

12-722
TAX TYPE: PROPERTY
TAX YEAR: 2011
SIGNED: 11-30-2012
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: M. JOHNSON,

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER 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. 12-722</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2011</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: TAXPAYER
For Respondent: RESPONDENT, Certified Residential Appraiser

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the Salt Lake County Board of Equalization under provisions at Utah Code §59-2-1006. This matter was argued in an Initial Hearing on October 16, 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, 2011 lien date. The County Board of Equalization ("the County") sustained the value. At the hearing the Property Owner requested a reduction to \$\$\$\$\$. The County asked that the value remain as 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 %%% 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 located at (PROPERTY 1), (CITY 1), Utah. It is ##### acres of land improved with a rambler style residence. The residence has ##### square feet on the main floor and a basement of ##### square feet. The basement is %%% finished. The residence was constructed in 1963. There is also an attached (X). The Property Owner explained that the residence has a flat roof and the roof needed repairs as it was leaking. He also indicated that he thought buyers would pay more for a house with a pitched roof. He wanted to replace the flat roof with a pitched roof, and from his information that would cost from \$\$\$\$\$ to \$\$\$\$\$. The Property Owner also indicated that he was in a financial hardship situation and it was difficult to pay the tax.

An additional problem was the property next door to the subject. The Property Owner stated that this next door property had been vacant and abandoned for two years. He stated it appeared to be rundown. He indicated that prior to that it had been a drug house and had brought criminals into the neighborhood. He said that his house had been broken into twice and burglarized. Because of this, his homeowner’s insurance required that he put in a security system.

The Property Owner submitted comparable sales to support lowering the value. One

comparable was located a few blocks from the subject at (COMPARABLE PROPERTY 1) and had sold for \$\$\$\$\$ minus \$\$\$\$\$ in concessions in November 2011. This sale had occurred significantly after the lien date at issue in this appeal. The comparable residence was larger than the subject and had a pitched roof. The comments indicate that this had been an estate sale and that it “needs totally updated.”

The Property Owner had also submitted one comparable which had sold nearer the lien date at issue. This was a property at (COMPARABLE PROPERTY 2). This property had sold for \$\$\$\$\$ in March 2011. This one had a flat, tar and gravel roof, like the subject. This house was also larger than the subject and had a larger lot. This one was a bank owned property.

The Property Owner had submitted two additional properties that sold in June 2011. A property at (COMPARABLE PROPERTY 3) had sold for \$\$\$\$\$. This one was just a bit smaller than the subject. It had a pitched roof. The Multiple Listing Report that the Property Owner provided stated that this property had updated kitchen cabinets and that this was not a short sale or bank owned. A property at (COMPARABLE PROPERTY 4) had sold for \$\$\$\$\$. This was smaller than the subject. The MLS indicated that this was “(NAME REMOVED).”

The County provided a Comparative Market Analysis which had been prepared by (RESPONDENT), Certified Residential Appraiser. It was (RESPONDENT) conclusion that the CMA value was just a bit higher than that set by the County Board of Equalization and he recommended that the value remain at the County Board level. He had considered six comparable sales which had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. Three of the County’s comparables had sold in a range from \$\$\$\$\$ to \$\$\$\$\$, near what the value that the Property Owner was requesting for the subject property. However, these were all smaller than the subject and one was located on (COMPARABLE PROPERTY 5) which is a very high traffic street. So after appraisal adjustments three sales supported values for the subject from \$\$\$\$\$ to \$\$\$\$\$.

The County did have one comparable that had a flat roof like the subject. This one had sold for \$\$\$\$\$ in December 2010. This property had ##### square feet above grade, while the subject had ##### square feet. Like the subject, this property had been constructed in 1963. It had a carport, while the subject had a (X). This property indicated the lowest value for the subject of the entire County’s comparables. It was bank owned according to the County as was another of the County’s comparables. However, the County did not make an adjustment for the subject property’s flat tar and gravel roof when the entire County’s other sales had pitched roofs. The County also did not give any reduction for the neighboring property which the Property Owner had testified was abandoned and run down.

One additional point made by the County was that values were continuing to decline in 2011 so there may be some time adjustment for the sales later in 2011 to be added back to get to the value as of January 1, 2011.

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 market value of the property as of January 1 of the tax year at issue under Utah Code §59-2-103. Utah Code §59-2-102 defines “market value” as the amount for which property would exchange hands between a willing buyer and seller. Given the comparables offered by the Property Owner, including the one sale in March 2011 which had a flat tax and gravel roof like the subject and the County’s comparables, a reduction to the \$\$\$\$ indicated from the County’s one comparable with the same flat roof feature is warranted. The Property Owner had indicated that his roof is leaking, needs to be replaced and that he thought prospective buyers would prefer a pitched roof.

The Tax Commission must set the value of this property at fair market value without consideration for financial hardship issues of the Property Owner. There are some tax abatement or tax relief programs that may provide relief based on financial hardship, but those are administered in the County by Salt Lake County Tax Administration. If the Property Owner feels he has a basis for abatement or relief under any of those programs he would need to contact that department to apply.

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, 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