

13-2392
TAX TYPE: PROPERTY TAX
TAX YEAR: 2013
DATE SIGNED: 7-8-2014
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN
EXCUSED: R. PERO
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p style="text-align: center;">Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF RURAL COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;">INITIAL HEARING ORDER</p> <p>Appeal No. 13-2392</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2013</p> <p>Judge: Dixon</p>
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Presiding:

D'Arcy Dixon Pignanelli, Commissioner

Appearances:

For Petitioner: REPRESENTATIVE-1 FOR PETITIONER, CFO, NAME OF BUSINESS,
REPRESENTATIVE-2 FOR PETITIONER, President, NAME OF
BUSINESS, by phone

For Respondent: RESPONDENT-1, County Assessor,
Representative for Respondent
RESPONDENT-2, County Clerk Auditor, and
Clerk for the Board of Equalization
RESPONDENT-3, Chief Deputy County Assessor

STATEMENT OF THE CASE

Petitioner ("Taxpayer" or "Property Owner" or "Owner") brings this appeal from the decision of the Respondent, the RURAL COUNTY Board of Equalization ("the BOE"). This matter was argued at an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5. The hearing was held on April 29, 2014 at the RURAL COUNTY Offices, in CITY, Utah. The RURAL COUNTY Assessor's Office valued the Subject Property ("Subject") at \$\$\$\$ as of the January 1, 2013 lien date. The BOE increased

the value to \$\$\$\$\$. The County BOE is asking the Commission to sustain the BOE value. The Taxpayer is requesting the value of the Subject be reduced to \$\$\$\$\$.

APPLICABLE LAW

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

- (1) All tangible taxable 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).

PRELIMINARY MATTERS

The Assessor executed an “Assessor Initiated Appeal” to the BOE for an assessment change to capture what she claimed was escaped property. The BOE Hearing Officer held it was escaped property and increased the assessed value from \$\$\$\$\$ to \$\$\$\$\$.

While there is no document in the BOE record showing the Assessor filed an Assessor Initiated Appeal with the BOE, the BOE decision dated August 23, 2013 supports the Assessor initiated an action with the BOE before the time to appeal had closed for the year in question.¹

Under Utah Code Annotated 59-2-1003, the BOE may, after giving notice, increase or decrease any assessment contained in any assessment book; however, there was no evidence in the file that the Property Owner was given notice to appear at the BOE. The BOE increased the assessed value, and Taxpayer contested that value by appealing the BOE decision to the Commission. Because there was already an appeal open before the Tax Commission, rather than remand to the BOE, for administrative efficiency, the Commission retained jurisdiction.

At the initial hearing, the Taxpayer requested the Commission find there is no escaped property and the value for the Subject be reduced to \$\$\$\$\$. The County requested the Commission determine that there was escaped property because the Taxpayer had not gotten building permits, sustain the BOE value, and determine what amount of tax should be assessed for previous years of escaped property.

Where the Taxpayer had not applied for and received building permits for improvements to the Subject Property, which was not disputed at the hearing, it is not implausible the Assessor would not have the information necessary to update the assessment records prior to the closing of the assessment rolls on May 22. No one has shown that it is an improper use of the Assessor’s authority to exercise an assessor initiated appeal to request a change to the assessment during the open appeal period for the year at issue; however, the Commission would understand that the issue of escaped property arises when an assessor requests, or the BOE orders, the addition of value to a property after the appeal period for the year at issue is closed. No one provided information to show to the contrary. The term “escaped

¹ Utah Code Annotated 59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal ... (2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

- (i) September 15 of the current calendar year; or
- (ii) the last day of a 45-day period beginning on the day on which the county auditor mails the notice under Section 59-2-919.1

property” was used during the hearing by both parties, but it does not seem it was used in the context of capturing property or improvements that have escaped assessment after the BOE has closed for the lien date in question, or for other years except the year at issue.²

No one has shown an appeal of the Subject Property is not properly open before the Commission for the lien date January 1, 2013. The BOE has increased the assessed value for the January 1, 2013 lien date, and Taxpayer has contested that value increase, therefore the Commission will address the issue of value of the Subject Property for the January 1, 2013 lien date.

INFORMATION PROVIDED

Subject Description

At the hearing the Parties agreed to the following items of fact regarding the Subject.

1. The physical address is ADDRESS-1, CITY-1, Utah as shown on the Tax Roll Master Record.³
2. The Subject is ##### acres.
3. The Subject is located approximately ##### miles outside CITY-1, along Highway #####, which runs along the RIVER. The Subject is accessed from Highway ##### by a gravel road.
4. The Subject has RIVER frontage.
5. The Subject is improved with the following four distinct structures:
 - A. The Main House, which is ##### square feet (“sf”) and built in YEAR-1.

There is a two-car garage attached to the Main House, which is ##### sf, built in YEAR-1.
 - B. The Guest House, which is ##### sf, sits behind and below the Main House. The Guest House connects to the (X).
 - C. The (X). Due to the shape of the (X), which is carved into the (X-1), and has round ceilings and walls, it is difficult to measure. The height of ceilings can be eight feet in certain areas,

² Two previous tax commission orders provide guidance on this matter. In appeal 07-1234, the County Assessor held improvements had escaped assessment for many years, and were discovered as a part of the five-year reappraisal plan for the county. The Assessor asked the Commission as part of the appeal for clarification on recapturing taxes for the escaped property. The Commission held the prior years were not before the Commission, and would issue a separate response to the County regarding the taxation of escaped property. In appeal 09-3377 prior to the formal hearing the Assessor submitted a letter to the Commission requesting guidance on escaped property. At the formal hearing, the County requested clarification on the issue of escaped property. The Commission ruled the “taxation of prior years is not before the Commission as a part of this appeal, and further stated that the Commission would issue a separate response. In a letter from Commissioner Marc Johnson, dated February 11, 2009, the Commission informed the Assessor that “[s]hould the County determine that the subject property is “escaped property” as defined in Utah Code Ann. §59-2-102(11)(a), it may be assessed up to five years prior to the discovery of the property.” In the instant appeal before the Commission, the only year at issue, is 2013. Redacted commission orders can be read at <http://www.tax.utah.gov/commission-office/decisions>

³The Owner’s appraisal gives the address of the Subject as ADDRESS-2, HWY #####.

but at the back of the two small alcoves, the ceilings slope and are lower. The Assessor said the (X) was ##### sf, which was the measurement the Assessor obtained from contractor, and the Petitioner did not dispute. The (X) and Guest House are the closest structures to the river.

D. A one-car detached garage (sometimes also called a shed), that is ##### sf.

The parties did not agree to the dates of construction for the Guest House, the (X) or the one-car garage, nor did they agree what site improvements and features were on the Subject; however, the documents submitted indicate there is a courtyard, a partially covered patio, an open patio, a pergola with a swing, and a deck with a 360% view, and walkways and steps.

Representatives for the Property Owner

REPRESENTATIVE-1 FOR PETITIONER and REPRESENTATIVE-2 FOR PETITIONER representing the Property Owner (herein referred to collectively as “the Representative”) stated, the Owner purchased the Subject on DATE, YEAR-2. At that time the Subject consisted of the Main House and the (X). The Representative said the (X) was built in YEAR-1 when the Main House was built. When it was purchased, the (X) had electricity, but only a dirt floor. After the purchase the Owner installed concrete floors, shelving in the boat storage area, and doors on the alcoves.⁴

In 2011, the Owner began to add additional improvements to the Subject. These additions included the Guest House which connects to the (X), and a one-car detached garage. As of the lien date January 1, 2012 only the outside structure of the Guest House was complete. Sometime in May 2012 construction was complete on the Guest House, and the one-car detached garage. There were no improvements to the Main House in 2011 or 2012. The Representative confirmed applications were not filed for building permits for any of the work completed in 2011 or 2012.⁵

In 2012, after completion of the additional improvements, the Owner⁶ commissioned an appraisal (“the Appraisal”) to determine the assessed value of the Subject after adding the improvements of the Guest House, and the one-car garage, because “they were curious what the value was. The Representative said the Guest House, the (X), and the one-car attached garage were all considered in the

⁴ It was not made clear at what time after the purchase these improvements were made.

⁵ The Representative said in the Fall of 2013 applications for building permits were submitted and the building fees paid. The County Assessor said to date she had not received copies of those building permits; only building permits for the solar panels.

⁶ The appraisal says “Current Owner of Record: BUSINESS. & PETITIONER”, and the intended use was for “NAME.” The Representative said “we did a 1031 exchange and BUSINESS is a related party.” (However, the front of the appraisal says it is for “N/A ADDRESS-2. CITY-2, STATE #####.” The Representative said he did not know why the appraisal said that.) Page three of the appraisal shows the sale (or exchange) occurred on DATE-1, YEAR-2 for \$\$\$\$\$.

appraisal. **The Appraisal had an effective date of June 16, 2012 and opinion of value of \$\$\$\$\$.** The Representative presented the June 16, 2012 Appraisal in support of the requested value of \$\$\$\$\$. The Appraisal says the Subject and all the Sales Comparables (“Sale(s)” or “Comp(s)”) have a very good location, good utility and panoramic views. The appraisal is summarized in Table One.

Table One
Appraisal from Property Owner

Feature	Subject	Sale One	Sale Two	Sale Three
Address	ADDRESS-2 ⁷	ADDRESS	ADDRESS	ADDRESS
Proximity		.01 miles	8.58 miles NE	[no distance provided]
Date of sale		10/1/2010	11/04/2009	07/21/2011
Sales price		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Gross living area Above Grade [diff in sf]	##### sf	4,704 sf [+899 sf] +\$\$\$\$\$	1,221 sf [+4,382sf] +\$\$\$\$\$	7,284 sf [-1,681 sf] -\$\$\$\$\$
Below Grade Area [diff in sf]	None	None	None	2,190 sf / 100% finished -\$\$\$\$\$
Sales price/GLA	\$\$\$\$\$/sf ⁸	\$\$\$\$\$/sf	\$\$\$\$\$/ sf	\$\$\$\$\$/sf
Site/Acreage	#####	6.9 AC/avgas	6.9 AC/avgas	3.24 AC/avgas
Design	STYLE	Ranch/siding/rock	Ranch/stucco	2-story/rock/windows
Age	#####	Age 8/Eff age 5	Age 15/Eff 15 + \$\$\$\$\$	Age 8 /Eff age 5
Condition	Excellent	Excellent	Avgas/Good +\$\$\$\$\$	Excellent
Quality of Construction	Excellent	Excellent	Good	Excellent
Beds / Baths	5 beds 4.5 baths	3 beds/2.5 baths +\$\$\$\$\$	4 beds/2 baths +\$\$\$\$\$	2 beds/2.5 baths +\$\$\$\$\$
Heat/Cool & Energy Efficiency	Radiant floor/ central	Radiant floor/ central	Forced air Evap. Cooler - \$\$\$\$\$	Radiant floor/ central
Garage/Carport	2+ garage	2+garage	4-garage - \$\$\$\$\$	2-garage EQUAL
Porch/Patio/Deck	Porch/Patio/Deck	Large Patio +\$\$\$\$\$	Porch +\$\$\$\$\$	4 por., 2 Pat. EQUAL
[Fireplace]	Fireplace	3 fireplaces - \$\$\$\$\$	Fireplace	Fireplace
[water features or outdoor amenities]	Water system	Hot Tub EQUAL Spa System EQUAL	None +\$\$\$\$\$	Spa System EQUAL
[Guest house]	Guest house	Guest house	5000sf Barn EQUAL	Sauna Hot Tub +\$\$\$\$\$
Shed/(X)/Pool	Shed/(X)	Pool EQUAL	None +\$\$\$\$\$	Pool EQUAL
Net Adjustments		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Sale price of Comparables		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The Appraiser also did a cost approach using Marshall and Swift building cost data effective March 2012, which is shown in Table Two.

⁷ The Subject Address is different from the address on the County records.

⁸ It is not clear why this number is here. It is the same number used for Sale Three.

Table Two

Appraisal Cost Approach

Opinion of site value ##### acres at (\$\$\$\$\$/acre)	\$\$\$\$\$	\$\$\$\$\$
Dwelling ##### sf @ \$\$\$\$\$/ sf	\$\$\$\$\$	
Guesthouse, Patios, (X), etc	\$\$\$\$\$	
Garage/Carport ##### sf @ \$\$\$\$\$/sf	\$\$\$\$\$	
Sub total	\$\$\$\$\$	
Less Depreciation	\$\$\$\$\$	
Subtotal	\$\$\$\$\$	\$\$\$\$\$

Indicated Value by Cost Approach \$\$\$\$\$

The Appraiser had a final opinion of value of \$\$\$\$\$ for the Subject as of June 16, 2012. She wrote regarding her final reconciliation: “The market approach is given more weight since it reflects more accurately what is taking place in the market. The cost approach supports the market.”

The Representative said the Appraisal shows that large properties like the Subject are hard to sell stating “the market value of the appraisal shows you cannot sell for what you put in.” He stated the Guest House was added to make it easier to use the (X), and does not add value. The Representative stated the Owner has provided evidence of market value emphasizing the Owner provided an appraisal completed by a Certified Residential Appraiser (“Appraiser”), while pointing out the County did not complete an appraisal.

The Representative said the Owner appealed the January 1, 2012 lien date assessed value, and gave the June 2012 appraisal to the Assessor. The Representative said the appraisal was used to stipulate to the 2012 lien date value of \$\$\$\$\$, which is the same value that was originally assessed for 2013.⁹ The Representative said the market going into the lien date at issue did not change from the date of the appraisal, and that was why the Owner was disputing the addition of \$\$\$\$\$ to the improvement value by the Assessor.

⁹The Representative also held there was no escaped property because the County knew about the improvements through the appraisal provided to Assessor in 2012. The Commission has already addressed the issue of escaped property in the Preliminary Matters.

Owner Rebuttal:

To the County's information, the Representative said the only addition after the June 2012 appraisal was solar panels, which were added to the Main House in 2013. The Representative had an invoice dated February 2013 for \$\$\$\$\$ for solar panels which he provided at the hearing. The Representative also stated the one-car garage was built for \$\$\$\$\$ not the assessed value of \$\$\$\$\$. He said it is constructed of metal, corrugated steel that is rusted. He also held the swing was not real property and should not be assessed.

The Assessor for the County BOE:

The Assessor, as the representative for the BOE, provided the following history. The Assessor said the Subject sold DATE-2, YEAR-3 for \$\$\$\$\$. It had ##### acres with ##### sf of improvements that included three beds and two baths. She said it was listed sometime in YEAR-3 or YEAR-2 for \$\$\$\$\$. At that time it had five bedrooms and 4.5 baths. The Owner's appraisal states it sold DATE-1, YEAR-2 for \$\$\$\$\$.

In June or July 2012 she was notified by the building department that there had been construction on the Subject. The Assessor contacted the contractor and was provided access to the Subject. She said, upon visiting the property, she found the Guest house, and detached one-car garage behind the Main House, and several improvements including gazebos, decks, and a deck on the Main House.

The Assessor said, as part of a five year reappraisal she visited the Subject again on August 7, 2013.¹⁰ Based on the reappraisal visit to the Subject and no record of recent building permits, she filed an assessor initiated appeal to the 2013 BOE¹¹ to request an adjustment to the 2013 value and an escaped property assessment. She said without building permits, she had no record of when the aforementioned improvements were added and that is why she believed it was escaped property.¹²

In 2013, for the five-year reappraisal, the Assessor did a cost analysis of the Subject improvements based on Marshall and Swift building cost data. In support of her requested value she provided her cost sheets dated August 14, 2013. These are summarized as follows:

¹⁰ This was as it was understood. The Assessor also said the Subject was last updated in 2008, and the last property review was 10/26/2010.

¹¹ The BOE hearing was held August 23, 2014.

¹²The Commission has already addressed the issue of escaped property in the preliminary matters.

Main House (shown on the cost sheet as Building One). A base cost of \$\$\$\$\$/sf was applied to the ##### sf of the Main House for a base cost value of \$\$\$\$\$. To that, value was added for solar panels, site improvements of a courtyard, pathways, and stairways, a partially covered patio, a pergola with a swing, and finishing adjustments for roofing, flooring and plumbing, and the value of the attached garage. This provided a subtotal of building and improvements for the Main House of \$\$\$\$\$ to which was applied a ##### multiplier for neighborhood, that gave a **final cost value of \$\$\$\$\$ for the Main House.**

Guest House and (X) combined (shown on the cost sheet as Building Two). A base cost of \$\$\$\$\$/sf was applied to ##### sf (##### sf for the Guest House and ##### sf for the (X)) for a base cost value of \$\$\$\$\$. To that was added value for site improvements including walls and pathways, an open patio, a river observation deck, and a pump house, finishing adjustments for roofing, flooring and plumbing, and solar panels and the detached garage. This provided a sub-total of the building and improvements for the Guest House and (X) of \$\$\$\$\$ to which she applied a ##### neighborhood multiplier, **for a final cost value of \$\$\$\$\$ for the Guest House and (X).**

Site Value: She said the first acre is valued at \$\$\$\$\$ and the additional land of ##### acres at \$\$\$\$\$/acre based on the land guideline used by the Assessor's Office, which is developed from actual sales. The Assessor provided two sales in the area of the Subject to support her land guideline: a sale in 2004 of ##### acres for \$\$\$\$\$ per acre and another sale in 2010 for ##### acres at \$\$\$\$\$ per acre.

The combined cost value of the Main House, Guest House and (X) is \$\$\$\$\$. When added to the land value of the one acre secondary land site at \$\$\$\$\$, and the additional ##### acres of additional land at \$\$\$\$\$, this **gave a final value of \$\$\$\$\$. This is the value she provided to the BOE, and that was adopted by the BOE.**

Assessor Rebuttal:

The Assessor agreed she had seen the appraisal prior to the Initial Hearing. The assessed value for January 1, 2012 had been appealed to the BOE by the Owner. For the BOE hearing the Owner had provided the June 16, 2012 appraisal; however, at the BOE hearing, the Hearing Officer had questioned why there was a downward land adjustment of \$\$\$\$\$ to Sale Two instead of a positive upward adjustment. The Assessor stated, after considering the information, the Parties agreed to settled at \$\$\$\$\$ based on an upward adjustment to the land value of Sale Two in the market approach. The Assessor said her stipulation of \$\$\$\$\$ for the 2012 lien date was based on the upward land adjustment; she had not considered the adjustments on the improvements.

In further support of her requested revised value the Assessor said she reviewed again the June 16, 2012 appraisal provided by the Owner and had concerns with the adjustments made for the Guest House, one-car detached garage and the (X) House. She said the Appraiser applied only \$\$\$\$ downward or upward adjustments to the sales comparables for the one-car garage, the (X) and the Guest House. The Assessor stated she spoke directly with the Appraiser to verify the Appraiser had intended these \$\$\$\$ adjustments. The Assessor held the adjustments did not adequately address the value of those improvements.

Based on the information from the Representative, she agreed to remove from the BOE value, \$\$\$\$ from the Guest House and \$\$\$\$ from Main House for assessed solar panels, and clarified she was only valuing the gazebo, not the swing. **The Assessor requested the Commission support a revised value of \$\$\$\$.** **The Assessor said this revised requested value addresses the issues of the value of the improvements.**

ANALYSIS

In seeking a value other than that established by the board of equalization, a party has the burden of proof to demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide a sound evidentiary basis to support a new value.

The Owner has provided enough information to call into question the BOE value of the Subject; however, the Assessor has requested a value different from the BOE value, which means the BOE value no longer has the presumption of correctness and both parties must now, by a preponderance of the evidence, provide a sound evidentiary basis for an alternative value to the BOE value.

Property tax is based on the market value of the property as of January 1 of the tax year at issue, under Utah Code Ann. §59-2-103. Utah Code Ann. §59-2-102 defines “market value” as the amount for which property would exchange hands between a willing buyer and seller.

Review of Owner’s Information:

Market Approach:

The Assessor has called into question the \$\$\$\$ adjustments for the Guest House and (X) and whether there is a market between a willing buyer and willing seller for these improvements, whether a ##### sf separate guest house is equivalent to a ##### sf barn, and whether the (X) as a boat house was equivalent to a pool, and further whether the Sales show that the Guest House and (X) only have a market value of \$\$\$\$ each. The Commission holds the market data does not show that the Separate

Guest House, which by the Representative's statement "serves to make it easier to use the (X)" and the unique nature of the (X) as a boat house, would only have a value of \$\$\$\$ each in the market.

In the market approach the Appraiser did Above Grade Level sf adjustments of \$\$\$\$/sf for Sale One, \$\$\$\$/sf for Sale Two and \$\$\$\$/sf for Sale Three. Even using the lowest square foot adjustment of \$\$\$\$/sf multiplied by the ##### sf of the Guest House and (X) (combined) provides a suggested value of \$\$\$\$ for these improvements. This further questions and buttresses the Assessor's rebuttal that a \$\$\$\$ adjustment for the (X) and Guest House each does not seem reasonable.

The appraisal does not offer a paired sales analysis. A paired sale analysis would compare sales of similar properties with the only difference being a unique feature, such as a (X) and Guest House, where the difference in values could be attributed to the unique feature. Without a paired sales analysis, there is no evidence to support the \$\$\$\$ adjustments for the Guest House and (X).

The Assessor has also effectively pointed out that the land adjustment to Comparable Sale Two should be an upward adjustment, not a downward adjustment. The Representative for the Property Owner did not dispute this adjustment.

The Assessor's statements on the adjustment to the land for Sale Two, and the adjustments for the Guest House, the (X), and the one-car garage call into question the Appraiser's adjusted sales of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$.

Cost approach:

The Representatives stated the Guest House, and one-car garage were primarily built in YEAR-4. These would then be relatively new additions that would not necessarily have any depreciation as of the January 1, 2013 lien date; however the Appraiser's cost approach applied depreciation to all the improvements. The Appraiser appears to have applied a depreciation of 6.67%; the Assessor did not dispute the depreciation used by the Appraiser. **The Appraiser's Cost Approach Value was \$\$\$\$\$; however, based on the information provide, the Commission questions the amount of depreciation deducted.** Finally, the Representative proffered the one-car garage was built for \$\$\$\$\$, but did not provide any receipts or building permits to show their costs to build the Guest House, one-car garage and site improvements so the actual costs could be considered, and corroborated with the market value.¹³

Review of Assessor's Information:

Cost Approach:

¹³See Commission Order 09-3465

The information provided by the Owner and the Assessor would support that the Main House and attached garage were built in YEAR-1; however, the Assessor’s cost approach does not apply any depreciation. **The information provided calls into question the lack of deduction for depreciation to the Assessor’s revised requested value of \$\$\$\$\$.**

Market Approach:

The Representative has refuted that the Assessor’s cost approach is the only approach to value. The Assessor did not do an appraisal to look at the market approach to corroborate with Assessor’s cost approach.

CONCLUSION

The Commission has the following values as submitted by the parties:

Cost Approach	\$\$\$\$\$	\$\$\$\$\$	
Market approach	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The Commission has concerns with adjustments made and not made in the market and cost approaches. The Commission declines to make or determine what the adjustments should be. The Commission is left to determine a value between a willing buyer and willing seller. There has been information to suggest that the BOE value is incorrect. There has been nothing convincing in the information provided to suggest the original assessed value of \$\$\$\$\$ was incorrect. The parties stipulated to \$\$\$\$\$ for 2012. The Representative said nothing had changed in the market between 2012 and 2013, and the Assessor did not dispute this. The value should be set at \$\$\$\$\$ for the January 1, 2013 lien date. If the parties disagree, they can stipulate to the facts to which they agree, and further argue the issue of value at a formal hearing.

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property was \$\$\$\$\$ as of the January 1, 2013 lien date. The RURAL 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

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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 _____, 2014.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner