one year earlier would be estimated at \$\$\$\$\$ (supposedly near the January 1, 2010 lien date) because values had dropped 10% during the last year. On the basis of this information, the taxpayer asks the Commission to reduce the subject's value to \$\$\$\$\$ as of the January 1, 2010 lien date.

The first CMA report is not convincing because all of the comparables used in the report are located between 25 and 45 blocks away from the subject property. The second CMA report uses comparables that are located within one block of the subject property to estimate the subject's value at \$\$\$\$\$ as of February 8, 2011. This CMA report, however, has a mistake that needs to be corrected. This report adjusts the subject's 0.24-acre lot as though it is a 0.00-acre lot. Correcting this mistake changes the second CMA report's estimate of value to \$\$\$\$\$.

In the second CMA report, the subject is compared to four comparables. Three of the four comparables sold between October 2010 and December 2010 for prices ranging from \$\$\$\$\$ and \$\$\$\$\$. After correcting the mistake discussed earlier, these three comparables adjusted to values ranging between \$\$\$\$\$ and \$\$\$\$\$. However, these three homes are significantly smaller than the subject. The fourth comparable, however, is more similar in size (square footage) to the subject. It also sold significantly closer to the lien date than the other comparables. This comparable sold in June 2010 for \$\$\$\$\$ and, after being adjusted as shown in the CMA report, shows an adjusted sales price of \$\$\$\$\$. One of the taxpayer's realtors indicated that values dropped 10% in 2010. If this comparable's \$\$\$\$\$ adjusted sales price is adjusted 4% to reflect the decrease in value between the January 1, 2010 lien date and the comparable's June 15, 2010 sales date, the revised adjusted sales price would be \$\$\$\$\$. For these reasons, the second CMA report does not convincingly show that the subject's value is less than the County's proposed value of \$\$\$\$\$.

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In the third CMA report, the subject is compared to five comparables that sold between October 2010 and December 2010 to derive an estimated value, as of late 2010, of \$\$\$\$\$. The five comparables sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. Three of the five comparables sold for less than \$\$\$\$\$ and adjusted to adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The other two comparables sold for prices above \$\$\$\$\$ and adjusted to adjusted sales prices of \$\$\$\$\$ and \$\$\$\$\$. The CMA report's estimated value of \$\$\$\$\$ is an average of these five adjusted sales prices. This estimated average value of \$\$\$\$\$ would probably be too high if the subject was most similar to the homes that sold for less than \$\$\$\$\$ and adjusted to values, as of late 2010, in the \$\$\$\$\$ to \$\$\$\$\$ range. Similarly, the estimated average value of \$\$\$\$\$ would probably be too low if the subject was most similar to the homes that sold for more than \$\$\$\$\$ and adjusted to values, as of late 2010, in the \$\$\$\$\$ to \$\$\$\$\$ range.

In the third CMA report, the three homes that sold for less than \$\$\$\$\$ are significantly smaller in size (square footage) than the subject. The home most similar to the subject in size (square footage) is the one that sold for \$\$\$\$\$ in October 2010 and adjusted to an adjusted sales price of \$\$\$\$\$. As a result, the most similar comparable in the third CMA report suggests that the subject's value, as of late 2010, was \$\$\$\$\$. However, the realtor who prepared the CMA report indicated that values in the report would need to be adjusted upward approximately 10% to reflect values nearer the 2010 lien date. Adjusting the \$\$\$\$\$ adjusted sales price of this comparable upward by 10% would result in a value of \$\$\$\$\$ for the subject property as of the January 1, 2010 lien date at issue. For these reasons, the third CMA report does not convincingly show that the County's proposed value of \$\$\$\$\$ is incorrect.

County's Information. The County proffers an appraisal prepared by RESPONDENT REP., a County appraiser, in which he estimates the subject's value to be \$\$\$\$\$ as of the January 1, 2010 lien date. Based on the appraisal, the County asks the Commission to reduce the subject's 2010 value to \$\$\$\$\$.

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In his appraisal, RESPONDENT REP. compared the subject property to six comparables that sold between July 2009 and February 2010 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. Four of the comparables are located within 2 blocks of the subject, while the other two are located more than 20 blocks from the subject. The four comparables within 2 blocks of the subject are all similar in size and style to the subject. They sold in the last half of 2009 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The County adjusted them to adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$. These comparables better support the County's proposed value of \$\$\$\$\$ than the taxpayer's proposed value of \$\$\$\$\$.

In addition, the taxpayer purchased the subject property in August 2009, approximately five months prior to the lien date, for \$\$\$\$\$. The County estimated that values dropped at a rate of 1% per month in late 2009. If the subject's August 2009 sales price is reduced by 5% to reflect the decrease in value between the subject's purchase date and the lien date, the subject's adjusted sales price would reflect a value of \$\$\$\$\$ as of the January 1, 2010 lien date. Given the information available at the Initial Hearing, the County's proposed value of \$\$\$\$\$ is more convincing than the taxpayer's proposed value of \$\$\$\$\$. The taxpayer has not shown that the subject's value should be less than \$\$\$\$\$ as of the lien date. Accordingly, the subject's value should be reduced to \$\$\$\$\$.

Kerry R. Chapman
Administrative Law Judge

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DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's value should be reduced to \$\$\$\$ for the 2010 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. 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
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

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