

14-404
TAX TYPE: PROPERTY TAX-LOCALLY ASSESSED
TAX YEAR: 2013
DATE SIGNED: 12-19-2014
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO
EXCUSED: D. DIXON

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER-1 AND TAXPAYER-2,</p> <p style="text-align: center;">Petitioners,</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. 14-404</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2013</p> <p>Judge: Chapman</p>
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Presiding:
Kerry R. Chapman, Administrative Law Judge

Appearances:
For Petitioner: TAXPAYER-1, Taxpayer
For Respondent: RESPONDENT, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

TAXPAYER-1 and TAXPAYER-2 ("Petitioners" or "taxpayers") bring 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 September 24, 2014.

At issue is the fair market value of the subject property as of January 1, 2013. The subject is a vacant residential lot located at SUBJECT ADDRESS in CITY, Utah. The County BOE reduced the \$\$\$\$ value at which the subject was originally assessed for the 2013 tax year to \$\$\$\$\$. The taxpayers ask 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

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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 §59-2-301.4 provides for a county assessor to consider a valuation reduction when assessing a property, as follows:

- (1) As used in this section, "valuation reduction" means a reduction in the value of property on appeal if that reduction was made:
 - (a) within the three years before the January 1 of the year in which the property is being assessed; and
 - (b) by a:
 - (i) county board of equalization in a final decision;
 - (ii) the commission in a final unappealable administrative order; or
 - (iii) a court of competent jurisdiction in a final unappealable judgment or order.
- (2) In assessing the fair market value of property subject to a valuation reduction, a county assessor shall consider in the assessor's determination of fair market value:
 - (a) any additional information about the property that was previously unknown or unaccounted for by the assessor that is made known on appeal; and
 - (b) whether the reasons for the valuation reduction continue to influence the fair market value of the property.
- (3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

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 a vacant residential lot that is ##### acres in size. It has valley views. Approximately ##### acres of the lot can be built on (the remaining ##### acres is too steep). However, even the ##### acres that can be built on will need additional work and fill dirt. In addition, because of the lot's steepness, a home built on the lot will have to have two basement levels. The taxpayers also explained that fill dirt already on the property would need to be removed for those areas where the home's foundations will need to be laid. The County did not disagree with the taxpayers' statement about having to remove the fill dirt already on the property to lay the foundations.

The taxpayers purchased the subject property in August 2012 (about four months prior to the 2013 lien date) for \$\$\$\$\$. It was a distressed sale of a property foreclosed by CREDIT UNION ("CREDIT UNION"). The Multiple Listing Service ("MLS") information for the sale indicates that CREDIT UNION had listed the property for sale for \$\$\$\$\$ in June 2012 before selling it to the taxpayers about two and one-half months later for \$\$\$\$\$.

The taxpayers do not ask the Commission to reduce the subject's value to the amount they paid for the property. Instead, they ask the Commission to establish a value based on the \$\$\$\$\$ value to which the Tax Commission reduced the subject's 2012 value.¹ The taxpayers indicate that the Division increased the assessed

¹ In *USTC Appeal No. 13-13* (Findings of Fact, Conclusions of Law, and Final Decision Jul. 14, 2014), the Commission reduced the subject's 2012 value from \$96,600, as established by the County BOE, to \$88,500. Section 59-2-301.4(2)(b) provides that when assessing a property subject to a valuation reduction, the county assessor shall consider whether the reasons for the valuation reduction continue to influence the fair market value of the property.

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values of other vacant lots in the subject's area by 4% between 2012 and 2013, which the County did not refute. If the \$\$\$\$ value established by the Tax Commission for 2012 were increased by 4% to reflect its 2013 value, the 2013 value would be \$\$\$\$. On this basis, the taxpayers ask the Commission to reduce the subject's current 2013 value of \$\$\$\$ to \$\$\$\$.

The County proffered four comparable sales to support the subject's current value of \$\$\$\$ for 2013. The County indicated that it looked for comparables that had building problems to compare to the subject property and adjusted the comparables' sales prices for differences in view, as well as differences between the comparables' building problems and the subject's building problems. The County's four comparables are located between 2 and 17 blocks away from the subject property. They sold in early 2013 for prices ranging between \$\$\$\$ and \$\$\$\$\$, and the County adjusted them to adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$. The County contends that these adjusted sales prices support the subject's current value of \$\$\$\$\$. As a result, the County asks the Commission to sustain the subject's current 2013 value of \$\$\$\$\$.

The County stated it made its adjustments for differences in building problems based on the \$\$\$\$ of costs estimated for the subject property, which the Commission relied on in *Appeal No. 13-13* when establishing the subject's 2012 value. Because none of its four comparables had building problems as extreme as the subject's, the County made negative adjustments to the four comparables that ranged between \$\$\$\$ and \$\$\$\$ (i.e., that the comparables would incur costs of \$\$\$\$ to \$\$\$\$ for their building problems, in comparison to the subject's \$\$\$\$ of costs).

In addition, the County determined that three of its four comparables required no view adjustment because they also had valley views. However, the County adjusted its fourth comparable (NAME OF AREA-1 comparable) upward because it had "no view." This adjustment, however, may be unwarranted because the MLS info for the NAME OF AREA-1 comparable indicates that it has "fantastic views." If this \$\$\$\$

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adjustment were eliminated, the adjusted sales price of this comparable would decrease from \$\$\$\$\$, as determined by the County, to \$\$\$\$\$.

The taxpayers' proposed 2013 value of \$\$\$\$\$ is more convincing than the County's proposed value of \$\$\$\$\$. The County's two comparables that are closer in location to the subject property are the NAME OF AREA-2 comparable, which the County adjusted to \$\$\$\$\$, and the NAME OF AREA-1 comparable, which has an adjusted sales price of \$\$\$\$\$ (if the view adjustment is eliminated as previously discussed). The comparable that adjusted to \$\$\$\$\$ is the one closest in location to the subject. As a result, it seems likely that the subject's 2013 value is in between \$\$\$\$\$ and \$\$\$\$\$. The taxpayers' proposed value of \$\$\$\$\$ is in this range, whereas the subject's current value of \$\$\$\$\$ is not. In addition, in *Appeal No. 13-13*, the Commission chose to establish a 2012 value at the low end of the County's adjusted sales prices because of the questions still remaining about the need for retaining walls and fill dirt. The taxpayers' proposed value of \$\$\$\$\$ is near the low end of the adjusted sales prices that the County derived for this 2013 appeal.

The taxpayers have the burden of showing that the subject's current 2013 value of \$\$\$\$\$ is incorrect and to provide a sound evidentiary basis for its proposed value. The evidence is sufficient to show that subject's current 2013 value is too high and to support the taxpayers' proposed value of \$\$\$\$\$. For these reasons, the subject's current 2013 value of \$\$\$\$\$ should be reduced to \$\$\$\$\$.

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's value should be reduced to for \$\$\$\$ the 2013 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. 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 _____, 2014.

John L. Valentine
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner