

13-490  
TAX TYPE: PROPERTY TAX  
TAX YEAR: 2012  
DATE SIGNED: 6-6-2014  
COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO  
EXCUSED: D. DIXON

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,      Petitioner,  vs.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,      Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 13-490</p> <p>Parcel No. ##### Tax Type: Property Tax Tax Year: 2012</p> <p>Judge: Phan</p>
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER

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 April 8, 2014, in accordance with Utah Code §59-1-502.5. The Salt Lake County Assessor's Office had originally valued the subject property at \$\$\$\$ as of the January 1, 2012 lien date. The County Board of Equalization ("the County") sustained the value. At the hearing the Taxpayer is requesting the value be reduced to \$\$\$\$ based on an appraisal of the subject property. The representative for the County recommended a reduction to \$\$\$\$ based on an appraisal prepared for the County.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible personal 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 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.
- (5) 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 5% from the assessed value of comparable properties.

A party requesting a value other than that established by the county Board of Equalization has the burden of proof to establish that the market value of the subject property is different. 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 (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 SUBJECT ADDRESS, CITY-1, Utah. It is a #####-acre lot improved with a rambler style residence. The residence was constructed in YEAR of a good plus grade. It has #####-square feet on the main level and a basement of ##### which is unfinished. The property has an attached two car garage on the main level and another garage the

same size underneath that is on the basement level. However, because of the slope there is only a one car garage door on the basement level, making the basement garage space suitable for parking one car plus an area for additional storage space. Photographs of the exterior of the subject residence were provided showing some custom architectural design features on the exterior that support the County’s position that this residence is a good-plus grade rather than just a good grade of construction.

The Property Owner submitted an appraisal which had been prepared by APPRAISER, Certified Appraiser. It was APPRAISER’S statement in the appraisal that as of January 1, 2011, the value of the subject property was \$\$\$\$\$. At the hearing the Taxpayer stated that he thought the effective date of the appraisal was a typographical error and the effective date of the appraisal was January 1, 2012, the lien date at issue in this appeal. APPRAISER considered four comparable sales. He noted in his appraisal, “Due to the subject being a newer home in a predominately older neighborhood, it was necessary to go outside of normal distance parameters to find comparables.”<sup>1</sup> The Comparables relied on by APPRAISER are as follows:

Location	Sale Date	Sale Price	GLA	Age	Lot Size Sq Ft	Gar- age	Bank Ow- ned	Adjusted Value
SUBJECT ADDRESS			#####	#	#####	# Car +		
ADDRESS-1	DATE	\$\$\$\$\$	#####	#	#####	# Car		\$\$\$\$\$
ADDRESS-2	DATE	\$\$\$\$\$	#####	#	#####	# Car		\$\$\$\$\$
ADDRESS-3	DATE	\$\$\$\$\$	#####	#	#####	# Car		\$\$\$\$\$
ADDRESS-4	DATE	\$\$\$\$\$	#####	#	#####	# Car	REO	\$\$\$\$\$

The first comparable provided by APPRAISER is located very near in location to the subject property. It is a two story home and not a rambler. The basement area with only #####-square feet, also unfinished, is significantly smaller than the subject basement. The lot is smaller than the subject lot and the property has only a 2 car garage. Additionally it is located right on STREET-1 which is a heavier trafficked street that would negatively impact this comparable. From the photograph provided it did not appear to be as good of a grade of construction as the subject. APPRAISER’S did make adjustments for age and size of the residence, lot and garage but did not account for the traffic or lower grade of this property. The comparable at ADDRESS-2 was significantly smaller than the subject in both residence and lot size. The comparable at ADDRESS-3 was the farthest in location from the subject and it was a two-story residence that lacked the architectural details on the subject. The last comparable, at ADDRESS-4 had been a

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<sup>1</sup> Petitioner’s Appraisal, pg. 6 of 19.

bank repossession or foreclosure sale. Although this property did have substantial custom architectural detail on the exterior that indicated a comparable grade to the subject, it had a taste specific design that might have less universal curb appeal than the subject.

The County submitted an appraisal prepared by RESPONDENT, Certified Residential Appraiser. It was RESPONDENT’S conclusion that the value for this property as set by the County Board of Equalization was high and he recommended a value based on the appraisal of \$\$\$\$\$. In the appraisal he considered six comparable sales. As had occurred with the appraiser for the Petitioner, some of these sales were farther in distance from the subject, although two were in a cul-de-sac that was adjacent to the subject, STREET-2. Both of these STREET-2 sales were distress sales and both of these residences were substantially larger than the subject. The County’s comparables are as follows:

Location	Sale Date	Sale Price	GLA	Year Built	Lot Size	Gar- age	Bank Ow- ned	Adjusted Value
SUBJECT ADDRESS			#####	YEAR #		# Car +		
ADDRESS-5	DATE	\$\$\$\$\$	#####	YEAR #		# Car		\$\$\$\$\$
ADDRESS-6	DATE	\$\$\$\$\$	#####	YEAR #		# Car	REO	\$\$\$\$\$
ADDRESS-7	DATE	\$\$\$\$\$	#####	YEAR #		# Car	REO	\$\$\$\$\$
ADDRESS-8	DATE	\$\$\$\$\$	#####	YEAR #		# Car		\$\$\$\$\$
ADDRESS-9	DATE	\$\$\$\$\$	#####	YEAR #		# Car		\$\$\$\$\$
ADDRESS-10	DATE	\$\$\$\$\$	#####	YEAR #		# Car	REO	\$\$\$\$\$

Three of the County’s comparables had been REO sales which indicates a bank owned or foreclosure situation. For these sales the County’s appraiser did make an adjustment of \$\$\$\$\$ as it was his contention that these properties sell generally below market. Four of the County’s comparables were substantially larger than the subject. Two were smaller. It does appear from the photographs of these properties that the County was trying to find properties of comparable grade to the subject. The County’s sales had generally occurred nearer to the lien that is at issue in this appeal of January 1, 2012, with the exception of the one property at ADDRESS-6 that sold in September YEAR, substantially after the lien date. This comparable was included as it appears to be next door to the subject 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 a sound evidentiary basis to support a new value. In this appeal two different appraisals were submitted. The appraisal from the Property Owner did appear to include three homes of a lower grade than the subject as the subject does have custom architectural features on

the exterior. The County looked at two properties that were very near in location to the subject, both selling after the lien date, one in February 2012 and one in September 2012. Both of these residences were also substantially larger than the subject residence. After considering the appraisals from both parties, the value should be reduced to the low end of the County's appraisal range. The Property Owner has an appraisal that is considering some lower priced properties, although they seem to be a lower grade which is not accounted for in the appraisal. The County is using in its appraisal several residences that are much larger than the subject or several that are far in location. A value for the subject of \$\$\$\$ is supported from the comparables.

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, 2012 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. 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 Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
CITY-1, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner

