

11-2913
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2011
SIGNED: 06-19-2012
COMMISSIONERS: M. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: R. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 11-2913 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2011 Judge: Marshall
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Presiding:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1, *Pro Se*

For Respondent: RESPONDENT REP., 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 March 22, 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, 2011 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 between \$\$\$\$\$-\$\$\$\$\$.

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 in CITY 1. It is a 0.48 acre parcel improved with a rambler/ranch building style built in 1999 with a stucco exterior. The home consists of 1,595 square feet above grade and a 1,595 square foot basement with 1,035 square feet finished. It has five bedrooms; three full bathrooms; and an 874 square foot attached garage.

The Taxpayer stated that the value of the subject property increased 8% over the 2010 value. He noted that there were eight other homes on his street that the values had decreased an

average of 9% from 2010. The Taxpayer stated that while the Board of Equalization adjusted the value from \$\$\$\$\$ to \$\$\$\$\$, he believes the value is still high when compared to the assessor’s comparables that had an average price per square foot of \$\$\$\$\$. He stated that the assessed value of each of the homes that sold decreased, and they had assessed values lower than the sales price. The Taxpayer argued that his property should be compared to the assessed values of the comparables rather than the sales prices.

In support of his requested value range, the Taxpayer submitted a table comparing the assessed value to the sales price of the comparables used in the County’s CMA report. He showed the sales prices, 2011 assessed values, percentage difference, square footage, and price per square foot, as follows:

	Sales Price	Assessed Value	Difference	Square Feet	Value/Sq. Ft.	
Comp #1	\$\$\$\$\$	\$\$\$\$\$	-10%	3,262 (1655)	\$\$\$\$\$	\$\$\$\$\$
Comp #2	\$\$\$\$\$	\$\$\$\$\$	-11%	3,224 (1664)	\$\$\$\$\$	\$\$\$\$\$
Comp #3	\$\$\$\$\$	\$\$\$\$\$	-15%	3,504 (1752)	\$\$\$\$\$	\$\$\$\$\$
Comp #4	\$\$\$\$\$	\$\$\$\$\$	-20%	3,786 (1878)	\$\$\$\$\$	\$\$\$\$\$
Comp #5	\$\$\$\$\$	\$\$\$\$\$	-14%	3,472 (1753)	\$\$\$\$\$	\$\$\$\$\$
Comp #6	\$\$\$\$\$	\$\$\$\$\$	-12%	3,688 (1855)	\$\$\$\$\$	\$\$\$\$\$

*Taxpayer cited the list prices as the sales prices for comparables one and two

The Taxpayer determined that the comparables used by the County were, on average, assessed at 14% less than the sales price, and had an average price per square foot of \$\$\$\$\$.

The County’s representative gave an overview of mass appraisal and explained that they reappraise each year, and that once every five years they physically inspect at least the exterior of each home. He stated that the County’s goal in reappraisal is to equalize each neighborhood. He stated that over the years the grade, condition, and the effective age of a property changes due to upgrades, remodeling, or damage. He stated that those properties that are undervalued are increased, those that are overvalued are decreased. He noted that there will always be discrepancies between sales price and assessed value because of these differences. The County’s representative stated that he spoke with the sales crew and statistics unit, and was told they were trying to get values as close to the sales prices as possible. He stated there are sales that are assessed higher and some that are lower than the sales price, but overall they balance each other out. He noted that for the subject neighborhood, the County’s values are 101% of sales prices in their sales ratio study.

In support of the Board of Equalization value, the County’s representative submitted a CMA report that determined a value of \$\$\$\$\$. He noted that his first comparable was a lower grade than the subject and would require an upward adjustment. He believes the rest of the

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comparables are very similar in grade, condition, size. Following are the comparables used in the County's CMA report:

	Address	Lot Size	Year Built	GLA	BSMT	Sale Date	Sale Price	Adjusted Price
Subject	ADDRESS 1	0.46	1999	1,595	1,595			
Comp #1	ADDRESS 2	0.46	1996	1,655	1,607	11/12/2010	\$\$\$\$\$	\$\$\$\$\$
Comp #2	ADDRESS 3	0.32	2001	1,664	1,560	06/03/2010	\$\$\$\$\$	\$\$\$\$\$
Comp #3	ADDRESS 4	0.53	1996	1,752	1,752	01/07/2011	\$\$\$\$\$	\$\$\$\$\$
Comp #4	ADDRESS 5	0.30	1997	1,878	1,908	03/03/2011	\$\$\$\$\$	\$\$\$\$\$
Comp #5	ADDRESS 6	0.31	1996	1,753	1,719	11/01/2010	\$\$\$\$\$	\$\$\$\$\$
Comp #6	ADDRESS 7	0.29	2002	1,855	1,833	07/16/2010	\$\$\$\$\$	\$\$\$\$\$

In rebuttal, the Taxpayer stated that he agrees the County’s comparables are all good comparables. However, he noted that comparable four has more square footage and sold for \$\$\$\$\$, but was assessed at only \$\$\$\$\$ as of the lien date. He stated that he does not understand how larger homes can be assessed at rates lower than the subject. The Taxpayer stated that the values do not seem equal. He noted that he lives on a unique street, where all of the homes were built in the 1970s and 1980s, except the subject and a neighboring property, which are newer.

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 does not argue that the \$\$\$\$\$ Board of Equalization value is not the market value of the subject, and in fact stated that he agrees that the County’s representative used good comparables in his CMA report. Rather, the Taxpayer has argued that the assessed value of his property is higher than the assessed value of comparable properties. In order to prevail on this claim, he must show that the value of his property deviates more than 5% from comparable properties. The Taxpayer provided a spreadsheet showing the difference in the assessed value compared to the sales price, and the assessed value on a price per square foot basis. The difference between a sales price and the assessed value is not an effective equalization argument. However the comparison of the assessed values of these comparables to the assessed value of the subject falls within the statutory requirement. Taxpayer calculated the value per square foot using the total square footage; typically when a value or price is determined on a per square foot basis, only the above grade square footage is used. The above-grade square footage value per square foot for the comparables ranges from \$\$\$\$\$ to \$\$\$\$\$, with an average of \$\$\$\$\$. The subject is valued at \$\$\$\$\$ per square foot, a 13% difference. Taxpayer has shown that the

valuation of his property deviates by more than 5% from comparable properties, and the value should be adjusted on this basis. A 13% reduction in the Board of Equalization value results in a value of \$\$\$\$\$ for the subject property. This is in line with the assessed value of comparable one, which is most similar to the subject in terms of lot size and square footage.

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, 2011 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