

11-2081
LOCALLY ASSESSED COMMERCIAL PROPERTY
TAX YEAR: 2010
SIGNED: 05-30-2012
COMMISSIONERS: R. JOHNSON, M. JOHNSON, D. DIXON
EXCUSED: M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

v.

BOARD OF EQUALIZATION OF
SALT LAKE COUNTY, STATE OF UTAH,

Respondent.

INITIAL HEARING ORDER

Appeal No. 11-2081

Parcel No. #####-1

Tax Type: Property Tax / Locally Assessed

Tax Year: 2010

Judge: Chapman

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process.

Pursuant to Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP., Representative

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 May 8, 2012.

At issue is the fair market value of a commercial parcel of land as of January 1, 2010 that is 7.48 acres in size. The subject property is located at ADDRESS 1 in CITY 1, Utah at the corner of STREET 1 and

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STREET 2. 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 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 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 is a 7.48-acre parcel of land that is improved with some asphalt. The asphalt is associated with a road that has been constructed across the parcel. The subject’s current value of \$\$\$\$\$ is comprised of a

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land value of \$\$\$\$\$ and an improvements value of \$\$\$\$\$. The subject's current land value of \$\$\$\$\$ equates to \$\$\$\$\$ per square foot.

The taxpayer contends that the subject's total value should be reduced to \$\$\$\$\$, which is the price the taxpayer paid for the subject property on December 22, 2009, as shown on an "Estimated Settlement Statement." The sale occurred within a couple of weeks of the 2010 lien date. The taxpayer explained that the subject property had been a bank-owned property and that the taxpayer purchased it at auction. The \$\$\$\$\$ sales price represents a value of approximately \$\$\$\$\$ per square foot for the subject's land.¹

A recent purchase price is normally a strong indication of value. However, prices paid at auction are given higher scrutiny because they may not always involve an entirely willing seller or may otherwise not represent an arm's-length price. The taxpayer has given no evidence of other sales that would support its claim that \$\$\$\$\$ per square foot was a reasonable estimate of the subject's land as of the lien date. Furthermore, the evidence provided at the hearing suggests that the taxpayer's purchase price was below fair market value.

First, the County has provided an appraisal in which it compares the subject property to six comparable sales of vacant land that sold between March 2008 and March 2011. The comparables are between 1.04 and 11.05 acres in size and sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot. The County adjusted the comparables to arrive at adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot. The County's proffered this appraisal in support of the subject's current value, and there was no evidence to suggest that the County's adjustments were erroneous.

Second, the lowest price at which any of the County's comparables sold is \$\$\$\$\$ per square foot. This comparable, however, appears to be inferior to the subject in regards to several features, including size,

¹ If the \$\$\$\$\$ value of the improvements is subtracted from the \$\$\$\$\$ purchase price, it results in a price of \$\$\$\$\$ for the land, which equates to \$\$\$\$\$ per square foot for the land. If the \$\$\$\$\$ purchase price is applied to the land only, it equates to \$\$\$\$\$ per square foot.

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location, and zoning. The County adjusted this comparable to an adjusted sales price of \$\$\$\$ per square foot because of its being inferior to the subject property.

Third, the taxpayer admitted that a portion of the subject property (specifically 0.74 acres) recently sold for \$\$\$\$ per square foot and that the remaining 6.74 acres was appraised at \$\$\$\$ per square foot on March 1, 2012, more than 2 years after the 2010 lien date. The taxpayer had no further information about the sale of the 0.74 acres, such as the date of sale or the name of the buyer.

This information indicates that the taxpayer's \$\$\$\$ purchase price was below fair market value. The taxpayer did not provide a copy of the March 2012 appraisal so that the Commission could determine whether it seemed to be a reasonable estimate of the subject's value as of the appraisal date. Nor was there information to show whether a March 2012 appraisal value would be a reasonable estimate of the subject's value as of January 1, 2010 (i.e., to show whether prices remained stable or changed between these dates). As a result, the additional information the taxpayer provided is also insufficient for the Commission to reduce the subject's land to \$\$\$\$ or \$\$\$\$ per square foot. For these reasons and because the County's information supports the subject's current land value of \$\$\$\$ per square foot, the subject's current value of \$\$\$\$ should be sustained for the 2010 tax year.

Kerry R. Chapman
Administrative Law Judge

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DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the subject's current value of \$\$\$\$ 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
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