

TAX TYPE: PROPERTY TAX/LOCALLY ASSESSED  
TAX YEAR: 2018  
DATE SIGNED:10/21/2019  
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS

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BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER 1,  Petitioner,  v.  BOARD OF EQUALIZATION OF DAGGETT COUNTY, STATE OF UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No. 18-2092  Parcel Nos. ##### ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2018  Judge: Chapman
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**Presiding:**  
Kerry R. Chapman, Administrative Law Judge

**Appearances:**  
For Petitioner: TAXPAYER 1, Taxpayer (by telephone)  
WITNESS FOR TAXPAYER, Witness (by telephone)  
For Respondent: REPRESENTATIVE FOR RESPONDENT, COUNTY Attorney (by telephone)  
RESPONDENT 1, COUNTY Assessor (by telephone)

STATEMENT OF THE CASE

TAXPAYER 1 (“Petitioner” or “taxpayer”) brings this appeal from the decisions of the 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 DATE, 2019.

At issue are the fair market values of two subject properties as of DATE, 2018. The subject properties are manufactured homes located in CITY 1, Utah. The first subject property is identified as Parcel No. ##### and is located at CITY 1 (“Parcel 1”). The County BOE reduced the \$\$\$\$ value at which Parcel 1 was originally assessed for the 2018 tax year to \$\$\$\$ (which consists of a \$\$\$\$ land value and a \$\$\$\$ improvements value). The taxpayer asks the Commission to reduce Parcel 1’s value to \$\$\$\$. The County asks the Commission to sustain Parcel 1’s current value of \$\$\$\$.

The second subject property is identified as Parcel No. ##### and is located at in CITY 1 (“Parcel 4”). The County BOE reduced the \$\$\$\$ value at which Parcel 4 was originally assessed for the 2018 tax year to \$\$\$\$ (which consists of a \$\$\$\$ land value and a \$\$\$\$ improvements value). The taxpayer asks the Commission to reduce Parcel 4’s value to \$\$\$\$. The County asks the Commission to sustain Parcel 4’s current value of \$\$\$\$.

APPLICABLE LAW

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.”

UCA §59-2-102(13) 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 §59-2-1006(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 . . . .”

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.

....

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).

#### DISCUSSION

Parcel 1 consists of a #####-acre lot and a manufactured home that was manufactured in 1982. The home is ##### square feet in size and does not have a garage or carport. County records show Parcel 1's "quality" to be low and its "condition" to be average.

Parcel 4 consists of a #####-acre lot and a manufactured home that was also manufactured in 1982. This home is also ##### square feet in size and does not have a garage or carport. County records show Parcel 4's "quality" to be low and its "condition" to be average.

In DATE 2017, the taxpayer purchased three of seven residential properties in CITY 1 that the United States Forest Service ("USFS") had owned for approximately 20 years. Two of the three properties that the taxpayer purchased from the USFS are the subject properties (the value of the third property that the taxpayer purchased from the USFS is not at issue in this appeal). The USFS had primarily used the seven residential properties to house its employees, and it sold all seven of the residential properties through

an on-line auction that occurred in DATE 2017. The parties agree that it was general knowledge in CITY 1 that the USFS was selling the seven properties through the on-line auction. The taxpayer purchased the two subject properties through the on-line auction for \$\$\$\$\$ (for Parcel 1) and \$\$\$\$\$ (for Parcel 4).<sup>1</sup> For each of the subject properties at issue, the taxpayer asks the Commission to reduce its 2018 value to the auction price he paid for the property (i.e., to \$\$\$\$\$ for Parcel 1 and to \$\$\$\$\$ for Parcel 4). The taxpayer contends that the price agreed upon by two unrelated parties, in this case himself and the USFS, should establish a property's "fair market value."

The County, however, contends that a property's price does not always represent its "fair market value," especially where a property sells at auction. RESPONDANT 1 stated that there are about 600 residential properties in CITY 1 and suggested that the auction prices at which the USFS sold its seven properties in CITY 1 did not establish the market for manufactured homes in CITY 1 as of the 2018 lien date. In addition, RESPONDANT 1 asks the Commission to consider that the values that the County BOE established for the two subject properties were derived with the County's mass appraisal computer system (after the County reduced each subject property's "condition" in County records).

To show that other properties were selling for prices that were higher than the prices at which the USFS sold its seven CITY 1 properties, the County proffered two sales of manufactured homes in CITY 1. One of the properties sold in DATE 2018 for \$\$\$\$\$, while the other sold in DATE 2016 for \$\$\$\$\$. The property that sold for \$\$\$\$\$ is clearly superior to the two subject properties. It has a larger lot than either of the subject properties, and its manufactured home is larger (##### square feet) and was manufactured in

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<sup>1</sup> The third property that the taxpayer purchased from the USFS in DATE 2017 is, like the two subject properties, also located in CITY 1. The taxpayer could not remember the auction price he paid for the third property. However, after putting about \$\$\$\$\$ of repairs into the property, he sold this third property in late 2017 to an unrelated party for \$\$\$\$\$. While neither party could recall the size of the third property's lot, both parties agreed that the third property had a manufactured home that was similar, if not identical, to the manufactured homes located on the two subject properties.

2000. In addition, the property has a four-car garage. The property that sold for \$\$\$\$\$, like the two subject properties, does not have a garage or carport. This comparable has a #####-acre lot, and its manufactured home was built in 2005 (much newer than the subjects' manufactured homes) and is ##### square feet in size (much smaller than the subjects' manufactured homes).

As of the hearing date, the taxpayer still owns Parcel 1. After purchasing Parcel 4 for \$\$\$\$\$, however, the taxpayer put about \$\$\$\$\$ of repairs into it and listed it for sale in late 2017 for \$\$\$\$\$. In DATE 2018, the taxpayer sold Parcel 4 to an unrelated party for \$\$\$\$\$. RESPONDANT 1, the County Assessor, stated that residential property values in CITY 1 remained flat between late 2017 and late 2018.

Subsection 59-2-102(13) 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." It does not, as the taxpayer suggests, define "fair market value" as simply the amount at which property would change hands between unrelated parties.<sup>2</sup> Furthermore, the Commission has previously found that auction sales must be given higher scrutiny because they may not always involve an entirely willing seller or may otherwise not represent an arm's-length price.<sup>3</sup> Accordingly, the auction prices that the taxpayer paid for the two subject properties must be given additional scrutiny before the Commission can determine whether they represent "fair market value" or not.

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2 That being said, however, the Commission generally considers the price at which a non-distressed property sells between unrelated parties to be convincing evidence of "fair market value."

3 See *USTC Appeal No. 11-2081* (Initial Hearing Order May 30, 2012); and *USTC Appeal No. 13-1150* (Initial Hearing Order Aug. 12, 2014). In addition, the Commission has found that the price at which a property sells at auction may, nonetheless, represent the property's "fair market value" if sufficient evidence is provided and/or circumstances exist to support such a conclusion. See *USTC Appeal No. 04-0626* (Findings of Fact, Conclusions of Law, and Final Decision Oct. 24, 2006). This and other selected decisions can be reviewed in a redacted format on the Commission's website at <https://tax.utah.gov/commission-office/decisions>.

From the evidence submitted at the hearing, it does not appear that the USFS's auction sales of the seven properties it owned in CITY 1 were establishing the market for manufactured homes in CITY 1 as of the DATE, 2018 lien date. The number of properties that the USFS was selling represented only about #####% of the total residential properties in CITY 1. Furthermore, after purchasing Parcel 4 for \$\$\$\$\$ and putting about \$\$\$\$\$ of repairs into it, the taxpayer listed Parcel 4 for sale in late 2017 at \$\$\$\$\$, and the taxpayer eventually sold Parcel 4 in December 2018 to an unrelated party for \$\$\$\$\$. For these reasons and because the market for residential properties in CITY 1 remained relatively flat between late 2017 and late 2018, it appears that the "fair market value" of Parcel 4 was \$\$\$\$\$ in late 2017 (i.e., near the 2018 lien date) and was not the \$\$\$\$\$ amount that the taxpayer paid for it at auction in DATE 2017 or \$\$\$\$\$ (which is the sum of the \$\$\$\$\$ purchase price plus the \$\$\$\$\$ in repairs that the taxpayer put into it). Instead, the best evidence of Parcel 4's value as of the DATE, 2018 lien date is the \$\$\$\$\$ at which it sold in DATE 2018 (which was not an auction sale). Accordingly, the Commission should reduce Parcel 4's current value of \$\$\$\$\$ to \$\$\$\$\$.<sup>4</sup>

Because the taxpayer continues to own Parcel 1 and because this property appears to be nearly identical to Parcel 4 (with the exception of having a larger lot), the Commission will use the \$\$\$\$\$ value at which Parcel 4 sold to derive a value for Parcel 1.<sup>5</sup> Because Parcel 1's #####-acre lot is approximately

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4 The County asks the Commission to consider that Parcel 4's current value of \$\$\$\$\$ was derived with the County's mass-appraisal computer program. A county's mass-appraisal computer program is useful for the mass appraisal of properties. However, the Commission has routinely held that once a property is under appeal, the Commission is generally more persuaded by other evidence that is specific to a property's value than by a value produced by a County's mass appraisal computer program because such programs, while useful for mass appraisal purposes, do not always produce accurate values. *See USTC Appeal No. 17-395* (Findings of Fact, Conclusions of Law, and Final Decision Oct. 10, 2017); and *USTC Appeal No. 17-458* (Findings of Fact, Conclusions of Law, and Final Decision Feb. 2, 2018).

5 Parcel 4 is much more similar to Parcel 1 than the two manufactured home sales that the County provided as comparables (both of which sold in excess of \$\$\$\$\$). Because the parties could not recall the size of the lot of the third property that the taxpayer purchased from the USFS and subsequently sold for \$\$\$\$\$, the Commission cannot determine whether the third property's sales price of \$\$\$\$\$ would be as

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#####% larger than Parcel 4's #####-acre lot, it would appear that the Parcel 1's value would be greater than Parcel 4's value because of the difference in lot size. The taxpayer, who has the burden of proof in this matter, has not shown otherwise. The difference in value because of Parcel 1's and Parcel 4's different lot sizes would appear to be \$\$\$\$\$ (based on the County BOE establishing land values of \$\$\$\$\$ for Parcel 1 and \$\$\$\$\$ for Parcel 4). Adding \$\$\$\$\$ to Parcel 4's sales price of \$\$\$\$\$ to account for Parcel 1's larger lot would result in a value of \$\$\$\$\$ for Parcel 1. The best evidence of Parcel 1's value as of the DATE, 2018 lien date is this \$\$\$\$\$ value. Accordingly, the Commission should reduce Parcel 1's current value of \$\$\$\$\$ to \$\$\$\$\$.

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Kerry R. Chapman  
Administrative Law Judge

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useful in establishing Parcel 1's value as Parcel 4's sales price of \$\$\$\$\$. As a result, the Commission will use Parcel 4's sales price of \$\$\$\$\$, once revised, to establish Parcel 1's value.

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DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that Parcel No.#####’s current value of \$\$\$\$ should be reduced to \$\$\$\$ and that Parcel No. #####’s current value of \$\$\$\$ should be reduced to \$\$\$\$.

The COUNTY Auditor is ordered to adjust its records in accordance with this decision.

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 \_\_\_\_\_, 2019.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Lawrence C. Walters  
Commissioner