

12-978
TAX TYPE: PROPERTY TAX-LOCALLY ASSESSED
TAX YEAR: 2011
DATE SIGNED: 2-26-2013
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 12-978</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2011</p> <p>Judge: Chapman</p>
---	---

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process.

Pursuant to Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: TAXPAYER, Taxpayer (by telephone)
For Respondent: RESPONDENT, 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 January 15, 2013.

At issue is the fair market value of vacant land as of the January 1, 2011 lien date.¹ The subject property is located at ADDRESS-1 in CITY-1, Utah. The Salt Lake County Board of Equalization ("County

¹ Although the subject property qualifies and is taxed as greenbelt property, only the fair market value of the property is at issue. The property's greenbelt value is not at issue.

Appeal No. 12-978

BOE”) sustained the \$\$\$\$ value at which the subject property was assessed for the 2011 tax year. The taxpayer asks the Commission to reduce the subject’s fair market value to \$\$\$\$\$. The County asks the Commission to sustain the subject’s current value of \$\$\$\$.

APPLICABLE LAW

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. 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.

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 is comprised of ##### acres of vacant land. It is assessed at \$\$\$\$\$, which equates to \$\$\$\$\$ per acre or \$\$\$\$\$ per square foot. The subject property is currently used for agricultural purposes, but is zoned MU-South Center by CITY-1, which is a zoning established to provide a retail hub at the intersection of STREET-1 and ROAD. The zoning allows for a variety of commercial uses.

The subject property, however, is not located on either STREET-1 or ROAD. It is located behind several commercial enterprises that have already been built and is accessed with a 25 foot right-of-way. The subject property is what is commonly called a “flag lot.”

Taxpayer’s Information. The taxpayer contends that the subject is also adjacent to residentially-zoned properties and that the subject will likely be developed for residential purposes. The taxpayer stated that he has no idea why CITY-1 zoned the subject property as commercial property. However, he did not indicate that he has tried to get the zoning changed.

The taxpayer proffered three comparable sales of vacant residential land. The three comparables sold between June 2010 and January 2011 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per acre. Based on these comparables, the taxpayer asks the Commission to reduce the subject’s value to \$\$\$\$\$ (which equates to \$\$\$\$\$ per acre or \$\$\$\$\$ per square foot).

Two of the comparable sales are for #####-acre parcels located in CITY-2 (approximately 65 blocks from the subject). They are zoned for and can be developed into ¼-acre residential lots. They each sold for \$\$\$\$\$ per acre. The taxpayer’s third comparable is a #####-acre parcel located in CITY-3 (approximately 100 blocks from the subject). It is zoned for low-density residential use and for a neighborhood park. Salt Lake County purchased it to use as a public park. It sold for \$\$\$\$\$ per acre. The taxpayer’s comparables are not

convincing. First, the subject property is zoned as commercial, not residential, property.² Second, these comparables are located too far away from the subject to be convincing.

County's Information. The County proffered eight comparable sales of vacant commercial parcels that sold between May 2009 and August 2011 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot (which equates to a value between \$\$\$\$\$ and \$\$\$\$\$ per acre). The parcels range between ##### acres and ##### acres in size. None of the comparables are flag lots like the subject.

Three of the comparables, however, are located relatively close to the subject and are located on either ROAD or STREET-2. They sold for prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$ per square foot. The County acknowledged that the subject's value would be lower than these sales prices because it was a flag lot that was not on a main road. The County, however, did not estimate what the downward adjustment would be to arrive at an adjusted sales price for the subject. It claimed instead that these sales supported the subject's current value of \$\$\$\$\$ per square foot.

The County's comparables are superior to the subject property. Without adjustments, the comparables do not show whether or not the subject's current value of \$\$\$\$\$ is correct. The County, however, does not have the burden of proof in this matter. The taxpayer does. The information provided at the Initial Hearing is insufficient to show that the subject's current value is incorrect. For these reasons, the subject's current value of \$\$\$\$\$ should be sustained.

Kerry R. Chapman

Administrative Law Judge

² Section 59-2-102(12) provides that "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. The taxpayer has not shown that there is a probability of getting a zoning change for the subject property. In fact, the taxpayer did not indicate that it had even inquired about a zoning change.

Appeal No. 12-978

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the subject's current fair market value of \$\$\$\$ for the 2011 tax year. 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