

16-755

TAX TYPE: PROPERTY TAX

TAX YEAR: 2015

DATE SIGNED: 4/27/2017

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO, R. ROCKWELL

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER-1 & PETITIONER-2,</p> <p>Petitioners,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1, OF UTAH,</p> <p>Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 16-755</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2015</p> <p>Judge: Phan</p>
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Presiding:

Robert Pero, Commissioner
Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER-1
PETITIONER-2
For Respondent: RESPONDENT, Appraiser, COUNTY-1

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 2, 2017, in accordance with Utah Code §59-2-1006 and §63G-4-201 et seq. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioners (“Property Owners”) have filed an appeal of the decision of the COUNTY-1 Board of Equalization regarding the assessed value of the subject property as set for property tax purposes. The appeal proceeded to this Formal Hearing before the Utah State Tax Commission.
2. The lien date at issue in this appeal is January 1, 2015.
3. The County Assessor had originally valued the subject property at \$\$\$\$ as of the lien date and the County Board of Equalization (“County”) upheld that value. At the hearing, the Property Owner requested a reduction but did not provide a specific value. The representative for the County

provided market value evidence and recommended that the value be reduced to \$\$\$\$ for the lien date at issue.

4. The subject property, parcel no. #####, is located at SUBJECT ADDRESS, CITY-1, Utah. The property is #####-acres of land, which is improved with a building that had originally been constructed as a church house in the 1920s. The property was no longer used as a church by 1973, at which time it was sold to the Property Owners. After purchasing the property in 1973, the Property Owners converted the building to a residence for themselves and four children as well as a BUSINESS. Although as of the lien date the building was still on the property and being used by the Property Owners as their residence, the County had reduced the value of the building to a \$\$\$\$ “Sound Value” as it was the County’s position that the value of this property was in the land.

5. The property is currently zoned RM (Residential Multi-Family) by CITY-1, and has been in that zoning since at least 1987, according to a letter from NAME-1, CITY-1 City Planner.¹ Allowed uses in that zoning include various types of residential, as well as public civic and community uses, public utilities, or a daycare.²

6. PETITIONER-1, the Property Owner, testified at the hearing that when they purchased the property in 1973, the City of CITY-1 had agreed to zone the property RM, but he testified at that time the RM zoning was Rural Mix that allowed a mix of agricultural and residential uses as well as a BUSINESS.

7. The Property Owner did not provide comparable sales, an appraisal, or other evidence of fair market value for the subject property. Instead he argued that the subject property should be valued based on something other than the fair market value standard. He argued for a value based on the purchase price with some “reasonable adjustment,” instead of “speculative” market value. He did not specify what the adjustment would be based on. He testified as to the increase in property taxes on this property over the years since he had first acquired the property in 1973 and how the taxes were a financial burden. The Property Owners indicated that they were both currently over seventy years old. They argued that the property taxes for the subject property were five to seven times more than the property taxes for the average single-family residences in the community.

8. RESPONDENT, the appraiser for the County, testified that he had concluded that the value in the subject property was in the land and the building contributed almost no value. It was his position if the property was to be sold, the purchaser would acquire it for the land. He did point out that although the property was #####-acres in size, of that he considered ##### of the acres to be classified as Primary Acres Land and the remaining #####-acres to be Secondary Acres Land, which was of less value

¹ Petitioners’ Exhibit 2.

² Petitioners’ Exhibit 1.

as it sloped off steeply to the east and had diminished utility. At the hearing, he offered a number of residential land sales, which did support a reduction in value to \$\$\$\$\$.³ His land sales were the following:

Address Subject	Sale Price	Sale Date	Acres/Sq. Ft #####/#####	Price Per Sq. Ft
ADDRESS-1	\$\$\$\$\$	1/2015	#####/#####	\$\$\$\$\$
ADDRESS-2	\$\$\$\$\$	5/2015	#####/#####	\$\$\$\$\$
ADDRESS-3	\$\$\$\$\$	5/2015	#####/#####	\$\$\$\$\$
ADDRESS-4	\$\$\$\$\$	11/2014	#####/#####	\$\$\$\$\$
ADDRESS-5	\$\$\$\$\$	1/2015	#####/#####	\$\$\$\$\$
ADDRESS-6	\$\$\$\$\$	6/2015	#####/#####	\$\$\$\$\$
ADDRESS-7	\$\$\$\$\$	4/2014	#####/#####	\$\$\$\$\$
ADDRESS-8	\$\$\$\$\$	9/2014	#####/#####	\$\$\$\$\$
ADDRESS-9	\$\$\$\$\$	6/2015	#####/#####	\$\$\$\$\$
ADDRESS-10	\$\$\$\$\$	4/2015	#####/#####	\$\$\$\$\$
ADDRESS-11	\$\$\$\$\$	1/2015	#####/#####	\$\$\$\$\$

9. It was RESPONDENT’s conclusion from these sales that the value of the Primary Acres was \$\$\$\$\$ per square foot and the Secondary Acres was \$\$\$\$\$ per square foot. He added only \$\$\$\$\$ for the building and this resulted in the total value of \$\$\$\$\$ that the County was recommending at the hearing. RESPONDENT’s conclusion was well supported by these land sales.

10. The Property Owner offered no evidence to support that the “fair market value” of the subject property was less than as recommended by the County. The County offered evidence of fair market value and the evidence indicated a fair market value of \$\$\$\$\$ for the subject property as of the lien date at issue.

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

³ Respondent’s Exhibit 1

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...
- (3) In reviewing the county board's decision, the commission may:
 - (a) admit additional evidence;
 - (b) issue orders that it considers to be just and proper; and
 - (c) make any correction or change in the assessment or order of the county board of equalization.
- (4) In reviewing evidence submitted to the commission by or on behalf of an owner or a county, the commission shall consider and weigh:
 - (a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county;
 - (b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;
 - (c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and
 - (d) if submitted, other evidence that is relevant to determining the fair market value of the property.
- (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.

CONCLUSION OF LAW

1. Under Utah law taxable property located within the state is assessed and taxed "on the basis of its fair market value, as valued on January 1, unless otherwise provided by law." See Utah Code Sec. 59-2-103. There are some exceptions to this tax assessment "provided by law," but not any statutory provisions that would appear to be applicable in this appeal.⁴ "Fair market value" is defined by statute as

⁴ The Property Owners had argued both financial hardship and indicated that they were over seventy-years old. There are statutory provisions that provide some property tax relief to low-income seniors, but this is not at issue in this hearing and regardless of these provisions, the value is set at fair market value. If a property owner qualifies for property tax relief, there may be some reduction or deferral of the amount of tax collected. These property tax relief provisions are found at Utah Code Sec. 59-2-1201 et al. for circuit breaker property tax relief and 59-2-1107 et al. for indigent tax deferral or abatement. For this tax relief, property owners in COUNTY-1 need to file an application with COUNTY-1 Tax Administration during the year for which they are requesting the relief and provide the

the amount for which property would exchange hands between a willing buyer and seller. See Utah Code Sec. 59-2-102. Only the County has offered evidence of fair market value at the hearing.

2. In a proceeding before the Tax Commission, the burden of proof is generally only on the petitioner to support its position. However, where the respondent is requesting a value different from the value set by the County Board of Equalization the respondent also has the burden of proof to support its new value. For either party's position to prevail in this case, the party must: 1) demonstrate that the subject property's current value contains error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount proposed by the party. See *Nelson v. Bd. Of Equalization of CCOUNTY-1*, 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*, 2000 UT 46, 5 P.3d 652 (Utah 2000).

3. The Property Owners had made the argument that it was not equitable that they had to pay five to seven times more in taxes than the owner of the average single-family residence in their community. The Property Owners did not offer evidence of the size of the average property in the community and the Commission may take administrative notice that the subject property is much larger than the average residential property. Property tax assessments are based on the fair market value of the specific property, not an average value of all residential properties in a given community. Under Utah Code Subsection 59-2-1006(5), equalization is an exception to the fair market value standard. Subsection 59-2-1006(5) provides that the Commission shall adjust property valuations to reflect a value equalized with the assessed value of other properties if the issue of equalization is raised and "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." "Equalization" as used in Utah Code Sec. 59-2-1006, does not mean that you would take all residential properties in a community and assess them all at the same value. In arguing an adjustment based on equalization, property owners need to show that properties that are actually comparable to the subject are valued lower by the County. The Property Owners did not provide any equalization comparables. Equalization has been argued at the Tax Commission and to the Utah Supreme Court. The court has put a high burden on property owners generally to show that an adjustment is warranted under equalization. See *Mountain Ranch Estates v. Utah State Tax Commission*, 100 P.3d 1206 (Utah 2004) & *Decker Lake Ventures v. Utah State Tax Comm'n*, 2015 UT 66.

Considering the evidence and the applicable law in this matter, the value should be reduced to the \$\$\$\$ recommended by the County at the hearing for the lien date at issue.

financial documentation by the deadline for each tax year. If the Property Owners want to request this type of relief for tax year 2017 or subsequent years they must file the application with COUNTY-1 Tax Administration.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property as of January 1, 2015, is \$\$\$\$\$. The County Auditor is to adjust the records accordingly. It is so ordered.

DATED this _____ day of _____, 2017.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.