

APPEAL #: 21-1878
TAX TYPE: PROPERTY TAX
TAX YEAR: 2021
DATE SIGNED: 8/29/2023
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNERS, Petitioners, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 21-1878 Parcel No: ##### Tax Type: Property Tax Tax Year: 2021 Judge: Phan</p>
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Presiding:

Jennifer N. Fresques, Commissioner
Jane Phan, Administrative Law Judge

Appearances:

For Petitioners: PROPERTY OWNER-1
PROPERTY OWNER-2
For Respondent: RESPONDENT'S REP-1, Chief Deputy County Assessor,
COUNTY-1
RESPONDENT'S REP-2, Appraiser, COUNTY-1

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on June 6, 2023, 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

I. General Information

1. The issue before the Tax Commission at the Formal Hearing is

Petitioners' ("Property Owners") appeal of the decision issued by the County Board of Equalization in regards to the assessed value of parcel no. ##### for property tax assessment purposes.

2. The lien date at issue in this appeal is January 1, 2021.

3. The County Assessor had originally valued the subject parcel at \$\$\$\$ as of the lien date at issue. The Property Owners had appealed to the County Board of Equalization and the County Board of Equalization upheld the \$\$\$\$ value. At the Formal Hearing, the Property Owners requested a reduction to \$\$\$\$\$. During the hearing, the County requested that the County value of \$\$\$\$ be upheld.

4. The subject property at issue had not been the subject of a value reduction resulting from an appeal to the County Board of Equalization or the Tax Commission in 2020 or 2019. The Property Owners stated in their evidence submission that for tax year 2018 they had filed an appeal and that had resulted in a value reduction, although they did not state what the value had been reduced to.¹

5. The subject property is a ##### acre waterfront property with approximately ##### feet of shoreline frontage on LOCATION-1 and direct access to the water. The County had submitted an aerial photograph that showed how the longest side of the subject property was along the shoreline. There are also water views from the subject property. There is an older, rambler style residence on the subject property with ##### square feet on the main level and ##### square feet in the basement. The basement is only partially finished. The residence was constructed ##### years ago, of average quality of construction and is in average condition. There is a two-car attached garage and the residence has 4 bedrooms and 3 bathrooms. The Property Owners actively farm all except the land used with their residence. There are four barns or other agricultural buildings on the subject property. All of the land except the land used in connection with the residence is assessed as greenbelt under the Farmland Assessment Act. The residence and land used in connection with the residence receive the primary residential exemption.

6. The County representatives explained that the County's market value for the ##### acres of land was based on \$\$\$\$ for the first primary acre of land and for the rest of the land, which the County valued as secondary acres, based on a rate of

¹ Petitioners' Exhibit 1, PDF # 5. At the Formal Hearing, the Petitioners did not submit new evidence, but relied on the evidence they had submitted to the County Board of Equalization for the hearing before the BOE. The County has forwarded those documents to the Tax Commission as part of the County Board of Equalization record in PDF format.

\$\$\$\$\$ per acre, or \$\$\$\$\$ for the remaining ##### acres. In the County’s assessment, the County’s total market value for the land was \$\$\$\$\$. However, in order to apply the Farmland Assessment Act (“FAA”) requirements, which exclude the land used in connection with the farmhouse from the land eligible for greenbelt assessment, the County was required to make a different classification of the land, which was classified as FAA Homesite. The County concluded that the FAA Homesite land was less than ##### acre, so that more of the land could be assessed as greenbelt under the FAA, which reduced the total tax assessment.

II. Property Owners’ Evidence

7. The Property Owners’ only dispute was with the value that the County had allocated to the land used in connection with the residence. The County’s valuation notice shows the total value, but allocates a portion of the value to different components of the subject property. The Property Owners provided a copy of the 2021 Notice of Property Valuation and it showed the following for tax year 2021:

	Market Value	Taxable Value
Residential Land w/Residence-Primary Property	\$\$\$\$\$	\$\$\$\$\$
Agricultural Buildings-Nonprimary Property	\$\$\$\$\$	\$\$\$\$\$
F.A.A. Land	\$\$\$\$\$	\$\$\$\$\$
Total	\$\$\$\$\$	\$\$\$\$\$

8. The Property Owners had a further break out for the \$\$\$\$\$ market value allocation to the residential land with residence, which the Property Owners obtained from the County Board of Equalization record. Of the \$\$\$\$\$ market value amount, the Board of Equalization record stated \$\$\$\$\$ was allocated to the “RES BLDG_PRIMARY” and \$\$\$\$\$ was allocated to the “FAA HOMESITE (PRIMARY USE).”²

9. The Property Owners also pointed out at the hearing the substantial increase in value from tax year 2020 to tax year 2021. For tax year 2020 their total market value had been only \$\$\$\$\$ and their total taxable value had been only \$\$\$\$\$.³

² Petitioners’ Exhibit 1, PDF #31. This squares with the County’s total market value for the land of \$\$\$\$\$. The total market value of the land and improvements of \$\$\$\$\$, minus \$\$\$\$\$ for the agricultural buildings and minus \$\$\$\$\$ for the residence, equals the \$\$\$\$\$ market value for the land.

³ Petitioners’ Exhibit 1, PDF #6.

10. The Property Owners testified at the hearing that there is not a view of the water from where their residence is located, although they noted that there is a view from other areas of their land, stating, “the cows have the better view.”

11. The Property Owners made an equalization argument at the hearing. They argued that the County has assessed the value of the primary residential land of the subject property at a much higher value than the primary residential land for a number of other properties in the area. They provided the County’s data, which is available on the County’s website, for eight properties in the area to show that these other properties were valued lower. They also provided data from the County on four of the eight properties that showed the value the County had attributed to the primary residential land was \$\$\$\$\$, while the subject’s FAA Homesite land was \$\$\$\$\$. The Property Owners did not provide the breakout of the value of land and buildings for the other four properties. A summary of the information from the data sheets the Property Owners provided is as follows:⁴

REDACTED TABLE

III. County’s Evidence

12. The County submitted both a rebuttal to the Property Owner’s equalization argument and market value evidence in the form of an appraisal.

13. Regarding the Property Owner’s equalization argument, the County’s representatives explained that the County’s market value for the first acre of primary residential land on waterfront property was \$\$\$\$\$⁵ and the rest of the land was valued at a secondary acreage rate of \$\$\$\$\$ per acre. The County pointed out that only one of the Property Owner’s equalization comparables was located on the shoreline and was waterfront to LOCATION-1 like the subject property, and that was parcel #####. The County provided evidence that three of the Property Owners’ equalization comparables were near the shoreline, but not directly on the shoreline and did not have shoreline access. The County explained for these three properties there was at least one other parcel owned by a different property owner that separated the parcel from the shoreline. The County provided the information that all four

⁴ Petitioners’ Exhibit 1, PDF #7-30 & 35-45.

⁵ The County had valued the subject land at \$\$\$\$\$ for the first primary acre. The Property Owner was, however, comparing the market value set for the FAA Homesite, which was less than ##### acre and assessed at \$\$\$\$\$.

properties that the Property Owners had noted were valued at \$\$\$\$\$ for the primary residential acre of land were not located on or near the shoreline. The County explained that land values for shoreline properties were considerably higher than land values near the shoreline and the properties that were not near the shoreline were even lower. The County provided a chart that showed the County's value for the first acre of primary land for the subject and each property that the Property Owners had submitted as equalization comparables as follows:⁶

REDACTED TABLE

14. The County provided evidence at the hearing that land located on the shoreline of LOCATION-1, like the subject property, sold for more than non-shoreline property. The County submitted three comparable land sales of shoreline property as follows:⁷

REDACTED TABLE

15. The County submitted an appraisal of the subject property to support that the assessment was at fair market value. The appraisal had been prepared by RESPONDENT'S REP-2 and had an effective date of January 1, 2021.⁸ The appraisal was based on a sales comparison approach that supported a value higher than the County's value for the subject property. None of the comparables were on the waterfront like the subject property. All were older residences with one acre or more of land, but most were significantly smaller land parcels than the subject property. The County made appraisal adjustments for the differences to determine a value for the subject from the comparable sales as follows:

REDACTED TABLE

16. The largest appraisal adjustments were for location and land size. The County's appraiser concluded that the location adjustment for being located on the shoreline and waterfront was \$\$\$\$\$, so he made this adjustment to each of the five comparables. For the land size, for comparables 1-4 the County's appraiser made a size adjustment of \$\$\$\$\$ and for comparable 5, the land size adjustment was \$\$\$\$\$. It was the appraiser's conclusion that as of January 1, 2021, the value of the subject

⁶ Respondent's Exhibit A, pg. 7.

⁷ Respondent's Exhibit A, pg. 18.

⁸ Respondent's Exhibit B.

property was \$\$\$\$\$. The County did not ask for an increase in value, but instead offered the appraisal to support the County's current value of \$\$\$\$\$.

IV. Commission's Value Conclusions

17. As discussed more in the Conclusions of Law section below, it is the Property Owners who have the burden of proof at this hearing and they did not establish error in the County's current value. The Property Owners did not present market value evidence but instead argued for an adjustment based on equalization. The Property Owners provided the assessed values for eight properties that were located relatively near the subject property, and pointed out that the primary residential land was valued lower than the subject land for seven of the comparables. However, the County established that seven of the properties were not comparable to the subject property because the subject is waterfront property and the seven comparables were not waterfront properties. The one waterfront comparable was valued equitably in comparison to the subject property. The County submitted land sales that established the value of the waterfront property and also showed that it was valuing the land consistently with all of the comparables based on the location and proximity to the waterfront. The Property Owners have not established that properties that were actually comparable to the subject property were valued less than the subject property. The Property Owners have failed to meet their burden of proof to establish error in the County's value.

APPLICABLE LAW

Utah Code Ann. §59-2-103(2) provides for the assessment of property, as follows:

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(13), as follows:

- (a) "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.
- (b) 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, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission by:
 - (a) 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 or entity with designated decision-making authority described in Section 59-2-1101; and
 - (b) if the county assessor valued the property in accordance with Section 59-2-301.8 and the taxpayer intends to contest the value of personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8, submitting a signed statement of the personal property with the notice of appeal.

...

- (3) In reviewing a decision described in Subsection (1), 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 or entity with decision-making authority.
- (4) In reviewing evidence submitted to the commission to decide an appeal under this section, the commission shall consider and weigh:
 - (a) the accuracy, reliability, and comparability of the evidence presented;
 - (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 a decision described in Subsection (1), 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.

Utah Code Ann. §59-2-109 addresses the burden of proof in certain circumstances, as follows:

- (1) As used in this section:
 - (a) "Final assessed value" means:
 - (i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with

- Section 59-2-1004, the value given to the real property by a county board of equalization, including a value based on a stipulation of the parties;
- (ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:
 - (A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or
 - (B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or
 - (iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.
- (b) "Inflation adjusted value" means the same as that term is defined in Section 59-2-1004.
- (c) "Qualified real property" means real property:
- (i) that is assessed by a county assessor in accordance with Part 3, County Assessment;
 - (ii) for which:
 - (A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with Section 59-2-1004 or the commission in accordance with Section 59-2-1006;
 - (B) the appeal described in Subsection (1)(c)(ii)(A) resulted in a final assessed value that was lower than the assessed value; and
 - (C) the assessed value for the current taxable year is higher than the inflation adjusted value; and
 - (iii) that, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not had a qualifying change.
- (d) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:
- (i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of the fair market value of the real property or \$20,000;
 - (ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or
 - (iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.
- (2) For an appeal involving the valuation of real property to the county board of equalization or the commission, the party carrying the burden of proof shall demonstrate:
- (a) substantial error in:
 - (i) for an appeal not involving qualified real property:
 - (A) if Subsection (3) does not apply and the appeal is to the county board of equalization, the original assessed value;

- (B) if Subsection (3) does not apply and the appeal is to the commission, the value given to the property by the county board of equalization; or
 - (C) if Subsection (3) applies, the original assessed value; or
 - (ii) for an appeal involving qualified real property, the inflation adjusted value; and
 - (b) a sound evidentiary basis upon which the county board of equalization or the commission could adopt a different valuation.
- (3)
- (a) The party described in Subsection (3)(b) shall carry the burden of proof before a county board of equalization or the commission, in an action appealing the value of property:
 - (i) that is not qualified real property; and
 - (ii) for which a county assessor, a county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.
 - (b) For purposes of Subsection (3)(a), the following have the burden of proof:
 - (i) for property assessed under Part 3, County Assessment:
 - (A) the county assessor, if the county assessor is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or
 - (B) the county board of equalization, if the county board of equalization is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or
 - (ii) for property assessed under Part 2, Assessment of Property, the commission, if the commission is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.
 - (c) For purposes of this Subsection (3) only, if a county assessor, county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year:
 - (i) the original assessed value shall lose the presumption of correctness;
 - (ii) a preponderance of the evidence shall suffice to sustain the burden for all parties; and
 - (iii) the county board of equalization or the commission shall be free to consider all evidence allowed by law in determining fair market value, including the original assessed value.
- (4)
- (a) The party described in Subsection (4)(b) shall carry the burden of proof before a county board of equalization or the commission in an action appealing the value of qualified real property if at least one party presents evidence of or otherwise asserts a value other than inflation adjusted value.
 - (b) For purposes of Subsection (4)(a):
 - (i) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof if the county assessor or county

- board of equalization presents evidence of or otherwise asserts a value that is greater than or equal to the inflation adjusted value; or
- (ii) the taxpayer that is a party to the appeal has the burden of proof if the taxpayer presents evidence of or otherwise asserts a value that is less than the inflation adjusted value.
- (c) The burdens of proof described in Subsection (4)(b) apply before a county board of equalization or the commission even if the previous year's valuation is:
 - (i) pending an appeal requested in accordance with Section 59-2-1006 or judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review; or
 - (ii) overturned by the commission as a result of an appeal requested in accordance with Section 59-2-1006 or by a court of competent jurisdiction as a result of judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review.

The assessment of property after there has been a reduction in value is addressed in Utah Code Ann. §59-2-301.4 below, in pertinent part:

- (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.

In a proceeding before the Tax Commission, the burden of proof is generally on the petitioner to support its position. *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); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000); *Fraughton v. Tax Commission*, 2019 UT App 6, 438 P.3d 961 (Utah Ct. App. 2019); and *Patience LLC v. Salt Lake County Board of*

Equalization, 2021 UT App 4. To prevail in this case, Utah Code Ann. §59-2-109(2) provides that the petitioner must: 1) demonstrate that the subject property's current value contains substantial error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes.

CONCLUSIONS OF LAW

1. In this proceeding before the Tax Commission it is only the Property Owners who are requesting a value different from the County Board of Equalization value and it is the Property Owners that have the burden of proof. For the Property Owners to prevail in this case, Utah Code. Ann. §59-2-109(2) provides that they must: 1) demonstrate that the subject property's current value contains substantial error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount they propose. *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); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000); *Fraughton v. Tax Commission*, 2019 UT App 6, 438 P.3d 961 (Utah Ct. App. 2019); and *Patience LLC v. Salt Lake County Board of Equalization*, 2021 UT App 4. The Property Owners have not shown substantial error in the County's value.

2. The Utah Constitution, Article XIII, Sec. 2 provides, "So that each person and corporation pays a tax in proportion to the fair market value of his, her, or its tangible property, all tangible property in the state that is not exempt under the laws of the United States or under this Constitution shall be: (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law; and (b) taxed at a uniform and equal rate."

3. Utah statutes implement the constitutional provision and provide that property tax is assessed on the basis of the property's "fair market value" as of January 1 of the tax year at issue 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 a 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*. For a single family residential property, fair market value is

generally estimated based on comparable sales and appraisal type adjustments for the differences between the subject and the comparables.

4. The subject property is not a "qualified real property" for tax year 2021 pursuant to Utah Code §59-2-109(1)(c) because the value of the subject property was not reduced based on an appeal for tax year 2020.

5. However, Utah Code §59-2-301.4 is applicable in this matter because the subject property was the subject of a "valuation reduction" in 2018, one of the three years preceding the tax year at issue in this appeal. Utah Code §59-2-301.4 states, "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." The County has represented that market values have increased between the lien date January 1, 2018 and the lien date January 1, 2021 and has valued the subject property for the 2021 lien date based on sales information current for the 2021 lien date. The County has met the §59-2-301.4 requirements by showing that it based the value on current market data.

6. Pursuant to Utah Code Sec. 59-2-1006, a property owner may appeal an assessment based on either fair market value or equalization. In this appeal, the Property Owners did not present an appraisal or submit comparable sales to challenge the fair market value. Instead the Property Owners argued for an adjustment based on equalization. Utah Code Subsection 59-2-1006(5) provides that the Commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable 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." As the Court of Appeals recently explained in *Patience LLC v. Salt Lake County Board of Equalization*, 2021 UT App 4, ¶28, "The Utah Constitution states that "all tangible property in the State . . . shall be taxed at a uniform and equal rate" in proportion to its fair market value. Utah Const. art. XIII, §2, cl. 1. Consistent with this constitutional mandate, a property owner may seek adjustment of a property tax valuation if the assessment "stands apart from a group of undervalued comparable properties." Citing *Mountain Ranch Estates v. Utah State Tax Comm'n*, 2004 UT 86, ¶ 15, 100 P.3d 1206. The court in *Patience* pointed out that "[a] taxpayer seeking equalization bears the burden of identifying comparable properties that deviate more than 5% from the valuation of the

property.” *Id.* ¶29. Based on the court’s decision in *Patience*, a property owner must show a “group of undervalued comparables”⁹ were assessed at values that deviated at least 5% from the subject property. The Property Owners did not meet this requirement because the properties that they pointed to as being valued less than the subject property were not comparable properties to the subject property. Not only is the subject property a waterfront property, it has more than ##### feet of water frontage and direct water access. The County has determined that properties on the waterfront sell for more than properties near the waterfront and significantly more than properties that are not on or near the waterfront. The County did establish the shoreline properties’ market value with sales. The Property Owners did not show that other shoreline properties were valued at least 5% less than the subject property. They only showed that properties not on or near the waterfront were assessed at a lower value. Therefore, the Property Owners have not supported a reduction in value based on equalization.

The value for the subject property should remain as set at the County’s current value for the lien date at issue in this appeal.

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, 2021, is \$\$\$\$\$. It is so ordered.

DATED this _____ day of _____, 2023.

⁹ See also *Mountain Ranch Estates v. Utah State Tax Comm’n*, 2004 UT 86, ¶16, in which the Court explained:

“Intentional and systematic undervaluations of property may violate the equal protection and due process rights of property owners not granted preferential treatment. See Allegheny Pittsburgh Coal Co. v. County Comm’n, 488 U.S. 336, 343 (1989) (holding that the Equal Protection Clause allows states to divide property into classes and assign a tax burden to the property as long as the divisions and burdens are neither arbitrary nor capricious) . . . The presence of multiple unfairly advantaged properties necessarily raises the suspicion of a potential inequality meriting a remedy. It is the nature of this inequality that section 59-2-1006(4) was enacted to address. Its protection may be fairly described as a statutory mechanism to implement the constitutional guarantee of uniform taxation.”

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
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.