

APPEAL #: 22-1804
TAX TYPE: PROPERTY TAX
TAX YEAR: 2022
DATE SIGNED: 9/26/2023
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 22-1804</p> <p>Parcel No: #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2022</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PROPERTY OWNER
For Respondent: RESPONDENT'S REP-1, Certified Residential Appraiser,
COUNTY-1
RESPONDENT'S REP-2, Appraiser Trainee, COUNTY-1

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the COUNTY-1 Board of Equalization pursuant to Utah Code §59-2-1006. This matter was argued in an Initial Hearing on July 11, 2023 in accordance with Utah Code Ann. §59-1-502.5. The COUNTY-1 Assessor's Office had originally valued the subject property at \$\$\$\$ as of the January 1, 2022 lien date. The County Board of Equalization ("County") sustained the value. At the hearing the Property Owner was requesting the value of the subject property be reduced to \$\$\$\$\$. The County was requesting that the value of \$\$\$\$ be sustained.

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 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.

The County Assessor is required to assess a property at fair market value every year pursuant to Utah Code Ann. §59-2-303.1 as follows:

(1) For purposes of this section:

....
(b) "Mass appraisal system" means a computer assisted mass appraisal system that:

- (i) a county assessor uses to value real property; and
- (ii) includes at least the following system features: (A) has the ability to update all parcels of real property located within the county each year; (B) can be programmed with specialized criteria; (C) provides uniform and equal treatment of parcels within the same class of real property throughout the county; and (D) annually updates all parcels of residential real property within the county using accepted valuation methodologies as determined by rule.

....
(2) (a) The county assessor shall annually update property values of property as provided in Section 59-2-301 based on a systematic review of current market data.

(b) The county assessor shall conduct the annual update described in Subsection (2)(a) by using a mass appraisal system on or before the following:

- (i) for a county of the first class, January 1, 2009;
- (ii) for a county of the second class, January 1, 2011;
- (iii) for a county of the third class, January 1, 2014; and
- (iv) for a county of the fourth, fifth, or sixth class, January 1, 2015.

(c) The county assessor and the commission shall jointly certify that the county's mass appraisal system meets the requirements:

- (i) described in Subsection (1)(b); and
- (ii) of the commission.

(3) (a) In addition to the requirements in Subsection (2), the county assessor shall complete a detailed review of property characteristics for each property at least once every five years.

(b) The county assessor shall maintain on the county's computer system, a record of the last property review date for each parcel of real property located within the county assessor's county.

...

(6) A county assessor shall create, maintain, and regularly update a database containing the following information that the county assessor may use to enhance the county's ability to accurately appraise and assess property on an annual basis:

- (a) fee and other appraisals;
- (b) property characteristics and features;
- (c) property surveys;
- (d) sales data; and
- (e) any other data or information on sales, studies, transfers, changes to property, or property characteristics.

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.

DISCUSSION

I. General Information

The issue before the Tax Commission at this Initial Hearing is the Property Owner's 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. The lien date at issue in this appeal is January 1, 2022. The assessed value for the subject property had not been appealed to the County Board of Equalization or the Utah State Tax Commission in any of the three tax years prior to 2022.

The subject property is located at ADDRESS-1. The subject property is ##### acres of land improved with a rambler style residence constructed in YEAR. The residence has ##### square feet above grade. The basement has ##### square feet, as there is a storage area underneath the front porch of the residence. The County records indicate that the basement is unfinished and the Property Owner confirmed that at the hearing. The County has classified the subject residence as good quality of construction and in good condition. The subject property has a nearly all brick exterior. The subject property has an attached three-car garage with ##### square feet. There is a large paved area on the side and rear of subject property suitable for RV parking. The County had included a photograph that showed two RVs parked in this area.

II. Property Owner's Evidence

The Property Owner's concern in this matter was the percentage of increase in value from tax year 2021 to tax year 2022. He pointed out at the hearing that the County's 2021 assessment

had been \$\$\$\$ and the 2022 assessment had been \$\$\$\$\$. He calculated that this was more than a %%%% increase from one year to the next. The Property Owner acknowledged that the values had increased from 2021 to 2022, however, his argument was that they did not increase by %%%%. The Property Owner stated that none of the data supports an increase of more than %%%% from January 1, 2021 to January 1, 2022. The value he was requesting was based on a %%%% increase over this time period. The Property Owner calculated his requested value by adding a %%%% increase to his 2021 assessed value, which resulted in the \$\$\$\$ value that he was requesting at the hearing.

The Property Owner submitted statistical information as evidence at the hearing. He submitted some statistical Market Summary Reports from UtahRealEstate.com. In the first set of data, he looked at just the ranch/rambler style residences that had sold for at least \$\$\$\$ in the City of CITY-1 from January 1, 2020 to January 1, 2021 and again from January 1, 2021 to January 1, 2022. The report showed that for the January 1, 2020 period to the January 1, 2021 period there had been 13 properties that sold, their median price was \$\$\$\$ and their average price was \$\$\$\$\$. This data showed that the highest sale price had been \$\$\$\$ and only three of the sales had sold for \$\$\$\$ or higher. The same report for the period January 1, 2021 to January 1, 2022 showed that there were 34 property sales in this category, their median price was \$\$\$\$ and average price was \$\$\$\$\$. The highest priced home in this category had sold for \$\$\$\$\$. During this year, 15 of the properties had sold for more than \$\$\$\$ and 5 had sold for more than \$\$\$\$\$. Only one sale was over \$\$\$\$\$. He pointed out that this is a %%%% increase of the median price and a %%%% increase of the average price between the January 1, 2020 to January 1, 2021 sales and the January 1, 2021 to January 1, 2022 sales.

The Property Owner also submitted the same type of report for all ranch/rambler style residences that had sold in CITY-1 during the same time period. This report was not limited to sales of ranch/rambler style residences that sold for at least \$\$\$\$\$. This report showed that for January 1, 2020 to January 1, 2021 there had been 70 ranch/rambler style residences that sold, their median price was \$\$\$\$ and their average price was \$\$\$\$\$. For the period January 1, 2021 to January 1, 2022, there were 55 ranch/rambler residences that sold, and their median price was \$\$\$\$ and average price was \$\$\$\$\$. He pointed out that this is a %%%% increase in the median price and a %%%% increase in the average price.

The Property Owner also pointed to a Sales Graph Report that had been given to him by the County. This report showed home sale prices per quarter for all single family ranch/ramblers in CITY-1. The report covered the first quarter of 2021 through the second quarter of 2022. This report showed the following average sale price per quarter in \$\$\$\$ increments:

REDACTED TABLE

The Property Owner pointed out that there was actually a dip in sales prices indicated on this report during the fourth quarter of 2021, and the increase from the first quarter of 2021 to the fourth quarter of 2021 was only %%%%. The difference from the first quarter 2021 to the first quarter of 2022, which was three months post lien date, was %%%%.

The Property Owner’s argument was based on a statistical percentage of increase in average sales prices from 2021 to 2022. The Property Owner did not provide an appraisal or comparable sales. Although the statistical information he presented provided the number of sales at various price categories, it was an aggregate that did not include information about each individual sale.

III. County's Evidence

The County submitted an appraisal at the hearing to support their position that the fair market value of the subject property as of January 1, 2022 was at least as high as the County’s assessed value of \$\$\$\$\$. The County’s appraisal relied on four ranch/rambler properties. All comparables were located in CITY-1 and were less than 1 mile in distance from the subject property. The County made standard appraisal adjustments to account for the differences between the subject property and the comparables. The County’s comparables and the County’s concluded adjusted value from the comparables were the following:

Subject	Comp. 1	Comp. 2	Comp. 3	Comp. 4
REDACTED TABLE				

It was the County’s appraisal conclusion that the value of the subject property as of the January 1, 2022 lien date at issue in this appeal was \$\$\$\$\$. This was higher than the County’s assessed value for the subject property. The County did not request an increase in value to the appraisal value, but instead offered the appraisal in support of its assessed value of \$\$\$\$\$.

The County stated at the hearing that the data the County was relying on was its appraisal and the comparables used in the appraisal supported the County’s value. The County pointed out that the County’s assessment was based on a computer assisted modeling system that modeled the values for each property each year.

IV. Value Conclusion

The subject property is not a “qualified real property” pursuant to Utah Code Subsection 59-2-109(1) and Utah Code Ann. §59-2-301.4 is not applicable in this matter because the subject property had not been the subject of a valuation appeal in tax years 2018 through 2021. Only the Property Owner is requesting a value different from the County’s current value. To prevail in this

case, Utah Code Ann. §59-2-109(2) provides that the Property Owner 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.

The parties are arguing two different approaches to valuing the subject property. The Property Owner's argument and evidence was based on looking at the prior year's value and applying a statistical average increase in sales prices from one year to the next. This is a common argument that property owners make to the Tax Commission as property owners may believe that properties are assessed by setting some base value and then determining an average percentage increase or decrease in values for all properties of a certain type in a particular taxing jurisdiction. However, that is not how property is assessed in Utah. The County's original assessment was made using a computer assisted mass appraisal system that valued the property based on sales near the lien date. The County's appraisal offered at the hearing was an individual appraisal of the subject property to determine the property's fair market value as of January 1, 2022, not by looking back at the prior year's value, but instead looking at what properties comparable to the subject property were selling for around the January 1, 2022 lien date. This is standard appraisal methodology. Furthermore, Utah law requires property to be assessed on the basis of fair market value.

The County's representatives had mentioned at the hearing that the original assessment was based on a computer assisted modeling system and said that the County models the values for every property, every year. The County's representatives did not explain the County's mass appraisal system in detail, so it is not unreasonable that the Property Owner did not understand why his approach was not the same as what the County used for its assessments. Utah Code §59-2-103(2) provides that property is assessed "on the basis of its fair market value, as valued on January 1 . . ." "Fair market value" is defined in Utah Code Ann. §59-2-102(13) to be "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 . . ." Fair market value for residential property is generally determined using appraisal methods that consider comparable sales of properties sold near the lien date. County assessors are required to determine the fair market value assessment annually using a computer assisted mass appraisal system pursuant to Utah Code §59-2-303.1. COUNTY-1 has this type of computer assisted mass appraisal system, which is what the County representatives referred to during the hearing as "modeling." The computer assisted system reappraises each individual

residential property each year by comparing the features of the property with a large amount of sales data from relevant comparable properties that sold near the lien date.

Although the assessed value of the subject property did increase substantially from 2021 to 2022, the appraisal that the County submitted in this hearing clearly supports that the assessed value is not higher than the subject property's fair market value. Three of the four comparables provided by the County had sold for more than the \$\$\$\$ at which the subject property was assessed. The one property that had sold for less had a substantially smaller residence. These sales indicate that the County's current value is clearly supported. The argument based on the percentage increase of average sales prices offered by the Property Owner does not establish the market value as of the lien date and is not sufficient to show error in the County's current value.

Upon that basis, the value for the subject property as of the lien date at issue should remain as set at the County's assessed value.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property was \$\$\$\$ as of the January 1, 2022 lien date. It is so ordered.

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.

Appeal No. 22-1804

DATED this _____ day of _____, 2023.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner