

14-463
TAX TYPE: LOCALLY ASSESSED PROPERTY
TAX YEAR: 2013
DATE SIGNED: 2-26-2015
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO
EXCUSED: D. DIXON

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 14-463 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2013 Judge: Chapman
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Presiding:
 Kerry R. Chapman, Administrative Law Judge

Appearances:
 For Petitioner: REPRESENTATIVE-1 FOR TAXPAYER, Representative
 REPRESENTATIVE-2 FOR TAXPAYER, 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 October 15, 2014.

At issue is the fair market value of the subject property as of January 1, 2013. The subject is a recreational cabin located at SUBJECT ADDRESS in TOWN, Utah. The County BOE sustained the \$\$\$\$ value at which the subject was assessed for the 2013 tax year. 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 §59-2-301.4 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 consists of a #####-acre lot and a cabin that was built in YEAR. The subject property is located in the (X) area that is “right above” TOWN and near the TOWN Ski Resort. The subject 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 has good valley views.

The subject’s main floor is 1,253 square feet in size.¹ A large deck is located off the main floor. The subject also has a finished basement that is 946 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 the basement in the summer.

To estimate the subject’s value at \$\$\$\$\$, the taxpayer has taken the subject’s sales price of \$\$\$\$\$ from May 11, 2007 and reduced it by 26.2%. The taxpayer proffers that this reduction to the subject’s 2007 sales price is appropriate because the average sales prices of single-family residences in CITY decreased 26.2% between May 2007 and January 1, 2013.² Given this methodology, the taxpayer asks the Commission to reduce the subject’s current 2013 value of \$\$\$\$\$ to \$\$\$\$\$.

1 RESPONDENT, an appraiser in the County Assessor’s Office, proffered that both he and another appraiser in the County Assessor’s Office have recently measured the subject property and that both of them obtained the same measurement of 1,253 square feet for the subject’s main floor.

2 The taxpayer obtained this price trend from a chart entitled “CITY MLS Trend Statistics” provided by

The Commission considered this same methodology when the taxpayer appealed the subject's 2011 value in *USTC Appeal No. 12-1384* (Initial Hearing Order Jun. 10, 2013). In that case, the Commission found that the taxpayer's methodology of using price trends in CITY to estimate the value of a property in TOWN was not convincing. In that case, as in the instant case, the County argued that the market in TOWN is a very different market than the one in CITY and that prices in TOWN remained relatively stable during the economic downturn of 2008-2009 as opposed to prices in CITY, which fell significantly. The County explained that this is primarily due to the limited number of properties available in TOWN and because there are few, if any, new lots to be developed in TOWN. To support its argument, the County proffered a "paired sale" of a cabin in the AREA of TOWN that sold in 2005 for \$\$\$\$\$ and again in 2013 for \$\$\$\$\$. The County pointed out that this paired sale shows a 31% increase in value during the "approximate" period for which the taxpayer's chart shows CITY values to have decreased by 26%.

The County's single paired sale from 2005 and 2013 is insufficient to show that values in TOWN increased between May 2007 (when the subject property sold for \$\$\$\$\$) and the 2013 lien date. First, more data would be needed to verify the trend shown by a single paired sale. Second, the County admits that the property used for the paired sale was remodeled between the times it sold in 2005 and 2013. As a result, it is unknown how much of the 31% increase in value was due to the remodeling of the property as opposed to price trends. Nevertheless, the taxpayer has not proffered any convincing information to show that prices for properties in TOWN, as opposed to the CITY, decreased in value between the mid-2000's and 2013. As a result, the taxpayer's CITY price trends do not show that the subject's current value of \$\$\$\$\$ is incorrect.

the CITY Board of Realtors. The chart shows that the average price of a single-family home in CITY sold at \$\$\$\$\$ in May 2007 and at \$\$\$\$\$ in January 2013, which reflects a 26.2% decrease between May 2007 and January 2013.

As an alternative, the taxpayer asks the Commission to consider that the County BOE reduced the subject's 2012 value from \$\$\$\$ (the value at which the County had initially assessed it for 2012) to \$\$\$\$.

The taxpayer stated that the same CITY chart discussed earlier shows that the average sales prices of single-family residences in CITY increased 8.2% between January 2012 and January 2013. As a result, the taxpayers contends that applying this 8.2% increase to the subject's 2012 value of \$\$\$\$ (as reduced by the County BOE) would result in a 2013 value of \$\$\$\$ for the subject property. Again, the use of the CITY price trend to estimate the change in value of the subject property between the 2012 and 2013 lien dates is questionable because the taxpayer has not established that prices in TOWN change at the same rate as prices in CITY. Accordingly, the taxpayer's alternative 2013 value of \$\$\$\$ for the subject property is also not convincing.

Nevertheless, the Commission should address the fact that the County BOE reduced the subject's 2012 value to \$\$\$\$. Effective January 1, 2013, Section 59-2-301.4(2)(b) provides that when assessing a property subject to a valuation reduction made within three years of the year at issue, the county assessor shall consider whether the reasons for the valuation reduction continue to influence the fair market value of the property. The 2012 value reduction to \$\$\$\$ was made within the three-year look-back period set forth in Section 59-2-301.4.

However, the county assessor would also have to consider that there was another reduction made to the subject's value within the three-year look-back period, specifically for 2011, when the County BOE reduced the subject's 2011 value from \$\$\$\$ to \$\$\$\$. The Commission sustained the 2012 reduced value of \$\$\$\$ in *USTC Appeal No. 12-1384* (Initial Hearing Order Jun. 10, 2013).

The Commission has no information to show why the County BOE decreased the subject's 2012 value to \$\$\$\$.³ The Commission does, however, have a record of the 2011 County BOE decision that was

³ Neither party appealed the County BOE's 2012 decision to the Tax Commission. Accordingly, the 2012 County decision has not been forwarded to the Commission, and neither party has proffered it as

forwarded to the Commission for *Appeal No. 12-1384*. The 2011 County BOE decision indicates that the County BOE placed very little weight on the taxpayer's proposed value of \$\$\$\$\$ for 2011 because this value was primarily based on sales of properties that were not located in TOWN and because the County provided sales in TOWN to support a reduction in the subject's 2011 value to \$\$\$\$\$. In addition, in the Commission's Initial Hearing Order for the 2011 tax year, the Commission noted that the most convincing comparables were in the County's appraisal and that these comparables, once adjusted, showed values of \$\$\$\$\$ and \$\$\$\$\$ for the subject property.⁴ If the subject's value has increased or remained stable between 2011 and 2013, these comparables better support the subject's current 2013 value of \$\$\$\$\$ better than they support the taxpayer's proposed value of approximately \$\$\$\$\$.

Furthermore, the County points out that more sales are now available in the TOWN area than were available when the value reductions were made for the 2011 and 2012 tax years. The County proffered that in February 2013, a property in the same (X) area of TOWN as the subject property sold for \$\$\$\$\$. The County pointed out that this comparable's cabin was older than, but similar in size to, the subject's cabin. The County also proffered that the comparable had not been updated at the time of sale. In addition, the County proffered the October 2013 sale of a cabin in the AREA of TOWN for \$\$\$\$\$.⁵ The County proffered that this cabin, though remodeled and larger than the subject, was in an area several miles from TOWN where properties have historically sold for lower values than ones in the subject's (X) area of TOWN. For these reasons, the County

evidence. Nor has the information that the parties submitted to the 2012 County BOE been submitted for review.

4 These adjusted sales prices were included in an appraisal that the County had prepared and proffered at the Initial Hearing for the 2011 appeal. In this appraisal, the County has estimated the subject's 2011 value at \$\$\$\$\$. The County did not ask the Commission to increase the 2011 value of \$\$\$\$\$ that the County BOE had established as the subject's value for that year.

5 The \$\$\$\$\$ sales price included personal property such as furnishings and a snow cat. Neither party indicated how the sales price would need to be adjusted down to reflect the value of the real property only. This sale was the second sale of the property used for the County's paired sales analysis, which was discussed earlier.

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contends that the subject's current value of \$\$\$\$\$ may be low. However, on the basis of this information, the County asks the Commission to sustain the subject's current value of \$\$\$\$\$.

The taxpayer, on the other hand, has provided two sales of homes in the lower portion of TOWN between the TOWN Ski Resort and SKI RESORT-1. One of these homes sold in July 2009 for \$\$\$\$\$ and the other sold in November 2010 for \$\$\$\$\$. These comparables are not as convincing as the County's comparables. The taxpayer's comparables sold more than two years prior to the 2013 lien date, whereas the County's most recent comparables sold within ten months of the 2013 lien date. Furthermore, the taxpayer's comparable that sold in 2010 for \$\$\$\$\$ was a bank-owned foreclosure sale and is the only evidence of a sale in the TOWN area for less than \$\$\$\$\$. For these reasons, the taxpayer has not met its burden to show that the subject's current 2013 value is too high. Accordingly, the Commission should sustain the subject's current value of \$\$\$\$\$ for the 2013 tax year.

Kerry R. Chapman
Administrative Law Judge

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DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's current value of \$\$\$\$ should be sustained for the 2013 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, or emailed, 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

or emailed to:

taxappeals@utah.gov

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

DATED this _____ day of _____, 2015.

John L. Valentine
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner