

12-516  
TAX TYPE: PROPERTY  
TAX YEAR: 2011  
DATE SIGNED: 8-15-2013  
COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO  
EXCUSED D. DIXON  
GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT COUNTY, UTAH,</p> <p>Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 12-516</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2011</p> <p>Judge: Jensen</p>
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**Presiding:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, Taxpayer

Respondent: RESPONDENT REPRESENTATIVE, for the County

STATEMENT OF THE CASE

The above-named Petitioner (the "Taxpayer") brings this appeal from the decision of the Board of Equalization of Salt Lake County (the "County"). The parties presented their case in an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5 on May 1, 2013. The Taxpayer is appealing the market value of the subject property as set by the board of equalization for property tax purposes. The lien date at issue in this matter is January 1, 2011. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The board of equalization sustained the value.

At the hearing, the Taxpayer requested that the value be reduced to \$\$\$\$\$. The County requested that the value set by the board of equalization be sustained.

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 provide by law. Utah Code Ann. §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).

Utah Code Ann. §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 . . . .”

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 requesting a value that is different from that determined by the county board of equalization must (1) demonstrate that the value established by the county board of equalization contained 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. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 590 P.2d. 332 (Utah 1979).

#### DISCUSSION

The subject property is parcel no, ##### located at ADDRESS, in CITY, Utah. It consists of a #####-acre lot improved with a split entry style residence. The residence was constructed in 1976 with average plus quality of construction. It has ##### square feet above grade and a basement of ##### square feet of which ##### square feet are finished. There is also an attached ##### garage. The County considered the residence to be in good condition.

The Taxpayer has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the board of equalization, but also provide an evidentiary basis to support a new value. In this matter the Taxpayer provided evidence of the sales of three comparable properties with sale dates from January 2011 to August 2011 and sale prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$.

The County provided an appraisal, prepared by RESPONDENT REPRESENTATIVE. It was the appraiser’s conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser relied on the sales of nine comparable properties with sale dates from July 2010 to March 2011 and sale prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The appraiser made adjustments to account for differences between the subject property and the comparable properties for factors such as lot size, home condition, home size, and basement finish. The appraiser explained that

he made the adjustments on the basis of market studies of the sales of properties to determine the marginal differences in value for the various factors considered. After making these adjustments, the nine comparable sales indicated values for the subject property of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The appraiser reconciled these indications of value to a final indicated value of \$\$\$\$\$.

The appraiser commented on the Taxpayer's comparable sales. The appraiser calculated adjustments to the sale at \$\$\$\$\$ using the same adjustment factors that he used in his appraisal. He indicated that making these adjustments indicated a value that approximated the \$\$\$\$\$ opinion of value that he determined through his appraisal. The appraiser considered the Taxpayer's comparable sales at \$\$\$\$\$ and \$\$\$\$\$. He explained that he rejected the \$\$\$\$\$ sale because the property was in serious disrepair and needed a lot of work. He rejected the \$\$\$\$\$ sale because it was some distance away in a different neighborhood with lower values than the neighborhood in which the subject property was located. The appraiser also indicated that the sales at \$\$\$\$\$ and \$\$\$\$\$ were sales with the distress conditions of short sales or impending foreclosure. While the appraiser himself used some sales with distress conditions, the two with sale prices of \$\$\$\$\$ and \$\$\$\$\$, he indicated that using sales such as these required adjustments to account for the lower prices at which property typically exchanges hands in sales with distress conditions.

Utah Code Ann. §59-2-103 (1) provides that property should be assessed for purposes of property tax "on the basis of its fair market value." Utah Code Ann. §59-2-102(12) defines fair market value as the price that a party would change hands between a willing buyer and a willing seller "neither being under any compulsion to buy or sell." Some of the parties' sales had distress conditions that raise concerns of a sale that might not have a buyer free from "any compulsion to . . . sell." In this case, there are sufficient sales near the subject property that do not involve distress conditions that there is no reason to use sales that cause a concern under Utah Code Ann. §59-2-102(12). Removing from consideration those sales with distress condition leaves sales that have an adjusted value that supports, rather than shows error in, the \$\$\$\$\$ value set by the board of equalization. Accordingly, there is good cause to find that the Taxpayer has not met the burden of proof to show error in the value set by the board of equalization. *See Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

Clinton Jensen  
Administrative Law Judge

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission sustains the \$\$\$\$ value as determined by the board of equalization for the subject property as of January 1, 2011. 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 \_\_\_\_\_, 2013.

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner