

19-343

TAX TYPE: PROPERTY TAX

TAX YEAR: 2018

DATE SIGNED: 1/29/2020

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION
Petitioner,	Appeal No. 19-343
v.	Parcel No. #####
BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,	Tax Type: Property Tax
Respondent.	Tax Year: 2018
	Judge: Phan

Presiding:

John L. Valentine, Commission Chair

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE FOR PETITIONER, Attorney at Law

For Respondent: REPRESENTATIVE FOR RESPONDENT, Deputy District Attorney
COUNTY

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on DATE, 2019, in accordance with Utah Code Ann. §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. Petitioner (“Property Owner”) filed an appeal of the decision of the COUNTY Board of Equalization regarding the fair market 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 DATE, 2018.

3. The County Assessor had originally valued the subject property at \$\$\$\$ as of the lien date and the County Board of Equalization (“County”) reduced the value to \$\$\$\$\$. At the hearing, the Property Owner requested a reduction to \$\$\$\$\$. The representatives for the County requested at the hearing that the value remain as set by the County at \$\$\$\$\$.

4. The property that is the subject of this appeal is parcel no. ##### and is located at SUBJECT ADDRESS, CITY-, Utah.

5. The subject property is ##### acres of land improved with a single family residence, which the County has classified as a two-story conventional building style. The residence was constructed in 2016. It has ##### square feet above grade and a basement of ##### square feet. In the basement, ##### square feet are finished. The County considers the property to be in excellent condition and of excellent grade. The residence has five bedrooms, five and one-half bathrooms and two fireplaces. There is also an attached four car garage, pool house, swimming pool, deck and patio. The subject property is located on the corner of STREET-1 and STREET-2.

6. The Property Owner requested a reduction in value to \$\$\$\$\$. To support this requested value, the Property Owner’s representative submitted an appraisal that had been prepared by NAME-1. NAME-1’s appraisal conclusion was that as of DATE, 2018, the value of the subject property was \$\$\$\$\$.¹

7. NAME-1 appraisal conclusion was based on a sales comparison approach. His four comparable sales and value conclusion for the subject property from the sales were the following:

Address	Sale Price	Sale Date	GLA	Age	Lot Size	Bsmt/Fin	Gar-ages	Pool	Value
Subject: SUBJECT ADDRESS			#####	X	#####	#####/#####	#	X	
1) ADDRESS-1	\$\$\$\$\$	DATE	#####	X	#####	0/0	#	X	\$\$\$\$\$
2) ADDRESS-2	\$\$\$\$\$	DATE	#####	X	#####	#####/#####	#	X	\$\$\$\$\$
3) ADDRESS-3	\$\$\$\$\$	DATE	#####	X	#####	#####/#####	#	X	\$\$\$\$\$
4) ADDRESS-4	\$\$\$\$\$	DATE	#####	X	#####	#####/#####	#	X	\$\$\$\$\$

8. It was the County’s position that the Property Owner’s appraisal does not make sufficient adjustments for the land size and the subject lot was larger than three of the appraisal comparable lots. NAME-1 comparables 1, 2 & 4 all had smaller lots than the subject and NAME-1 had made appraisal adjustments for lot size. The subject is ##### acres. For comparable 1, which is ##### acres he added \$\$\$\$\$; for comparable 2, which is ##### acres he added \$\$\$\$\$; for comparable 3, which is ##### acres he subtracted \$\$\$\$\$; and for comparable 4, which is ##### acres he added \$\$\$\$\$.

9. The County did not submit an appraisal but had provided three comparables, which it ran through its Prognose system for making appraisal adjustments. One of these had been the same as the

¹ Petitioner’s Exhibit 1.

Property Owner’s comparable 1. For the hearing, the County also ran the Property Owner’s comparable 2 through this system to show how it would adjust out for value. The County argued that the Property Owner’s appraiser had not made sufficient lot size adjustments because the subject is located in a desirable area and although in CITY-1 the County is valuing the subject as part of its “CITY-2 MODEL.” The County’s comparables and the County’s value conclusion from the comparables were the following:²

Address	Sale Price	Sale Date	GLA	Year Built	Lot Size	Bsmt/Fin	Gar-ages	Pool	Value
Subject: SUBJECT ADDRESS			#####	YEAR	#####	#####/#####	X	Yes	
1) ADDRESS-1	\$\$\$\$\$	X	#####	YEAR	#####	#####/#####	X	Yes	\$\$\$\$\$
2) ADDRESS-2	\$\$\$\$\$	X	#####	YEAR	#####	#####/#####	X	Yes	\$\$\$\$\$
3) ADDRESS-5	\$\$\$\$\$	X	#####	YEAR	#####	#####/#####	X	No	\$\$\$\$\$
4) ADDRESS-6	\$\$\$\$\$	X	#####	YEAR	#####	#####/#####	X	Yes	\$\$\$\$\$

10. The County Board of Equalization had reduced the value based on the Prognose conclusion from the County’s comparables 1, 3 & 4. The value conclusion indicated on the Prognose report was a market value of \$\$\$\$\$, which the County rounded to \$\$\$\$\$. The report also indicated a land value of \$\$\$\$\$ and an improvement value of \$\$\$\$\$, which when added together totaled \$\$\$\$\$.

11. The biggest difference between the Property Owner and County’s value conclusions are the land value adjustments. This can be seen by the comparables 1 & 2 considered by both of the parties as listed in the Findings of Fact above. For Comparable 1, which was ##### acres of land, the Property Owner’s appraisal adjustment for the difference in land size between the subject and this comparable had been +\$\$\$\$\$. The County’s Prognose report does not show dollar adjustments per each line item, but instead a percentage adjustment per line item and for the land size difference the adjustment was +%%%. For comparable 2, which was ##### acres, the Property Owner’s land size adjustment had been +\$\$\$\$\$ and the County’s +%%%. These adjustments were just for land size as both parties had other line items on their appraisal and report for things like location and view.

12. An attempt was made at the hearing by the presiding Tax Commissioner and Administrative Law Judge to clarify with the County if the percentage adjustments of %%% or %%% were made to the total sale prices of the comparables or just to an estimated land value for the comparables. The County’s appraiser stated that he did not know if it was applied only to a land value and how it was calculated in deriving the market value. The County’s appraiser explained that the County

² Petitioner’s Exhibit 2. These are being listed in this decision out of order from how they were presented by the County for ease of comparing the Property Owner and County’s indicated values from the two comparables that were used by both parties.

has a modeler and statisticians who programmed the Prognose system and determined the percentage for the adjustments, but he himself did not know and could not provide a basis for the %%%% or %%%% adjustments or how they were applied.

13. It is possible to answer the question of whether the %%%% or %%%% adjustments were applied to the total sale price of the comparables or to some estimate just for the land value, based on an analysis of the Prognose report itself. The Prognose report does present a total net percentage adjustment for each comparable and a total net adjustment in dollar value. Mathematically, the total net percentage multiplied by the time adjusted sales price does equal the total net dollar adjustments. An analysis of the Prognose report for comparable 1 shows the County's time adjusted sales price was \$\$\$\$\$. Multiplying \$\$\$\$\$ by the total net adjustment percentage of %%%% listed on the report equals \$\$\$\$\$. Adding the \$\$\$\$\$ to the \$\$\$\$\$ time adjusted sales price equals \$\$\$\$\$ which is approximately the County's adjusted or indicated value for the subject from this comparable. Furthermore, it can be verified that the land size adjustment of %%%% was applied to the total time adjusted sales price and not to a land value estimate. The Prognose report does list the percentage change for each line item included in the %%%% net total adjustment percentage for comparable 1 and it is clear from summing all of those line item percentages together, the percentage land adjustment of %%%% is fully included in the total net adjustment, meaning that this land adjustment was applied without discount to the purchase price of the property and not to an estimated land value. Multiplying %%%% to the time adjusted purchase price of \$\$\$\$\$ equals \$\$\$\$\$. Therefore, the County's adjustment for the fact that comparable 1 was %%%% (%%%%= %%%%) of an acre smaller than the subject, was +\$\$\$\$.

14. Considering that the County's land value conclusion for the entire #####-acre subject property was only \$\$\$\$\$, valuing just the land size difference between the #####-acre subject and the #####-acre comparable 1 at \$\$\$\$\$ appears to be an outright error. It appears that the County's acreage adjustments were calculated in the same manner for all its comparables in the Prognose report. The value set by the County Board of Equalization was based on this Prognose report and these excessive land adjustments are more than the actual land value the County has assigned to all of the subject lot.

15. Although the County did argue at the hearing that the appraiser for the Property Owner did not make large enough land adjustments, the County did not present any evidence at the hearing regarding what reasonable land adjustments would be. The County offered no land sales, paired sales or other evidence to support a land adjustment and no explanation to support that its adjustments for the differences in just the land size were more than the total land value of the subject lot.

16. The subject property is a large, high-end custom home on a large residential lot. These types of properties are difficult to value because there are fewer sales in this price range and custom features make comparables less similar. Subjective appraisal adjustments are required when determining

a value from comparable sales. The Property Owner has submitted an appraisal, the appraiser viewed the subject property, made appraisal adjustments and provided an opinion of value, which is \$\$\$\$\$. The appraiser did make substantial land size adjustments. The County's value appears to be based on an error in the land adjustment, with no explanation from the County at the hearing. The value should be lowered to the Property Owner's appraisal value of \$\$\$\$\$ as of the lien date at issue in this appeal.

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 DATE, unless otherwise provided by law.

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 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.

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.

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 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 46, 5 P.3d 652 (Utah 2000).

CONCLUSIONS OF LAW

1. Property tax is based on the property's "fair market value" pursuant to Utah Code Sec. 59-2-103. "Fair market value" is defined by statute as the amount for which property would exchange hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. *See Utah Code Sec. 59-2-102.*

2. In a proceeding before the Tax Commission, the burden of proof is on the Petitioner to support his position that the value is lower than that set by the County Board of Equalization.³ As recently noted by the Utah Court of Appeals in *Fraughton v. Tax Commission*, 2019 UT App 6, ¶10, "the protesting taxpayer is required not only to show substantial error or impropriety in the assessment, but also to provide a sound evidentiary basis upon which the Commission could adopt a lower valuation (Citation Omitted)." In this case, error has been shown in the County's value and the Property Owner has provided an appraisal that establishes a sound evidentiary basis to support the Property Owner's requested value.

Considering the evidence and the applicable law in this matter, the value should be lowered to the Property Owner's appraisal value of \$\$\$\$.

Jane Phan
Administrative Law Judge

³ *See Fraughton v. Tax Comm'n*, 2019 UT App 6; *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 46, 5 P.3d 652 (Utah 2000).

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of DATE, 2018, is \$\$\$\$\$. The COUNTY Auditor is hereby ordered to adjust its records accordingly. It is so ordered.

DATED this _____ day of _____, 2020.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
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.