

12-703
TAX TYPE: PROPERTY
TAX YEAR: 2011
SIGNED: 02-8-2013
COMMISSIONERS: R. JOHNSON, D. DIXON, M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 12-703</p> <p>Parcel No #####</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2011</p> <p>Judge: Chapman</p>
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Presiding:
Kerry R. Chapman, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER, Taxpayer
PETITIONER REPRESENTATIVE, Witness
PETITIONER REPRESENTATIVE, Witness
For Respondent: RESPONDENT REPRESENTATIVE, 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 October 10, 2012.

At issue is the fair market value of the subject property as of January 1, 2011. The subject is a single-family residence located at (ADDRESS 1) in (CITY 1), Utah. The Salt Lake City, County Board of Equalization ("County BOE") reduced the \$\$\$\$ value at which the subject was originally assessed for the 2011 tax year to \$\$\$\$\$. 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

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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 property consists of a #####-acre lot and a one-story home that was built in 1977. The home contains ##### square feet of “above-grade” living space on the main floor. It also has a basement that is ##### square feet in size and %%% finished. The home has a two-car garage. The subject property had not been remodeled since it was built in 1977. However, the taxpayer uses the subject property as a rental property and has maintained it since purchasing it ten years ago.

Taxpayer's Information. The taxpayer proffered a settlement statement to show that it purchased the subject for \$\$\$\$\$ on September 27, 2002, approximately 8 years prior to the January 1, 2011 lien date. Because the taxpayer has not "improved" the property since the purchase, it believes that the subject's current value is somewhere near the 2002 purchase price. For these reasons, the taxpayer asks the Commission to reduce the subject's value to \$\$\$\$\$ for the 2011 tax year. The price paid for a property more than eight years prior to the lien date at issue is not convincing evidence of the subject's value as of that lien date.

The taxpayer also proffered four comparable sales to support its proposed value of \$\$\$\$\$. The four comparables are located between ##### and ##### blocks away from the subject property. They sold in January 2011 and February 2011 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$. All of the properties are either bank-owned, corporate-owned, or HUD homes. In addition, the Multiple Listing Service ("MLS") for two of the comparables indicated that they needed "work" or "TLC."

All of the taxpayer's comparables are distressed sales, which may have sold for prices that are below their fair market values. In addition, at least two of the taxpayer's comparables need work and, thus, may be in inferior condition in comparison to the subject. Furthermore, the County was able to find numerous comparables in the subject's neighborhood that were not distressed sales and that sold for prices in excess of \$\$\$\$\$ (which will be discussed later in the decision). For these reasons, the taxpayer's evidence does not convincingly show that the subject's value should be reduced to the taxpayer's proposed value of \$\$\$\$\$. However, the County's evidence should also be analyzed before determining whether the subject's current value of \$\$\$\$\$ should be reduced.

County's Information. The County proffered a comparative market analysis ("CMA") report in which the subject's value was estimated to be \$\$\$\$\$. On the basis of the CMA report, the County asks the Commission to sustain the subject's current value of \$\$\$\$\$.

In the CMA report, the County compares the subject property to 10 comparables that are located between ##### and ##### blocks away from the subject property. The 10 comparables sold between June 2010 and January 2011 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ (before concessions were subtracted). On the CMA report, the comparables were adjusted for lot size, year built, number of baths and garages, and square footage. After adjustments, the 10 comparables showed adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The CMA report's \$\$\$\$\$ estimate of value is the average of the 10 comparables' adjusted sales prices.

Five of the County's comparables had been completely remodeled or remodeled to some extent, whereas the subject has not been remodeled since it was built in 1977. The County's CMA report does not adjust for difference in condition and amounts of remodeling. In general, the five comparables that had been remodeled adjusted to higher adjusted sales prices than the comparables that had not been remodeled. As a result, using the adjusted sales prices of the remodeled comparables to derive an "average" value for the subject may overestimate the subject's value.

It is noted that once the sales prices of the County's 10 comparables are reduced for concessions, none of the County's comparable sold for a price as high as the subject's current value of \$\$\$\$\$. The five County comparables that were not remodeled or updated show adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. These five comparables suggest that \$\$\$\$\$ is a more reasonable value for the subject property than its current value of \$\$\$\$\$. One of these five comparables is a bank-owned property. These five of the County's comparables are more convincing than the taxpayer's comparables. For these reasons, the subject's value should be reduced to \$\$\$\$\$ for the 2011 tax year.

Kerry R. Chapman

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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 2011 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 _____, 2013.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner