

11-1770  
TAX TYPE: PROPERTY TAX - LOCALLY ASSESSED  
TAX YEAR: 2010  
DATE SIGNED: 7-11-2012  
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN  
EXCUSED: M. JOHNSON

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BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 11-1770</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2010</p> <p>Judge: Marshall</p>
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**Presiding:**

Jan Marshall, Administrative Law Judge

**Appearances:**

For Petitioner: TAXPAYER, *Pro Se*

For Respondent: RESPONDENT, Appraiser for Salt Lake County

STATEMENT OF THE CASE

Petitioner ("Taxpayer") brings this appeal from the decision of the Salt Lake County Board of Equalization ("the County"). This matter was argued in an Initial Hearing on February 1, 2012 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 January 1, 2010 lien date. The Board of Equalization reduced the value to \$\$\$\$\$. The County is asking the Commission to sustain the Board of Equalization. The Taxpayer is requesting the value of the subject property be reduced 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.

Any party requesting a value different from the value established by the County Board of Equalization has the burden to establish that the market value of the subject property is other than the value determined by the County Board of Equalization. To prevail, a party must: 1) demonstrate that the value established by the County contains error; and 2) provide the Commission with a sound evidentiary basis for changing the value established by the County Board of Equalization to the amount proposed by the party. The Commission relies in part on *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, 335 (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 is parcel no. #####, located at ADDRESS-1. It is a #####-acre parcel improved with a ##### square foot cabin that was built in YEAR. The County considers the cabin to be in poor condition. The Cabin is not usable, but can be rebuilt as long as it stays in the same footprint. The cabin is not safe in its current condition and requires supports to hold up the roof.

The Taxpayer stated that there is a large hole in the roof of the cabin and you have to jump to get into the cabin because the stairs are falling down. She believes the value of the property is the land less the cost of demolition. She stated that there is sentimental value to the

property for her, as her grandfather was the one who plotted the land, planted the trees, and built the cabin. She believes the cost to tear down and remove the cabin is \$\$\$\$\$.

The Taxpayer stated that earlier in the week she had her appraiser pull up listings for NAME-1 properties. She noted that there were two comparables that have more than twice the acreage as the subject. A ##### parcel had asking prices of \$\$\$\$\$, while a #####-acre parcel had an asking price of \$\$\$\$\$.

In support of her requested value, the Taxpayer submitted an appraisal report that determined a value for the subject property of \$\$\$\$\$ as of July 7, 2009. The following are the comparables used in the Taxpayer’s appraisal:

	Address	Lot Size	Sales Date	Sales Price	Adjusted Price
Subject	ADDRESS-1	###			
Comp #1	ADDRESS-2	###	9/19/08	\$\$\$\$\$	\$\$\$\$\$
Comp #2	ADDRESS-3	###	7/28/08	\$\$\$\$\$	\$\$\$\$\$
Comp #3	ADDRESS-4	###	4/28/09	\$\$\$\$\$	\$\$\$\$\$

The County’s representative stated that the two comparable listings referenced by the Taxpayer are lots in the NAME-1 subdivision. He stated that it is part of the Salt Lake City Water Conservancy Area, and there are very particular building standards. He noted that there has not been a house built in the area in the last four to five years. He believes that the asking prices do not represent the value of a buildable lot. He stated that in the NAME-2 subdivision, some of the lots cannot be built upon because there is not adequate access for the fire department. He also noted that lots in the NAME-1 area are not valued on a per acre basis, but rather they are valued based on whether the lot is buildable. He stated that buyers are looking for a site on which they can build. He suspects that a lot of the acreage in the Taxpayer’s listings is hillside and would not be buildable because of FCOZ restrictions.

With regard to the Taxpayer’s appraisal, the County’s representative stated that comparable number one would have less possibility of being buildable because it does not have an existing cabin footprint , and is therefore limited in its comparability to the subject. He stated that comparable number two is questionable as to whether it is buildable, because other lots in that location have sold for \$\$\$\$\$ if buildable. He questions the \$\$\$\$\$ adjustment for development potential. The County’s representative stated that comparable number three has sold and resold for a number of years and is located about mid-way up the canyon. He suggests that a \$\$\$\$\$ reduction for size is not accurate and is overstated. He stated that “a lot, is a lot, is a lot”, and the contributory value of excess land is not that great.

The County’s representative submitted four comparable sales. Two are in NAME-3 canyon and he made a reduction for the restrictions on building for the subject property. He stated that comparable number three is directly across the street from the subject, but is dated. The County’s representative stated that according to the County’s sales studies, values were in the same range as they were in 2004-2005. He stated that though dated, they do give an indication of value as to what this type of property is worth. He noted that his third comparable also had improvements on the property but they are not habitable. He stated that comparable number four sold again in 2008 or 2009 for \$\$\$\$\$; however, the County felt that the \$\$\$\$\$ sale in 2005 was a better indication of value. He noted that comparable four would be limited in its development potential because it is right on the stream.

	Address	Lot Size	Sales Date	Sales Price	Adjusted Price
Subject	ADDRESS-1	###			
Comp #1	ADDRESS-5	###	11/14/08	\$\$\$\$\$	\$\$\$\$\$
Comp #2	ADDRESS-6	###	3/23/10	\$\$\$\$\$	\$\$\$\$\$
Comp #3	ADDRESS-7	###	5/11/04	\$\$\$\$\$	\$\$\$\$\$
Comp #4	ADDRESS-8	###	10/07/05	\$\$\$\$\$	\$\$\$\$\$

In rebuttal, the Taxpayer stated that the County’s comparables are habitable, whereas the subject property is not. She does not think that is fair because they have not been able to use the cabin for twenty years. The Taxpayer believes that the County is taxing a person for holding a lottery ticket rather than for winning the lottery. She feels that the County’s comparables one and two are not fair and are biased. She thinks just the third and fourth comparables are more reasonable, but believes the County has skewed the appraisal.

The County’s representative stated that at the time of sale, the comparables he used were not habitable. He stated that comparable number four is still not habitable, and was sold to a neighboring property owner. He stated it is the same situation for comparable number three; they expanded the foundation, took in the space from enclosed areas, and did extensive remodeling. He stated that the subject property is in a great state of disrepair, as shown in the photographs in the Taxpayer’s appraisal, but there is still “structure”. He does not attribute any value to the improvement, other than the contributory value to the land from having a footprint on the property. He stated that all a potential buyer of the subject property would have to do is get a remodel permit. He stated that a potential buyer would pay more because they would not have to go through the process of getting approval to build.

In seeking a value other than that established by the 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 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. The Taxpayer submitted an appraisal report that determined a value of \$\$\$\$ as of July 7, 2009 based on three comparable sales that sold between July 28, 2008 and April 28, 2009, with sales prices ranging from \$\$\$\$ to \$\$\$\$. The adjusted prices ranged from \$\$\$\$ to \$\$\$\$. In support of his requested value, the County’s representative submitted four comparable sales that sold between May 11, 2004 and November 14, 2008, with sales prices ranging from \$\$\$\$ to \$\$\$\$. The adjusted prices ranged from \$\$\$\$ to \$\$\$\$. The Taxpayer has not shown that the existing cabin does not contribute to the value of the land, as a potential buyer could get a remodel permit rather than going through a lengthy process to get approval to build; further the \$\$\$\$ adjustment for development potential is not adequately explained in the Taxpayer’s appraisal. The Board of Equalization value should be sustained.

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Jan Marshall  
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, and sustains the Board of Equalization. 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

Appeal No. 11-1770

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner