

11-1855  
LOCALLY ASSESSED PROPERTY  
TAX YEAR: 2010  
SIGNED: 03-07-2012  
COMMISSIONERS: R. JOHNSON, D. DIXON, M. CRAGUN  
EXCUSED: M. JOHNSON

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,  Petitioner,  v.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No.    11-1855  Parcel No.    ##### Tax Type:    Property Tax / Locally Assessed Tax Year:    2010  Judge:        Chapman
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**Presiding:**  
    Kerry R. Chapman, Administrative Law Judge

**Appearances:**  
    For Petitioner:    PETITIONER, 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 February 22, 2012.

At issue is the fair market value of the subject property as of January 1, 2010. The subject is a duplex located at ADDRESS 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 §59-2-102(12) defines “fair market value” to mean “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.”

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 0.21-acre lot and a duplex that was built in 1938. The duplex contains 2,545 square feet of “above-grade” living space. It also has an unfinished basement that is 1,355 square feet in size. The duplex has a detached, two-car garage. The subject’s units have hardwood floors, and the taxpayer has maintained the subject property as needed. For example, the taxpayer replaced the kitchen in one of the subject’s units in 2009 and in the other unit in 1999.

Taxpayer’s Information. The taxpayer believes that the subject’s current value of \$\$\$\$\$ is incorrect and asks the Commission to reduce it to \$\$\$\$\$. First, the taxpayer states that the subject’s 2009 value was

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\$\$\$\$\$ and that the 2010 value of \$\$\$\$\$ represents an 18% increase. The taxpayer states that prices did not increase between 2009 and 2010, which he describes as the worst economic year in Utah since the Great Depression. The Commission, however, generally does not use a prior year's assessed value to determine whether a current year's assessed value is correct or incorrect. If the prior year's value were incorrect, using it to determine a value for the current year would likely result in an incorrect value for the current year. The Commission prefers to determine value from evidence that is reflective of fair market value for the year at issue.

Second, the taxpayer proffered market evidence to support his proposed value of \$\$\$\$\$. The taxpayer proffered 12 comparable sales of duplexes that sold between December 2009 and May 2010 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The taxpayer proffers that the average sales price of his 12 comparables is \$\$\$\$\$. The taxpayer also states that the 6 comparables the County used in its appraisal (which will be discussed later in the decision) sold for an average of \$\$\$\$\$. The taxpayer also uses some of his 12 comparables and the County's 6 comparables to derive an average sales price of \$\$\$\$\$. Based on the average sales prices of \$\$\$\$\$ and \$\$\$\$\$, the taxpayer asks the Commission to reduce the subject's 2010 value to \$\$\$\$\$.

Of the taxpayer's 12 comparable sales, 10 of the 12 are located between 10 and 20 blocks from the subject property, and many of these are in areas that are clearly not as desirable as the subject's area. Only 1 of the taxpayer's 12 comparables is located within 7 blocks of the subject property. It is located 2½ blocks from the subject and sold for \$\$\$\$\$ in December 2009. However, it only has 1,664 square feet of above-grade living space, compared to the subject's 2,545 square feet of above-grade living space. As a result, this comparable's sales price of \$\$\$\$\$ would most likely need to be adjusted upward in order to reflect the subject's value. For these reasons, it is unlikely that the \$\$\$\$\$ average sales price of the taxpayer's 12 comparables reflects the subject's fair market value.

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Furthermore, all 6 of the County's comparables are located within 7 blocks of the subject property. Although these comparables may have sold for an average sales price of \$\$\$\$\$, most of these comparables have significantly less "above-grade" square footage than the subject duplex. Accordingly, their sales prices would most likely need to be adjusted upward to reflect the subject's value, which could result in the subject's value being in excess of \$\$\$\$\$. For these reasons, the County's appraisal should be analyzed before determining whether the taxpayer's average sales prices of \$\$\$\$\$ and \$\$\$\$\$ and his proposed value of \$\$\$\$\$ are convincing.

County's Information. The County proffered an appraisal prepared by RESPONDENT REP., a County appraiser. In the appraisal, RESPONDENT REP. estimated the subject's value to be \$\$\$\$\$ with an income approach and \$\$\$\$\$ with a market approach.<sup>1</sup> When reconciling these two values, RESPONDENT REP. determined that the market approach was more reliable and estimated the subject's value, as of the January 1, 2010 lien date, to be \$\$\$\$\$. On the basis of the appraisal, the County asks the Commission to reduce the subject's 2010 value to \$\$\$\$\$.

In his income approach, RESPONDENT REP. estimated that the subject would rent for \$\$\$\$\$ per month (\$\$\$\$\$ per unit per month). RESPONDENT REP. multiplied the estimated monthly rent of \$\$\$\$\$ by a gross rent multiplier ("GRM") of 160 to derive an income approach value of \$\$\$\$\$. Generally, a market

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<sup>1</sup> The taxpayer proffered a January 27, 2012 email that he received from RESPONDENT REP. to show that the County told him that it would be requesting a value of \$\$\$\$\$, not \$\$\$\$\$, as the subject's 2010 value. It appears that the \$\$\$\$\$ value mentioned in the email was either a mistake or an offer to settle the appeal. The County contends that the \$\$\$\$\$ value mentioned in the email is a mistake, which appears plausible because the appraisal in which the County estimated the subject's value to be \$\$\$\$\$ was attached to the email. However, even if the County had offered the \$\$\$\$\$ value to settle the appeal, the County would not be limited to asking for this value at the Initial Hearing. Utah Admin. Rule R861-1A-33(B)(5)(b) provides that "[o]ffers made during the negotiation process will not be used as an admission against that party in further adjudicative proceedings." For these reasons, the County's proposed value of \$\$\$\$\$ will not be rejected because of the email. The Commission will consider all evidence proffered at the Initial Hearing to determine the subject's value.

approach, not an income approach, is the methodology used to determine the value of single family residences and duplexes. In this case, the income approach is also not very convincing for other reasons, as well. First, the subject's actual monthly rents are not known. RESPONDENT REP. estimated the monthly rents from a single comparable sale, and the taxpayer states that he does not remember the amounts at which he rents the subject units. Second, the County has not provided the information from which it derived its GRM of 160. For these reasons, RESPONDENT REP.'s determination that the market approach is the more reliable approach to value appears reasonable. Accordingly, all market information should be analyzed to determine whether it shows the County's proposed value of \$\$\$\$\$ or the taxpayer's proposed value of \$\$\$\$\$ to be more convincing.

In his market approach, RESPONDENT REP. compared the subject duplex to 6 comparable sales of duplexes. All of the County's comparables are located within 7 blocks of the subject property. The County's comparables sold between June 2009 and March 2010 for prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The County comparable that sold for \$\$\$\$\$ is also one of the taxpayer's 12 comparables, which were discussed earlier. The County adjusted its 6 comparables to adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The 4 comparables that sold between \$\$\$\$\$ and \$\$\$\$\$ have significantly less above-grade square footage than the subject. The 2 comparables with above-grade square footages more similar to the subject's sold for \$\$\$\$\$ and \$\$\$\$\$ and adjusted to adjusted sales prices of \$\$\$\$\$<sup>2</sup> and \$\$\$\$\$.

RESPONDENT REP. stated that the two comparables that adjusted to \$\$\$\$\$ and \$\$\$\$\$ (County comparables #5 and #6) are the comparables that best reflect the subject's value. However, because the

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2 The taxpayer stated that a time adjustment should have been applied to County comparable #5, which sold in June 2009 (almost 7 months prior to the lien date) for \$\$\$\$\$. The County agreed that a ½% per month time adjustment would be appropriate, which would reduce this comparable's adjusted sales price to \$\$\$\$\$.

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“average” of the County’s 6 adjusted sales prices was close to \$\$\$\$\$\$, the County decided to “give the taxpayer the benefit of the doubt” and estimate the subject’s value at \$\$\$\$\$\$.

The Commission generally does not believe that a property’s value should be based on an average, whether the average is based on sales prices or adjusted sales prices. Instead, it should be established on the basis of the most convincing evidence. In this case, the two comparables that are closest to the subject property in location and in above-grade square footage are County comparables #5 and #6. These comparables adjusted to adjusted sales prices of \$\$\$\$\$\$ and \$\$\$\$\$\$. These two comparables also sold for prices of \$\$\$\$\$\$ and \$\$\$\$\$\$.

The Multiple Listing Service information for these two comparables indicates that they have not been extensively remodeled, thus indicating that they are in similar condition to the subject. Based on this information, the County’s proposed value of \$\$\$\$\$\$ appears reasonable.<sup>3</sup> The evidence does not convincingly show that the subject’s value should be lower than \$\$\$\$\$\$. For these reasons, the subject’s value should be reduced to \$\$\$\$\$\$ for the 2010 tax year.

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Kerry R. Chapman  
Administrative Law Judge

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<sup>3</sup> The taxpayer estimates that about 15 to 20 feet at the back of the subject lot is unusable because a “guy-wire” for a telephone pole is anchored in the lot. The taxpayer states that in the County’s appraisal, the County’s “site” adjustments should be revised to reflect that this portion of the subject lot is affected by the “guy-wire.” At the most, the guy-wire affects the back 0.03 acres of the 0.21-acre lot. The County adjusted differences in lot size at \$\$\$\$\$\$ per 0.01 acre of land. 0.03 acres times \$\$\$\$\$\$ is \$\$\$\$\$\$. Even if a \$\$\$\$\$\$ adjustment were appropriate, it would result in County comparables #5 and #6 adjusting to adjusted sales prices of \$\$\$\$\$\$ and \$\$\$\$\$\$, which still support the \$\$\$\$\$\$ value proposed by the County.

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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 \_\_\_\_\_, 2012.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner