

11-2170
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2010
SIGNED: 07-02-2012
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: R. JOHNSON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 11-2170</p> <p>Parcel No. #####-1</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2010</p> <p>Judge: Phan</p>
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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:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP., Representative by Telephone
For Respondent: RESPONDENT REP., Certified General Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the Salt Lake County Board of Equalization pursuant to Utah Code §59-2-1006. This matter was argued in an Initial Hearing on May 14, 2012, in accordance with Utah Code §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 County Board of Equalization (“the County”) sustained the value. At the hearing the Property Owner requested a reduction to \$\$\$\$ and the County argued that there should be no change to the value set by the County Board of Equalization.

APPLICABLE LAW

All 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. (Utah Code Ann. Sec. 59-2-103 (1).)

“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. (Utah Code Ann. 59-2-102(12).)

(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. . . . (4) In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

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. #####-1 and is located at ADDRESS 1, CITY 1, Utah. The property is a vacant land parcel that is 0.19 acres in size. This property is a narrow strip of land with limited frontage of approximately 43 feet. It is improved with curb, gutter, sidewalk, landscaping and a five-space carport. This subject property is currently used as a yard area for parcel no. #####-2(“Parcel No. #####-2”). Parcel No. #####-2 is a 0.39 acre lot improved with a 12 unit apartment complex. The parties were in agreement that by itself the subject property was too narrow to allow for the construction of a residence.

The representative for the Property Owner stated that the subject lot does not contribute any value to the Property Owner's adjacent lot with the 12 unit apartment complex. It was his contention that the adjacent lot was large enough by itself for the 12 unit building and the Property Owner was not be able to charge a higher rent because of this additional open space. It was his position that the additional land was a determinant for the Property Owner because it had to pay to keep up the landscaping and the property taxes. He stated that CITY 1 did not consider the subject lot to be large enough to be buildable.

The Property Owner's representative provided the Multiple Listing Print out for two land sales at ADDRESS 2 and ADDRESS 3 which were both 0.26 of an acre and had sold for \$\$\$\$ each in May 2010. These were in a different neighborhood from the subject, but were likely developable properties. He provided the MLS for some listings which had not sold, which were also not very comparable as far as size, location and developability. He did state that there had been a more recent sale of a 0.20 acre lot for \$\$\$\$ in December 2011 but did not provide the MLS listing, address or other relevant information.

It was the representative for the County's position that although the subject property had been overvalued there should not be a reduction in the assessed value of the subject property because the entire assessed value of the subject property, which was \$\$\$\$\$, had already been subtracted from Parcel No. #####-2. Since Parcel No. #####-2 was not part of the appeal the value for that property could not be changed for the 2010 tax year and if the value of the subject property was reduced then it was the County's contention that Parcel No. #####-2 would have been undervalued.

The County representative did, however, agree that the subject parcel was assessed at an amount higher than its individual market value. It was his position that the market value of the subject property as of the lien date was about \$\$\$\$\$. He indicated that in future years the subject would have a lower value, but then the lower amount would be subtracted from Parcel No. #####-2. He also acknowledged that the additional land might not mean higher rents for the 12 unit apartment building, but it would be seen as a positive by the tenants in deciding whether or not to rent there.

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, but also provide an evidentiary basis to support a new value. Property tax is based on the fair market value as of January 1 of the tax year at issue under Utah Code §59-2-103. Utah Code §59-2-102 defines "fair market value" as the amount for which property would exchange hands

between a willing buyer and seller. In this the fair market value for the property is difficult to determine due to the lack of sales of undevelopable land parcels in the area. The Property Owner requests \$\$\$\$\$, but the sales are so distant in location and other features that this value is not sufficiently supported. However, even the County agrees that the fair market value of the subject is less than the assessed value. The County argues that an adjustment should not be made to the value of the subject parcel because it would leave Parcel No. #####-2 undervalued for the 2010 tax year. However, in this matter, the only parcel appealed and properly before the Commission is the subject parcel. The Commission must determine the fair market value of the subject parcel and the County representative indicates that the value was around \$\$\$\$\$. The fact that the County or the Property Owner did not include Parcel No. #####-2 as a related parcel in the Board of Equalization hearing does not now mean that the Commission must leave the subject parcel assessed above fair market value. The value of the subject should be reduced to \$\$\$\$\$.

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

Marc B. Johnson

Appeal No. 11-2170

Commission Chair

Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner