

13-596
TAX TYPE: PROPERTY TAX
TAX YEAR: 2012
DATE SIGNED: 1-10-2014
COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO
EXCUSED: D. DIXON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER-1 & PETITIONER-2, Petitioners, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 13-596</p> <p>Parcel No. #####-1 and #####-2</p> <p>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-2, Property Owner
REPRESENTATIVE-1 FOR PETITIONER, Representative
REPRESENTATIVE-2 FOR PETITIONER, Representative
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. This matter was argued in an Initial Hearing on November 5, 2013 in accordance with Utah Code §§ 59-2-1006 and 59-1-502.5. There are two parcels at issue in this appeal. The Salt Lake County Assessor’s Office had originally valued parcel no. #####-1 (Parcel #####-1), at \$\$\$\$ as of the January 1, 2012 lien date, which the County Board of Equalization (“the County”) sustained. The Property Owner is requesting the value of Parcel #####-1 be reduced to \$\$\$\$ and the County is requesting it remain at \$\$\$\$\$. The County Assessor’s Office originally valued parcel no. #####-2 (Parcel #####-2) at \$\$\$\$ as of the January 1, 2012 lien date, which the County Board of Equalization sustained. The Property

Owner is requesting the value be reduced to \$\$\$\$\$. At the hearing the representative for the County did recommend a reduction for this parcel to \$\$\$\$\$.

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

Parcel #####-1 is located at ADDRESS-1 in CITY, Utah. It is a #####-acre vacant residential parcel. This is a corner parcel that is somewhat irregular, or “U” shaped, which the Property Owners’ representative argued made it like a fishbowl with a number of neighboring properties looking into this lot. This lot is relatively level and could be developed with the construction of a residence. This lot does not have valley views although it had some mountain views. It is currently landscaped and used as additional yard space by the Property Owners whose residence is across the street.

Parcel #####-2 is located at ADDRESS-2 in CITY, Utah. It is a #####-acre vacant residential parcel. This parcel is steeply sloped and the back portion of this lot drops off and is unusable even as yard space. The parties indicated about ##### acres of this lot could actually be developed with the construction of a residence. However, because the lot is narrow and deep there would be some restriction to the size of residence that could be constructed on the lot. There are some valley views to the southwest from this lot, but the Property Owners’ representatives argued that the views were really only average and not direct views. The front, usable, portion of this lot is also landscaped and is used by the Property Owners as additional yard space, as it is located next door to their residence.

Both lots were located just east of PARK and CANYON. The parties argued over the impact of this location. The appraisers for the Property Owner argued that the better comparables for the subject lots were in the NAME OF AREA-1, just to the west of PARK/CANYON. The County argued that there were recently developed areas on the west side so more residential lots were available there. It was his contention that the east side of the canyon was more exclusive as there were few undeveloped lots available and the lots on the east side sold for more than those on the west side.

The Property Owners submitted an appraisal for both residential lots at issue. These had been prepared by REPRESENTATIVE-1 FOR PETITIONER, Certified General Appraiser. REPRESENTATIVE-1 FOR PETITIONER was present at the hearing to explain his appraisals. In appraising these lots, one of the significant factors in the value was the view. Although Parcel #####-2 had valley views to the southwest, REPRESENTATIVE-1 FOR PETITIONER considered these views inferior to all of his comparables. He basically made the same view adjustment for Parcels #####-1 and #####-2. He did provide photographs of the view from the lots and documented the buildable portions. It was his conclusion that the value of Parcel #####-2

was \$\$\$\$\$ and the value of Parcel #####-1 was \$\$\$\$\$. The comparables he relied on were all from west of PARK/CANYON. Many of REPRESENTATIVE-1 FOR PETITIONER comparables had portions of the lot that were steep and undevelopable like Parcel #####-2. REPRESENTATIVE-1 FOR PETITIONER used the same comparables in both appraisals which are the following:

Address	Sale Price	Sale Date	Lot Size
ADDRESS-2	Subject Parcel #####-2		#####
ADDRESS-1	Subject Parcel #####-1		#####
ADDRESS-3	\$\$\$\$\$	03/12	#####
ADDRESS-4	\$\$\$\$\$	04/12	#####
ADDRESS-5	\$\$\$\$\$	06/12	#####
ADDRESS-6	\$\$\$\$\$	06/11	#####
ADDRESS-7	\$\$\$\$\$	06/11	#####
ADDRESS-8	\$\$\$\$\$	12/12	#####

Although the County’s representative had prepared an appraisal for the subject lots, it was not exchanged prior to the hearing in a timely manner and was not allowed as evidence at the hearing based on the objections of the Property Owners’ representatives. At the hearing the County did offer the Full Multiple Listing Report for comparable sales which had been exchanged. In looking for comparables, the County argued the sales east of the PARK/CANYON area were more indicative of value. However, many of the lots offered by the County were from the west side due to the lack of vacant lots exchanged on the east side. He argued that a location adjustment should be made for those lots selling on the west side. Additionally the County disagreed with some of REPRESENTATIVE-1 FOR PETITIONER view adjustments. The County’s comparables with the notation regarding view from the MLS report as well as location east or west of the canyon are as follows:

Address	Sale Price	Sale Date	Lot Size	Location	Remarks
ADDRESS-9	\$\$\$\$\$	11/12	#####	East	Fabulous Views
ADDRESS-10	\$\$\$\$\$	05/12	#####	East	
ADDRESS-11	\$\$\$\$\$	05/13	#####	East	Panoramic Views
ADDRESS-12	\$\$\$\$\$	04/12	#####	West	Great View
ADDRESS-13	\$\$\$\$\$	03/12	#####	West	South & West Views
ADDRESS-14	\$\$\$\$\$	06/10	#####	West	Wonderful View Lot
ADDRESS-15	\$\$\$\$\$	06/11	#####	West	Spectacular View
ADDRESS-16	\$\$\$\$\$	06/12	#####	West	180-degree View
ADDRESS-17	\$\$\$\$\$	09/10	#####	East	Unobstructed Views
ADDRESS-18	\$\$\$\$\$	12/12	#####	West	Valley Views
ADDRESS-19	\$\$\$\$\$	06/11	#####	West	Stunning Views

It was the County's contention that Parcel #####-1 with its relative flat ##### acre lot had a market value as of January 1, 2012 of \$\$\$\$\$. It was his contention that Parcel #####-2, which had the narrow frontage and slope that would restrict development should be lowered to \$\$\$\$\$.

The representatives for the Property Owner pointed out that the comparable at ADDRESS-9 had been purchased by the neighbor who lived above this property to preserve the view for the neighboring property, although the MLS report does indicate that this property was listed for an extended period, 484 days. The County's second and third comparables were the same property that had sold twice. The Property Owners' representatives also pointed out that the ADDRESS-17 comparable was located in NAME OF AREA-2 rather than the NAME OF AREA-3 and argued that this would be a superior location.

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. 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. Utah Code §59-2-102 defines "fair market value" as the amount for which property would exchange hands between a willing buyer and seller. Based on the evidence provided, the values should be reduced to the appraisal values from the Property Owners. The appraiser has given consideration to some of the negative factors with these properties that are currently both being used only as landscaped yard space for a neighboring property. Although the County has submitted sales information, the best evidence of value is from the appraisals submitted by the Property Owners.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property as of the January 1, 2012 lien date is \$\$\$\$\$ for Parcel #####-2 and \$\$\$\$\$ for Parcel #####-1. 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

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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 _____, 2014.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner