

12-836  
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED  
TAX YEAR: 2011  
DATE SIGNED: 2-26-2013  
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN

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BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER-1 & PETITIONER-2, Petitioner,  vs.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No. 12-836  Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2011  Judge: Phan
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER-1

For Respondent: RESPONDENT, Certified Residential 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 under Utah Code §59-2-1006. This matter was argued in an Initial Hearing on November 19, 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 is asking the Commission to sustain the value set by the Board of Equalization.

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 located at ADDRESS. It is ##### acres of land and is improved with a two-story style residence. The original residence had been a single story residence constructed in YEAR, but recently there has been a second story addition and updating to this property. As of the lien date there was some finish work that still needed to be completed on the addition and renovation. With the addition, the front exterior of the residence had been restuccoed and looked like a new construction. The residence now has ##### square feet above grade, according to the County, and a basement of ##### square feet which was unfinished. This property has an attached oversized one-car garage. A description of the subject from the appraisal submitted by the Property Owner, pg. 1 of 6, described the addition as, “A large addition was

constructed on the rear of the original structure within the past 2 years, and at that same time the entire upper level was constructed. The addition on the main level included the kitchen, dining areas, finished storage and laundry room. The subject also has a new roof, new exterior stucco. .”

The subject property is located in an older established neighborhood, with other homes constructed in the YEAR and having about 900 square feet up and 900 down. With the renovation and addition to the subject residence, the subject is now larger than most of the neighboring properties. The Property Owner provided photographs of the neighboring properties, which were a mixture of styles and grades. The County’s representative stated that the neighborhood of the subject property was one where people were building additions and remodeling the residences.

The Property Owner stated that as of the lien date, the addition and renovation had not been fully completed. The items that he noted remaining undiminished as of January 1, 2011 were the basement, which was totally unfinished, the back and side yards were not landscaped, and for the interior of the above grade area, door hardware, electric plates and light fixtures were not installed. He indicated that they had started the addition and renovation in 2007 and had been working on the home over that period of time while living in a portion of the home.

The Property Owner requested a reduction to \$\$\$\$\$. He pointed out that in 2010 the County had valued the property at \$\$\$\$\$, the value jumped to \$\$\$\$\$ for the 2011 year, which is the year at issue. He stated that the County’s 2012 value had been lower, at \$\$\$\$\$. He had the property appraised in September 2012 and that appraisal had indicated a value as of that date of \$\$\$\$\$.

The Property owner submitted eight comparable sales to which he had attempted to make adjustments for the differences. The comparables had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. One adjustment in particular that the County had disagreed with was the Property Owner’s adjustment for basement finish. He made a \$\$\$\$\$ per square foot adjustment for basement area and then a \$\$\$\$\$ per square foot adjustment for basement finish. The Property Owner had only allowed a \$\$\$\$\$ adjustment for above grade area. This meant that his adjustments indicated that additional finished basement square footage would add more value than finished above grade square footage. The County disagreed. The County had used \$\$\$\$\$ per additional basement square footage and \$\$\$\$\$ for basement finish. In the appraisal supplied by the Property Owner, the amount allowed for basement finish was even lower, at \$\$\$\$\$ per square foot. The Property Owner had also made an adjustment of \$\$\$\$\$ for the unfinished work in the subject. However, he had listed as being unfinished only things like door hardware, light

fixtures, electric outlet plates and landscaping. The County had made an adjustment of \$\$\$\$\$ for finish work.

The Property Owner did not attempt to make an adjustment for age or condition differences between the subject and the comparables. This would be difficult because the small original portion of the subject had been constructed in YEAR, but now the majority of the subject was a new construction.

The Property Owner did provide an appraisal that had been prepared for financing purposes in September 2012, after the lien date at issue. The appraisal had been prepared by NAME, Certified Residential Appraiser. It was NAME conclusion that the value of the subject property as of September 7, 2012 was \$\$\$\$\$. This appraisal was significantly post lien date. Additionally, the finish work in the residence had been completed by the time this appraiser inspected the property. The landscaping, however, was still not completed. The appraiser had inspected the interior and exterior and included photographs of the interior showing the new kitchen and new bathrooms. The properties that NAME used as comparables had all sold during 2012 for prices ranging from \$\$\$\$\$ to \$\$\$\$\$.

The County submitted an appraisal in this matter which had been prepared by RESPONDENT, Certified Residential Appraiser. RESPONDENT considered five comparable sales in his appraisal which had sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$. In the appraisal he adjusted for above grade square footage at \$\$\$\$\$ per square foot and basement finish at \$\$\$\$\$ per square foot. He also made an adjustment of \$\$\$\$\$ for finish work that had not been completed as of the lien date. It was his conclusion after adjustments that these sales indicated a range of value for the subject from \$\$\$\$\$ to \$\$\$\$\$. The appraisal was offered in support of the value set by the County Board of Equalization of \$\$\$\$\$, which was within this range.

The County's appraiser also pointed out that values had been declining from January 1, 2011, which is the lien date at issue in this appeal, and September 2012 when NAME had appraised the property at \$\$\$\$\$. He stated the market had declined from 2-3% during this period. He argued a time adjustment to NAME appraisal to get back to the value as of January 1, 2011, would support the County's value. RESPONDENT also pointed out that the reason for the jump in the County's value from 2010 to 2011 was that for 2010 the construction on the residence was in an incomplete condition. The construction was primarily finished as of January 1, 2011, and the increase in value reflected that.

The Property Owner did make a point at the hearing that the comparables relied on by the County were from nicer neighborhoods. He provided photographs of some of the residences

around the comparables to support this position. The photographs did show some much larger and better grade homes near the comparables than were shown near the subject. However, there were two different appraisers who have appraised the subject residence. The appraisals were for different purposes and unrelated and came up with values when adjusted for time roughly around the County's value. Both appraisal conclusions were significantly higher than the \$\$\$\$ that the Property Owner was asking for this property.

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 of the property as of January 1 of the tax year at issue under Utah Code §59-2-103. In this matter, the Property Owner was asking for a value of \$\$\$\$\$. The Property Owner provided comparable sales, to which he made some adjustments for differences, but his adjustments were not consistent with appraisal adjustments and did not fully take into account the fact that much of this residence is now a new construction. The subject property is a difficult one to value, due to its being a mostly new construction in a neighborhood of older, smaller residences. Two appraisals were submitted, both supporting values much nearer to that set by the County Board of Equalization at \$\$\$\$\$. The Property Owner has not met the burden of proof to lower the value and the value should remain as set by the County Board of Equalization.

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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 \_\_\_\_\_, 2013.

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner