

12-1384
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED
TAX YEAR: 2011
DATE SIGNED: 6-10-2013
COMMISSIONERS: D. DIXON, M. CRAGUN, R. PERO
EXCUSED: B. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="padding-left: 40px;">Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align: center;">INITIAL HEARING ORDER</p> <p>Appeal No. 12-1384</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: REPRESENTATIVE FOR TAXPAYER-1, Representative
REPRESENTATIVE FOR TAXPAYER-2, Representative
For Respondent: RESPONDENT, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

TAXPAYER, ("Petitioner" or "taxpayer") brings this appeal from the decision of the Salt Lake County Board of Equalization ("County BOE"). This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on March 12, 2013.

At issue is the fair market value of the subject property as of January 1, 2011. The subject is a recreational cabin located at ADDRESS in TOWN-1, Utah. The 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

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 cabin that was built in \$\$\$\$\$. The subject property is located near TOWN-1 and the RESORT. It is located on a gravel road that is accessible during the summer, but not during the winter. During the winter, the taxpayer can only access the subject property by snowcat or snowmobile, and access is limited to certain hours. The subject property is not connected to a public water or sewer system. The subject property has good valley views.

The subject's main floor is ##### square feet in size. A large deck is located off the main floor. The subject also has a finished basement that is ##### square feet in size. The subject's basement is a "subgrade" basement that has window wells. The taxpayer explains that the subject's basement is "buried" in the winter. However, there is a door on the basement level from which one can exit to the outside in the summer. The taxpayer explained that the subject property has been maintained since it was built, but that it has not been substantially upgraded or remodeled.

Taxpayer's Information. The taxpayer proffers a realtor comparison report in which the subject's value is estimated to be \$\$\$\$\$. The comparison report appears to be estimating the subject's value as of the 2011 lien date because the three comparables used in the report for which information was available sold between September 2010 and February 2011. The taxpayer also states that the County BOE reduced the subject's value for 2012 (i.e. one year later than the 2011 tax year at issue) to \$\$\$\$\$.

The taxpayer, however, states that the best evidence of the subject's 2011 value can be obtained by taking the subject's May 2007 sales price and reducing it by the percentage at which resort properties in the CITY-1 area decreased between May 2007 and January 1, 2011. The subject property sold for \$\$\$\$\$ on May 11, 2007. The taxpayer produced charts showing statistics for home sales near resorts in the CITY-1 area. The charts show that fewer homes in the CITY-1 resort areas sold around the 2011 lien date than sold in 2007. The charts also show that these homes sold for lower average and median prices around the 2011 lien date than the average and median prices at which they sold in 2007. The taxpayer claims that these charts show that prices are 27% lower on January 1, 2011 than they were in May 2007, when the subject sold for \$\$\$\$\$. As a result, the taxpayer contends that the subject's 2011 value can be determined by reducing its \$\$\$\$\$ sales price by 27%, which results in a value of \$\$\$\$\$. On the basis of this information, the taxpayer asks the Commission to reduce the subject's 2011 value to \$\$\$\$\$.

The taxpayer's information about decreasing values is not convincing. The County contends that the CITY-1 resort market is very different from the market for homes near TOWN-1 Resort and the other ski resorts located in CANYON-1 and CANYON-2 ("Canyon ski resorts") because there are fewer vacant lots that can be developed near the Canyon ski resorts. The County states that TOWN-1 restricts any further development. The County contends that values near the Canyon ski resorts remained relatively constant between 2007 and 2011. In fact, the County uses the subject's May 2007 sale in its appraisal (which will be discussed later) as a comparable to determine the subject's 2011 value without adjusting its 2007 sales price for time of sale. The taxpayer has provided no information to refute the County's argument and show that the value of properties in TOWN-1 fell at the same rates at which values fell in the CITY-1 Resort areas. For these reasons, the taxpayer's information is insufficient to show that market changes that may have occurred in the CITY-1 resort area between 2007 and 2011 also affected the TOWN-1 Ski Resort area and the other Canyon ski resorts.

Furthermore, the taxpayer's charts may not even be accurate representations of the market changes that affected individual properties in the CITY-1 area. The taxpayer's charts may show that the average and median sales prices decreased between 2007 and 2011. However, these charts alone do not clearly show if the values of individual homes in the CITY-1 resort area fell by the same percentages. The drop in average and median values could be partially due to fewer of the more expensive homes selling between 2007 and 2011. Regardless, it is not clear that the market changes that occurred in the CITY-1 area would be applicable to homes, like the subject, that are located near TOWN-1 Resort and other Canyon ski resorts. As a result, the charts the taxpayer proffered are ineffective in showing how the subject's value may have changed between 2007 and 2011. Accordingly, the taxpayer's proposed value of \$\$\$\$\$, which it calculated using these charts, is not convincing.

The taxpayer's comparison report, in which the subject's value is estimated to be \$\$\$\$\$ is also not convincing. The three comparables included in the report are: 1) a bank-owned property in TOWN-1 that sold for \$\$\$\$\$ and that the report adjusted to \$\$\$\$\$; 2) a cabin in CANYON-2 that sold for \$\$\$\$\$ and that the report adjusted to \$\$\$\$\$; and 3) another cabin in CANYON-2 that sold for \$\$\$\$\$ and that the report adjusted to \$\$\$\$\$. The second and third comparables are not convincing. The second comparable is located five or six miles down the canyon from a ski resort. The third comparable's cabin was in extremely poor condition when it sold. The best comparable in the report is the comparable that sold for \$\$\$\$\$ and that the report adjusted to \$\$\$\$\$. It is located between TOWN-1 and TOWN-2 and has year-end access. However, this comparable was a bank sale. As a result, its sales prices may not reflect its own fair market value, much less the fair market value of the subject property.

The taxpayer also stated that the County BOE reduced the subject's value for the subsequent tax year, 2012, to \$\$\$\$\$. The Commission generally does not base the current year's value on actions taken by a county board for a prior or subsequent year. First, there is no evidence to show that the value established by the 2012 County BOE is correct. Just as the taxpayer is asserting that the value established by the 2011 County BOE is incorrect, the value established by the 2012 County BOE could also be incorrect. Accordingly, the value established by the 2012 County BOE is not helpful in determining the subject's 2011 value.

The taxpayer's best evidence is the bank sale that was adjusted to \$\$\$\$\$ in the taxpayer's comparison report. However, because it was a distressed sale, its adjusted sales price may be lower than the subject's fair market value. As a result, the taxpayer's evidence does not show that the subject's current value of \$\$\$\$\$ is incorrect. However, before determining whether to sustain the subject's current value, the County's evidence should also be analyzed.

County's Information. The County proffered an appraisal prepared by RESPONDENT, a County appraiser. In the appraisal, RESPONDENT estimated the subject's value to be \$\$\$\$\$ as of the January 1,

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2011 lien date. The County did not ask the Commission to increase the subject's value to \$\$\$\$\$. On the basis of the appraisal, the County asks the Commission to sustain the subject's current value of \$\$\$\$\$.

In the appraisal, RESPONDENT compared the subject property to seven comparable sales and two listings. All but one of the comparables are located in the TOWN-1 area. The other comparable is located in the CITY-2 loop near CITY-2 Resort in CANYON-2. Both of the listings have expired. One of the listings, however, is the same property as one of the comparable sales and shows that the owner has listed the property in 2012 for a price that was more than 50% higher than the price paid for the property in 2005.

The seven comparable sales sold for values that ranged between \$\$\$\$\$ and \$\$\$\$\$. The County adjusted the comparables to adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$. The only property that adjusted to a price below the subject's current value of \$\$\$\$\$ was the bank-owned property that the taxpayer also used in its comparison report.

One problem with the County's appraisal is that three of its seven comparable sales sold in 2007, more than three years prior to the lien date, and a fourth one sold in 2005, more than five years prior to the lien date. The County did not make any time adjustments to the sales that occurred in 2007 because it could find no evidence to suggest that prices changed between 2007 and the 2011 lien date. However, the County determined that values increased 25% between 2005 and 2007 based on the sales price of the property that sold in 2005 and its list price from 2012. The positive 25% time adjustment from 2005 to 2007 is not convincing because it is dependent on a list price from 2012 of a home that did not sell.

It is unclear how the market in the TOWN-1 area changed between 2007 and 2011 and whether a time adjustment is needed for comparables that sold in 2007. However, in addition to the bank-owned property, the County's appraisal includes two comparable sales in the TOWN-1 area that sold within 1½ years of the 2011 lien date. One of these properties sold for \$\$\$\$\$ in July 2010, and the other sold for \$\$\$\$\$ in July 2009. Both

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of these properties are larger than the subject property and have been remodeled or updated. The County has adjusted these two comparables to adjusted sales prices of \$\$\$\$\$ and \$\$\$\$\$.

It is difficult to estimate an exact value for the subject when there are so few sales in the TOWN-1 area. However, except the bank-owned property, all comparables in the TOWN-1 area that sold in 2007 or afterwards have sold for at least \$\$\$\$\$. All proffered listings in the TOWN-1 area have been listed for sale at \$\$\$\$\$ or above. The two non-distressed properties that sold within 1½ years of the lien date have been adjusted by the County to values that support the subject's current value. Although the County's appraisal may not be entirely convincing, the County does not have the burden of proof in this matter. The taxpayer does. The taxpayer's argument that prices in the TOWN-1 area fell 27% between 2007 and 2011 based on evidence from the CITY-1 market is unpersuasive. Except for a single bank-owned property, the taxpayer has not shown any sales or even listings in the TOWN-1 area that are below the subject's current value. Accordingly, the subject's current value of \$\$\$\$\$ should be sustained.

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's current value of \$\$\$\$\$ should be sustained 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

Robert P. Pero
Commissioner