

12-881  
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED  
TAX YEAR: 2011  
DATE SIGNED: 2-20-2013  
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN

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BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER,  Petitioner,  vs.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No.    12-881  Parcel No.    ##### Tax Type:    Property Tax/Locally Assessed Tax Year:    2011  Judge:        Jensen
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**Presiding:**  
    Clinton Jensen, Administrative Law Judge

**Appearances:**  
    For Petitioner: TAXPAYER, Taxpayer  
    Respondent:    RESPONDENT, 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 November 28, 2012. 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 reduced the value to \$\$\$\$\$.

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 reducing 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 SUBJECT ADDRESS in CITY, Utah. It consists of a vacant ##### lot. The lot has what the Taxpayer’s appraiser termed a good view. The lot is burdened with an access easement of 21 feet by 179 feet that gives access for two neighboring lots.

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 an appraisal prepared in connection with the Taxpayer’s purchase of the subject property on May 27, 2011. The Taxpayer also relied on the \$\$\$\$ purchase price in the May 27, 2011 purchase in a sale from a bank following a foreclosure.

The Taxpayer’s appraiser concluded that the value of the subject property was \$\$\$\$ as of May 16, 2011. The appraiser relied on the sales of three comparable properties with sale dates in April 2011, October 2010, and December 2010 and sale prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The appraiser made adjustments to account for differences between the comparable properties and the subject properties for view and easement. For the properties with selling prices of \$\$\$\$\$ and \$\$\$\$\$, the appraiser made positive adjustments of \$\$\$\$\$ on the basis of a view that was inferior to the subject property. For the lot with a \$\$\$\$\$ selling price, the appraiser made a positive adjustment of \$\$\$\$\$ because he determined that the

comparable property had no view. For each of the three comparable properties, the appraiser made a negative \$\$\$\$ adjustment for the easement burdening the subject property. The appraiser made no adjustments for time of sale. The appraiser made no adjustments for lot size to account for the differences in lot size between the subject property at ##### of an acre and comparable properties with lot sizes of .33 of an acre, .39 of an acre, and .39 of an acre. After taking all of the adjustments into account, the comparable sales indicated values for the subject property of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The appraiser reconciled these to a final \$\$\$\$ opinion of value as of May 16, 2011. The Taxpayer indicated that the appraiser had originally appraised the subject property at \$\$\$\$\$, but reduced the appraisal to \$\$\$\$\$ after learning of the easement.

The County's representative agreed that the comparable sales provided by the Taxpayer's appraiser were the few comparables available to value the subject property. The County's representative indicated that he had completed paired sale analysis that indicated that the adjustment for view was greater than the adjustments proposed by the Taxpayer's appraiser. On the basis of his paired sale analysis, the County's representative indicated that he would make positive adjustments of \$\$\$\$\$ and \$\$\$\$\$ to the comparables with sale prices of \$\$\$\$\$ and \$\$\$\$\$. On the same basis, he indicated that he would make a positive adjustment of \$\$\$\$\$ adjustment to the comparable property with a sale price of \$\$\$\$\$. The County's representative agreed with the appraiser's negative adjustment of \$\$\$\$\$ to each of the comparables for the easement on the subject property. After these adjustments, the comparable sales indicated values for the subject property of \$\$\$\$\$ to \$\$\$\$\$ for the first comparable, \$\$\$\$\$ to \$\$\$\$\$ for the second comparable, and \$\$\$\$\$ for the third comparable.

Considering the evidence presented, there is good cause to find error in the \$\$\$\$\$ value set by the board of equalization. None of the evidence presented supports a value that high. This requires that the Commission determine a new value with a sound evidentiary basis. *See Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997). The Taxpayer's May 2011 purchase of the subject property for \$\$\$\$\$ is problematic as an evidentiary basis because it was a foreclosure sale. *See Utah Code Ann. §59-2-102(12)* (providing that "fair market value" is price reached between willing buyer and willing seller "neither being under any compulsion to buy or sell.") Accordingly, the Commission looks to other market information. Both parties rely on the same comparable properties; they differ only in their adjustments to value. Because the Taxpayer's appraiser did not appear at the hearing, the Commission is without evidence as to the basis for the appraiser's adjustments for view. The County's representative appeared and provided a basis in paired sale analysis for his adjustments. Because the County supported its adjustments with evidence, they are more persuasive than those provided by the appraiser. This leaves

the Commission with three comparable sales indicating values of \$\$\$\$\$ to \$\$\$\$\$ for the first comparable, \$\$\$\$\$ to \$\$\$\$\$ for the second comparable, and \$\$\$\$\$ for the third comparable. It appears \$\$\$\$\$ is a reasonable reconciliation of these values and has a sound evidentiary basis. There is good cause to set a new value for the subject property at \$\$\$\$\$ for the January 1, 2011 lien date.

Clinton Jensen  
Administrative Law Judge

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2011 is \$\$\$\$\$. 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. 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