

11-1306
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2010
SIGNED: 01-05-2012
COMMISSIONERS: R. JOHNSON, M. JOHNSON, D. DIXON, M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2, Petitioners, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 11-1306 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2010 Judge: Phan
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2

For Respondent: RESPONDENT REP., Appeals Manager, Salt Lake County

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the Salt Lake County Board of Equalization ("the County") under Utah Code §59-2-1006. This matter was argued in an Initial Hearing on October 27, 2011, in accordance with Utah Code §59-1-502.5. The Salt Lake County Assessor's Office originally valued the subject property at \$\$\$\$ as of the January 1, 2010 lien date. The County Board of Equalization reduced the value to \$\$\$\$\$. At the hearing, the Property Owner requested that the value of the subject property be reduced to \$\$\$\$\$. The representative for the County recommended that the value be lowered to \$\$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible taxable property located within the state 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.

For property tax purposes, “fair market value” is defined in Utah Code Ann. §59-2-102(12), as follows:

“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.

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part below:

- (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.

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 no. #####, located at ADDRESS, CITY 1, Utah. It is a 0.45 acre lot improved with a one and 1/2-story residence. The residence had been constructed in 2006. It had 3,338 square feet above grade and an unfinished basement of 2,403 square feet. There is also an attached 3-car garage. The Property Owner stated that the property has builder grade flooring, with porcelain tile and low grade carpeting. She stated that there were no wood floors. She also explained that the seals had broken on a number of the windows, so that they were fogged up, and the window supplier had gone out of business, voiding the warranty. She acknowledged that the kitchen counters were granite, but states that they were ‘seconds’ and had a number of chips that had been repaired. She stated that the subject residence was the last house built in the subdivision by CONSTRUCTION COMPANY and it was her opinion that it was finished with lower cost items than his other properties.

The subject property is located in the SUBDIVISION 1. The Property Owner explained that around the time that they purchased the property and around the lien date there were a lot of problems in the subdivision. There were many houses that were vacant, unoccupied and in foreclosure. There were criminal activities, with the subject residence being known as the 'marijuana house.' The previous owners had been assaulted in the house during a break in and then were later arrested because the police found a large amount of marijuana in the house. She provided police reports detailing this problem. There was also nearby in the same subdivision a house known as the 'meth house' and one known as the 'porn house.' She indicated that when she purchased in the subdivision there were weeds in vacant lots that were six feet high and barking dogs were common. There were also houses all around the subject that were vacant and listed for sale around the lien date, that were foreclosures or short-sales.

When the Property Owner purchased the subject property in July 2009, there were some problems with the residence which they fixed before the lien date and some that were not fixed. All the appliances had been stolen from the residence. They had to replace the hot water tank and all the appliances, which was done prior to the lien date at issue. Also there were some holes in the walls which they patched and repainted. Base boards and floor boards had been chewed up by the previous owner's dogs, which the Property Owners had patched and painted prior to the lien date. They have not replaced the windows with the broken seals. Someone had poured concrete in the secondary water system pipe prior to their purchase and the property was not landscaped. They Property Owners fixed the water system and landscaped the property after the lien date, in 2010.

The Property Owners had purchased the subject property in July 2009 for \$\$\$\$\$. It was a foreclosure sale. The listing history for the property had been provided at the hearing. The residence had been constructed in 2006. It had first been purchased for \$\$\$\$\$ in June 2007. In December 2007 it was listed for sale for \$\$\$\$\$ and then reduced in price in January 2008 to \$\$\$\$\$. The bank repossessed the property in September 2008. It was listed for sale and sat vacant until the Property Owner purchased the property in July 2009.

At the time they purchased the property it was appraised for financing purposes at \$\$\$\$\$. The appraisal had been prepared by APPRAISER 1, Certified Residential Appraiser. In the appraisal he would have inspected the interior of the residence and provided photographs of the interior. However, his value was based on the condition of the residence at that time and does not take into account improvements made by the Property Owners after they purchased the residence. APPRAISER 1 considered three comparable sales and two listings. One of the sales was in the

same subdivision as the subject property, located very near at ADDRESS 2, and had sold for \$\$\$\$\$ on June 8, 2009. After making adjustments, it was his conclusion that this sale indicated a value for the subject of \$\$\$\$\$ and his indicated value range from the three sales was from \$\$\$\$\$ to \$\$\$\$\$. The two listings were for properties also in the same subdivision. These two properties were listed for sale at \$\$\$\$\$ and \$\$\$\$\$. The Property Owner provided information to show that values had continued to decline after she had purchased the subject property, arguing that the value as of the lien date January 1, 2010, should be lower than the value when she purchased the property.

The County submitted an appraisal with ten comparable sales of properties all located in the same SUBDIVISION 1 as the subject. The County's appraisal conclusion had been \$\$\$\$\$, but at the hearing the County's representative revised that down to \$\$\$\$\$ based on the problem with the concrete being poured into the secondary water system. The County's first comparable was the property at ADDRESS 3 which had sold for \$\$\$\$\$. After making adjustments, including a negative time adjustment, the County's indicated value conclusion for the subject from this sale was \$\$\$\$\$. The County's comparables had sold in a range from \$\$\$\$\$ to \$\$\$\$\$ and the County's indicated value range for the subject from these comparables was from \$\$\$\$\$ to \$\$\$\$\$. However, five of the ten comparables indicate a value for the subject below that asked by the Property Owners, of \$\$\$\$\$ to \$\$\$\$\$. Three of the comparables indicated a range of \$\$\$\$\$ to \$\$\$\$\$. The last two comparables indicated values for the subject of \$\$\$\$\$ to \$\$\$\$\$.

The County concurred with the Property Owner's position that values had continued to decline in 2009 and had made time adjustments to its comparables to account for the declining value.

After reviewing the evidence submitted by the parties, the value should be lowered to the \$\$\$\$\$ purchase price and appraisal price. 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 Board of Equalization, but also provide an evidentiary basis to support a new value. Property tax is based on the fair 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 "fair market value" as the amount for which property would exchange hands between a willing buyer and seller.

In this case the Property Owner purchased the subject property just prior to the lien date for \$\$\$\$\$ and this value was supported by the Property Owner's appraisal. It was a foreclosure sale, but had been listed for sale for a significant period of time. Additionally, there were five

other sales in the same subdivision that support just under this price. The Property Owner had made some improvements to the subject residence after purchasing and before the lien date that would have improved the value. However, the values had continued to decline from July 2009 to January 1, 2010, and these two factors tend to offset each other, so that leaving the value at the \$\$\$\$ purchase price is warranted.

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 _____, 2012.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner