

17- 395

TAX TYPE: LOCALLY ASSESSED PROPERTY

TAX YEAR: 2016

DATE SIGNED: 2016

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

GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>TAXPAYER-1 &amp; TAXPAYER-2,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 17-395</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax / Locally Assessed</p> <p>Tax Year: 2016</p> <p>Judge: Chapman</p>
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**Presiding:**

Rebecca L. Rockwell, Commissioner

Kerry R. Chapman, Administrative Law Judge

**Appearances:**

For Petitioner: TAXPAYER-1, Taxpayer

REPRESENTATIVE FOR TAXPAYERS', Appraiser

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

RESPONDENT-2, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on September 25, 2017.

Based upon the evidence and testimony, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The tax at issue is property tax.
2. The tax year at issue is 2016, with a lien date of January 1, 2016.
3. At issue is the fair market value of Parcel No. #####. The subject property is a single-family residence located at SUBJECT ADDRESS (approximately ##### West) in CITY-1, Utah. It is located in the SUBDIVISION-3 and is owned by TAXPAYER-1 & TAXPAYER-2 ("Petitioners" or "taxpayers").

4. The Salt Lake County Board of Equalization (“County BOE”) sustained the \$\$\$\$ value at which the subject property was assessed for the 2016 tax year. The taxpayers appealed the County BOE’s decision to the Tax Commission.

5. The Commission held a Mediation Conference in this matter on June 7, 2017. Because the matter did not resolve through mediation, it proceeded to a Formal Hearing.

6. The taxpayers ask the Commission to reduce the subject’s 2016 value to \$\$\$\$\$, while the County asks the Commission to sustain the subject’s current 2016 value of \$\$\$\$\$.

7. The subject property consists of a #####-acre lot and a two-story home that was built in 1986. The home has ##### square feet of above-grade space on its main and second floors.<sup>1</sup> The home also has a finished basement that is ##### square feet in size.<sup>2</sup> The home has five bedrooms, four and one-half baths,

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1 REPRESENTATIVE FOR TAXPAYERS’, the taxpayers’ fee appraiser, testified that he measured the subject’s home and determined that it had ##### square feet of space on its main and second floors. The County submitted documents on which it showed that the home had either ##### or ##### square feet of above-grade space. Respondent’s Exhibit 2. RESPONDENT-1, a County appraiser, testified that she measured the home in early 2017 and determined that it had ##### square feet of above-grade space. RESPONDENT-2, another County appraiser, testified that the County has an antiquated system that is less accurate than fee appraisal systems and that the County has no disagreement with the square footages derived by REPRESENTATIVE FOR TAXPAYERS’. For these reasons, the Commission finds that the subject property has ##### square feet of above-grade space on its main and second floors.

2 REPRESENTATIVE FOR TAXPAYERS’ testified that he measured the subject’s basement and determined that it had ##### square feet of space and that it was fully finished. County records, however, show the basement to be ##### square feet in size, with only ##### square feet of it finished (i.e., ##### square feet unfinished). The difference between REPRESENTATIVE FOR TAXPAYERS’’s determination of ##### square feet and the County’s records showing a total of ##### square feet is ##### square feet. The County contends that REPRESENTATIVE FOR TAXPAYERS’ must have omitted the basement’s cold storage space when determining the basement’s size and that the basement has approximately ##### square feet of cold storage space. It is clear that REPRESENTATIVE FOR TAXPAYERS’ did not omit approximately ##### square feet of basement space because his and the County’s total basement square footages are only ##### square feet apart. Furthermore, it is curious that the County would show that the basement only has ##### square feet of unfinished space if the cold storage space was approximately ##### square feet in size. Regardless, where REPRESENTATIVE FOR TAXPAYERS’ determined approximately ##### square feet less of total basement space than the County, but approximately ##### square feet more of finished space than the County, the value differential between the two parties’ basement measurements would be negligible. For these reasons, the Commission finds that the subject’s basement is ##### square feet in size

five fireplaces, and a three-car, attached garage. Also located on the subject property is a cinder-block “outbuilding” that is #####-square feet in size (##### feet by ##### feet) and which has a two-car garage door. The outbuilding has electricity, but no plumbing.

8. The subject’s basement has not been remodeled since it was finished around 1993. The subject’s main floor kitchen and master bath were remodeled approximately three years prior to the 2016 lien date. Otherwise, the home has not been remodeled (with the exception of a new roof approximately 10 years ago). The home has oak flooring in the entry hall and kitchen and carpeting in the remainder of the home. The home has been well-maintained. The subject property’s lot is flat, relatively rectangular in shape, and primarily landscaped. The subject property is located near an equestrian center.

9. In the County BOE decision concerning the subject’s 2016 value, the hearing officer indicated that “[t]he assessor conducted an interior and exterior inspection, making multiple changes to the subject’s county record including changing the condition to good, correcting the gla to #####, increasing the effective year built, decreasing the basement finish to fair and other minor changes.” At the Formal Hearing, RESPONDENT-2 testified that the hearing officer correctly identified the changes that needed to be made to correct the County record for the subject property. Accordingly, a number of the factors concerning the subject property (including factors such as “condition” and “grade”) were initially incorrect in County records.

10. The taxpayers submitted an appraisal that was prepared by REPRESENTATIVE FOR TAXPAYERS’, in which REPRESENTATIVE FOR TAXPAYERS’ estimated the subject’s value, as of September 1, 2016, to be \$\$\$\$.<sup>3</sup> On the basis of this appraisal, the taxpayers ask the Commission to reduce the subject’s 2016 value to \$\$\$\$.

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and that it is fully finished.

3 Petitioners’ Exhibit 1.

subject property to three comparables that sold between February 2016 and July 2016 for prices of \$\$\$\$\$ (“Taxpayers Comparable #1”), \$\$\$\$\$ (“Taxpayers Comparable #2”), and \$\$\$\$\$ (“Taxpayers Comparable #3”). All three comparables, like the subject property, are two-story homes that have outbuildings and relatively large lots. The comparables are located approximately 15 blocks, 39 blocks, and 9 blocks away from the subject property. After adjusting the comparables, REPRESENTATIVE FOR TAXPAYERS’ derived adjusted sales prices of \$\$\$\$\$ (Taxpayers Comparable #1), \$\$\$\$\$ (Taxpayers Comparable #2), and \$\$\$\$\$ (Taxpayers Comparable #3). With these adjusted sales prices, REPRESENTATIVE FOR TAXPAYERS’ estimated the subject’s value, as of September 1, 2016 (eight months after the January 1, 2016 lien date), to be \$\$\$\$\$.

11. REPRESENTATIVE FOR TAXPAYERS’ testified that his September 1, 2016 appraisal is a reasonable estimate of the subject’s value as of the January 1, 2016 lien date because the market remained “fairly level” in 2016. The County, on the other hand, contends that values increased significantly during 2016. RESPONDENT-1 testified that values increased between 6.0% and 8.0% in 2016 (which would equate to an increase of approximately 4.0% to 5.5% between January 1, 2016 and September 1, 2016). As a result, if REPRESENTATIVE FOR TAXPAYERS’ \$\$\$\$\$ estimate of value (as of September 1, 2016) is correct and if values increased at the rates to which RESPONDENT-1 testified, the subject’s value would have been approximately \$\$\$\$\$ (i.e., 5% less than \$\$\$\$\$) as of the January 1, 2016 lien date.

12. To support the subject’s current value of \$\$\$\$\$, the County submitted two grid sheets on which three comparable sales were compared to the subject property.<sup>4</sup> Although the grid sheets were not signed and appear to have been prepared by the County’s Prognose mass appraisal computer system and not a

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<sup>4</sup> Respondent’s Exhibit 2. The same three comparable sales were compared to the subject property on both of the County’s grid sheets.

person, RESPONDENT-2 testified that the grid sheets are considered appraisals “under Rule 6.”<sup>5</sup> One of the County’s appraisals was dated “11/4/2016” (“County Appraisal One”), while the other one is undated (“County Appraisal Two”). However, based on the time adjustments that appear on the appraisals, it appears that both County appraisals are adjusting the comparables to reflect adjusted sales prices as of the January 1, 2016 lien date. While both appraisals make adjustments to the same three comparable sales, the two appraisals have significant differences, and neither RESPONDENT-1 nor RESPONDENT-2 knew which appraisal was correct or which was the one most recently prepared by the County’s Prognose mass appraisal computer system.

13. For example, adjustments for many of the same factors appear on both appraisals, while adjustments for others factors appear on one of the appraisals, but not the other. In addition, County Appraisal One shows the subject to have #####-square feet of above-grade space, while County Appraisal Two shows it to have #####-square feet of above-grade living space. As mentioned earlier, both appraisals used the same three comparables, which sold between September 2015 and February 2016 for prices of \$\$\$\$\$ (“County Comparable #1”), \$\$\$\$\$ (“County Comparable #2”), and \$\$\$\$\$ (“County Comparable #3”). However, County Comparable #2 is shown to have #####-square feet of above-grade space on County Appraisal One and #####-square feet of above-grade space on County Appraisal Two. Similarly, County Comparable #3 is shown to have #####-square feet of above-grade space on County Appraisal One and #####-square feet of above-grade space on County Appraisal Two.<sup>6</sup>

14. Yet despite the disparate adjustments and information appearing on both of the County’s appraisals, the exact same adjusted sales prices are derived for each of the three comparables on both

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5 It appears that the Rule 6 to which RESPONDENT-2 referred may concern appraiser licensure and practice. The Commission, however, is not aware of a “Rule 6” in the Utah Tax Code that concerns appraisals.

6 Respondent’s Exhibit 2. The county indicated that the information shown on its two appraisals may have come from two separate databases and that it was not sure which database was correct.

appraisals, specifically adjusted sales prices of \$\$\$\$\$ for County Comparable #1, \$\$\$\$\$ for County Comparable #2, and \$\$\$\$\$ for County Comparable #3.<sup>7</sup> Such an occurrence would not seem to be just a coincidence, and the County provided no explanation as to why two such disparate appraisals would derive the exact same adjusted sales prices for all three comparables. Because this has occurred, however, serious suspicions arise concerning appraisals prepared by the County's Prognose mass appraisal computer system for this individual property whose value is under review.

15. Furthermore, the County's comparables and/or the adjusted sales prices that the County's Prognose mass appraisal computer system derived for these comparables are not particularly convincing. County Comparable #1 and County Comparable #2 (which are located approximately 19 blocks away from the subject property) are both ramblers, whereas the subject property is a two-story home. In addition, County Comparable #1 has been "completed updated," while County Comparable #3 is only nine years old and has a number of custom features (such as a koi pond, a fenced pasture, a barn, a pool, and an orchard) that may have contributed to its relatively high sales price of \$\$\$\$\$.<sup>8</sup> As a result, the use of these two comparables in the County appraisals is suspect.

16. Moreover, the Commission is not convinced that the \$\$\$\$\$ sales price of the County's remaining comparable, County Comparable #2, has been properly adjusted by the County's Prognose mass appraisal computer system. County Comparable #2 is located on the same street as the subject property (less than two blocks away from the subject property). County Comparable #2, like the subject property, is a two-story home, and it has about the same amount of above-grade square footage as the subject property. Also like

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<sup>7</sup> Respondent's Exhibit 2. Although both of the County's appraisals derive adjusted sales prices for its three comparables, neither appraisal provides a specific estimate of the subject's value. However, because all three of the adjusted sales prices derived on the County's appraisals are higher than the subject's current value of \$\$\$\$\$, the County asks the Commission to sustain the subject's current value for the 2016 tax year.

<sup>8</sup> Petitioners' Exhibit 2 (Multiple Listing Service information about the County comparables).

the subject property, County Comparable #2 was built in 1986 and does not appear to have been completely remodeled or updated. However, County Comparable #2 is different from the subject property because it does not have a basement. In both of the County's appraisals, County Comparable #2's sales price of \$\$\$\$\$ is adjusted upward to \$\$\$\$\$, with the majority of this upward adjustment related to the comparable's lack of a basement. The basement area adjustments (for total basement space and finished basement space) account for approximately \$\$\$\$\$ of the upward adjustment in County Appraisal One and approximately \$\$\$\$\$ of the upward adjustment in County Appraisal Two. When these adjustments are divided by the subject's ##### square feet of finished basement space, it shows that the County's Prognose mass appraisal computer system has adjusted the subject's basement space at approximately \$\$\$\$\$ per square foot.<sup>9</sup>

17. At the hearing, the Commission asked the County about the basement adjustments that totaled \$\$\$\$\$ per square foot. In response, RESPONDENT-2 did not indicate that his experience showed that such basement space should be adjusted at \$\$\$\$\$ per square foot, but instead testified that the adjustments shown on the County's two appraisals may represent adjustments for factors or features in addition to those specifically described on the appraisals. If this is correct, the two appraisals prepared by the County's Prognose mass appraisal computer system for the subject property are even more suspect.

18. Furthermore, REPRESENTATIVE FOR TAXPAYERS', the taxpayers' appraiser, adjusted differences in finished basement space (i.e., differences in total basement space and finished space) at \$\$\$\$\$ per square foot, which is less than a quarter of the approximately \$\$\$\$\$ per square foot adjustments shown on the County's two appraisals.<sup>10</sup> REPRESENTATIVE FOR TAXPAYERS' explained that based on his more than 30 years of experience in appraising homes, he has found that a total adjustment of \$\$\$\$\$ per square foot for finished basement space is appropriate for a home as old as the subject property. The County did not

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9 Respondent's Exhibit 2.

10 Petitioners' Exhibit 1.

specifically contest REPRESENTATIVE FOR TAXPAYERS' \$\$\$\$ per square foot adjustment, nor did it show that REPRESENTATIVE FOR TAXPAYERS' did not properly apply this \$\$\$\$ per square foot adjustment in his appraisal.<sup>11</sup> In addition, REPRESENTATIVE FOR TAXPAYERS' used his \$\$\$\$ per square foot adjustment for finished basement space to adjust County Comparable #2's \$\$\$\$ sales price to an adjusted sales price of \$\$\$\$.<sup>12</sup> For these reasons, the County has not shown that its Prognose mass appraisal computer system has properly adjusted County Comparable #2. Accordingly, the Commission does not find the comparables used and/or the adjustments applied in the County's two appraisals to be convincing.

19. Furthermore, the County has admitted that the County records for the subject property contained many errors that needed to be corrected. If the County records are incorrect in regards to the subject property, the County records concerning the three comparables that the Prognose mass appraisal computer system used in the County's two appraisals may also be incorrect. In addition, neither the taxpayers nor the Commission has had the opportunity to question the person(s) who entered the information about the comparables into the County records to know how that person made certain subjective determinations about the comparables (such as "condition" and "grade") and whether this and other information in the records are correct.

20. The Commission also asked the County about the statement in the County BOE's decision that "[a]n appraisal prepared for purposes other than a sale is generally less probative of [fair market value] . . ."

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11 REPRESENTATIVE FOR TAXPAYERS' testified that he adjusted differences in basement area at \$\$\$\$ per square foot and differences in finished basement space at \$\$\$\$ per square foot (which equates to a total adjustment of \$\$\$\$ for a square foot of finished basement space). The County initially argued that the basement adjustments that REPRESENTATIVE FOR TAXPAYERS' applied in his appraisal were inconsistent with his testimony. When the Commission asked the County to calculate what the adjustments should be based on REPRESENTATIVE FOR TAXPAYERS' testimony, the County eventually determined that the adjustments REPRESENTATIVE FOR TAXPAYERS' made in his appraisal were consistent with his testimony. Regardless, neither of the County's appraisers testified that in their experience, a total adjustment of more than \$\$\$\$ per square foot should be used to adjust differences in finished basement space.

12 Petitioners' Exhibit 2.



RESPONDENT-2 stated that he believes this statement to be true. RESPONDENT-2, however, admitted that the County's two appraisals were for purposes other than a sale and stated that as a result, its two appraisals "may or may not" be less probative of fair market value. Regardless, the Commission does not find that an appraisal prepared for a sale is any more probative of fair market value than an appraisal prepared for a different purpose.

21. Lastly, the Commission has long recognized that the County's mass appraisal computer program produces reasonable estimates of most properties' "fair market values." However, it does not accurately estimate the "fair market values" of all properties. As a result, once a property is under appeal, the Commission is more persuaded by other evidence that is specific to a property's value than by a value produced by the County's mass appraisal computer program. If the Commission were to accept the County's argument that any value produced by its mass appraisal computer program is reliable evidence of "fair market value," there would be no need for the appeals process. For this reason and because the values produced by the County's mass appraisal computer model are not always correct, the County's reliance on its computer program values alone is misplaced in the appeals process.

22. Based on the foregoing, the County has not shown that the subject's current value of \$\$\$\$ is correct. However, the taxpayers, not the County, have the burden of proof in this matter. As a result, the Commission will further analyze the taxpayers' appraisal and its \$\$\$\$ estimate of value. The three comparables that REPRESENTATIVE FOR TAXPAYERS' compared to the subject property in the appraisals are similar to the subject property because all of them are two-story homes and have relatively large lots. In addition, all or most of the comparables, like the subject property, have outbuildings.<sup>13</sup>

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13 Petitioners' Exhibit 1.

23. The County, however, criticized REPRESENTATIVE FOR TAXPAYERS' appraisal because it believes that his adjustments for "site/location/view" are incorrect. The subject property is ##### acres in size. REPRESENTATIVE FOR TAXPAYERS' adjusted: 1) the #####-acre lot of Taxpayers Comparable #1 downward by \$\$\$\$; 2) the #####-acre lot of Taxpayers Comparable #2 upward by \$\$\$\$; and 3) the #####-acre lot of Taxpayers Comparable #3 upward by \$\$\$\$.<sup>14</sup> For Taxpayers Comparables #2 and #3 (the two comparables least similar in size to the subject and, thus, requiring the largest lot adjustments), the lot adjustments equate to \$\$\$\$ and \$\$\$\$ per acre.<sup>15</sup> The County contends that these adjustments are too low because it knows of a #####-acre lot in the subject's neighborhood that sold for \$\$\$\$\$. The County did not provide any documentation of this comparable sale. However, the County admitted that a home could be built on the comparable, while another home could not be built on the subject property's additional ##### acre of land. As a result, the \$\$\$\$\$ sales price of this "comparable" would have included value for the building site and does not show what the adjustment should be for subject's "additional land." REPRESENTATIVE FOR TAXPAYERS' testified that he determined that his lot adjustments were proper based on his knowledge of "paired sales," while neither of the County's appraisers indicated any knowledge about the differences in sales prices of homes with different-sized lots. Furthermore, on County Appraisal One, the County's Prognose mass appraisal computer system adjusted the acreage difference for County Comparable #2 (the #####-acre comparable that is located closest to the subject property) at \$\$\$\$\$, which equates to approximately \$\$\$\$ per acre.<sup>16</sup> For these reasons, the Commission finds the lot adjustments that REPRESENTATIVE FOR TAXPAYERS' made to Taxpayers Comparables #2 and #3 to be reasonable.

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14 Petitioners' Exhibit 1.

15 Specifically, the \$\$\$\$ lot adjustment for Taxpayers Comparable #2 (whose lot is ##### acres smaller than the subject's lot) equates to \$\$\$\$ per acre; and the \$\$\$\$ lot adjustment for Taxpayers Comparable #3 (whose lot is ##### acres smaller than the subject's lot) equates to approximately \$\$\$\$ per acre.

16 Respondent's Exhibit 2.

24. The Commission, however, finds that the \$\$\$\$ downward lot adjustment that REPRESENTATIVE FOR TAXPAYERS' made to Taxpayers Comparable #1 should be removed from the taxpayers' appraisal. First, Taxpayers Comparable #1's #####-acre lot is not much larger than the subject's #####-acre lot. In fact, REPRESENTATIVE FOR TAXPAYERS' admitted that he could have easily made no lot adjustment to this comparable because they are nearly identical in size. Second, the County provided photographs to show that any additional value that Taxpayers Comparable #1's lot may have because of its slightly larger size may be negated by its narrow shape and its lack of landscaping and driveway pavement.<sup>17</sup> Removing the \$\$\$\$ downward lot adjustment from Taxpayers Comparable #1 would result in a revised adjusted sales price of \$\$\$\$ for this comparable.

25. The County also criticized the taxpayers' appraisal because the subject property is located in the SUBDIVISION-3 and because none of the comparables that REPRESENTATIVE FOR TAXPAYERS' used are located in any phase of SUBDIVISION. In comparison, the County notes that all three of the comparables it used in its appraisals are located in a phase of the SUBDIVISION subdivision. Specifically, County Comparables #1 and #3 are located in the SUBDIVISION #1 subdivision, while County Comparable #2 is located in the SUBDIVISION-3 (i.e., the same phase as the subject property).<sup>18</sup> This argument is not persuasive. The two County comparables that are located in the SUBDIVISION #1 subdivision are ramblers that are located 19 blocks away from the subject property, whereas Taxpayers Comparables #1 and #3 are two-story homes that are only located 15 and 9 blocks away from the subject property. As a result, Taxpayers Comparables #1 and #3 are not only more similar to the subject property in style, but they are also closer to the subject property in location than County Comparables #1 and #3.<sup>19</sup>

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17 Respondent's Exhibit 1.

18 Petitioners' Exhibit 2 shows the subdivision in which each of the County comparables is located.

19 Taxpayers Comparable #2 is located 39 blocks away from the subject property and, thus, is located too

26. Few of the County's criticisms of the taxpayers' appraisal are persuasive, and the few criticisms that are persuasive have little impact on the integrity of the appraisal and the value estimated for the subject property in it. Of all the comparables submitted by both parties, the most convincing comparables are Taxpayers Comparables #1 and #3, which adjust to adjusted sales prices of \$\$\$\$\$ (after the \$\$\$\$\$ lot adjustment is removed) and \$\$\$\$\$. However, because Taxpayers Comparables #1 and #3 sold in mid-2016, they might require additional negative adjustments of approximately \$\$\$\$\$ for time of sale if, as the County contends, values were increasing between 6% and 8% in 2016.<sup>20</sup> If so, the adjusted sales prices of Taxpayers Comparables #1 and #3, if revised to reflect values as of the January 1, 2016 lien date, could be as low as \$\$\$\$\$ and \$\$\$\$\$. In any case, the range of values shown by these two comparables better support the taxpayers' proposed value of \$\$\$\$\$ than the subject's current value of \$\$\$\$\$.

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far away from the subject property to be a very convincing comparable. Accordingly, the Commission will give Taxpayers Comparable #2 little, if any, weight in the analysis.

20 The Commission has previously found that it may consider "post-lien date" information in property tax appeals. In *USTC Appeal No. 08-2281* (Findings of Fact, Conclusions of Law, and Final Decision Jan. 21, 2010), the Commission found, as follows:

The Commission believes that post-lien date information is useful in the appeals process to help establish a property's fair market value as of a lien date. That being said, however, the Commission is reluctant to reduce a property's value based on post-lien date information only. For example, if the only evidence of value is a sale that occurred five months after the lien date, the Commission would be reluctant to reduce a property's value based on the sale alone. In most instances, post-lien date sales may be used to corroborate value estimates, but not to establish fair market value. However, in extreme cases where the only relevant market information is after the lien date, we may find it necessary to base our decision on market transactions occurring after January 1.

In addition, the 2008-2009 Uniform Standards of Professional Appraisal Practice ("USPAP") has addressed this specific concern from an appraisal perspective. Statement on Appraisal Standards No. 3 (STMT-3) provides that . . . "[d]ata subsequent to the effective date may be considered in developing a retrospective value as a confirmation of trends that would reasonably be considered by a buyer or seller as of that date."

In addition, it is noted that the County used a "post-lien date" sale as a comparable in its two appraisals. The decision for *Appeal No. 08-2281* and other selected decisions can be viewed in a redacted format on the Commission website at <http://www.tax.utah.gov/commission-office/decisions>.

27. County Comparable #2 is the comparable that is located closest to the subject property, and it sold for \$\$\$\$\$. Admittedly, the subject's value is higher than \$\$\$\$\$ because the subject has a #####-square foot finished basement and County Comparable #2 does not have a basement. However, for reasons explained earlier, the adjusted sales price that the County's Prognose mass appraisal computer system derived for County Comparable #2 is not convincing, while REPRESENTATIVE FOR TAXPAYERS' derived an adjusted sales price of \$\$\$\$\$ for this comparable. This adjusted sales price also better supports the taxpayers' proposed value of \$\$\$\$\$ than the subject's current value of \$\$\$\$\$.

28. Based on the foregoing, the Commission finds that the taxpayers have shown that the subject's current 2016 value of \$\$\$\$\$ is incorrect and have provided a sound evidentiary basis for reducing this value to the \$\$\$\$\$ value they propose.

29. The subject's value for the 2016 tax year is \$\$\$\$\$.

APPLICABLE LAW

1. Utah Code Ann. §59-2-103(1) provides that “[a]ll 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.”

2. For property tax purposes, “fair market value” is defined in Utah Code Ann. §59-2-102(13), 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 a 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.

3. UCA §59-2-1006 provides that a person may appeal a decision of a county board of equalization to the Commission, as follows in pertinent part:

(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. . . .

....

(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.

....

4. In a proceeding before the Tax Commission, the burden of proof is generally on the petitioner to support its position. To prevail in this case, the petitioner 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 it proposes. *See 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*, 2000 UT 49, 5 P.3d 652 (Utah 2000).

CONCLUSIONS OF LAW

1. For the 2016 tax year at issue, Subsection 59-2-103(1) provides for the subject to be taxed on the basis of its "fair market value" as of January 1, 2016. Subsection 59-2-102(13) defines "fair market value" as "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."

2. The County does not request a value that is different from the \$\$\$\$ value sustained by the County BOE. Accordingly, this \$\$\$\$ value has the presumption of correctness. As a result, the taxpayers

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have the burden not only to demonstrate that this value is incorrect, but also to provide the Commission with a sound evidentiary basis for reducing the subject's value to the \$\$\$\$ value they propose.

3. For reasons explained earlier, the taxpayers have shown that the subject's current value of \$\$\$\$ is incorrect and have provided a sound evidentiary basis for reducing the subject's value to \$\$\$\$. Accordingly, the Commission should reduce the subject's value to \$\$\$\$ for the 2016 tax year.

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Kerry R. Chapman  
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's current value of \$\$\$\$\$ should be reduced to \$\$\$\$\$ for the 2016 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision.

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.