

APPEAL # 23-104

TAX TYPE: PROPERTY TAX

TAX YEAR: 2022

DATE SIGNED: 07/23/2024

COMMISSIONERS: J. VALENTINE, R. ROCKWELL, M. CRAGUN AND J. FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER-1,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1 COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 23-104</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:

John L. Valentine, Commission Chair

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: TAXPAYER-1, Property Owner

TAXPAYER-2, Property Owner

For Respondent: RESPONDENT'S REP-1, COUNTY-1 County Assessor

RESPONDENT'S REP-2, Appraiser Trainee, COUNTY-1 County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 25, 2024, 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 Petitioner's ("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.

2. The lien date at issue in this appeal is January 1, 2022.

3. The County Assessor had originally valued the subject parcel at \$\$\$\$\$, as of the lien date at issue. The Property Owner had appealed to the County Board of Equalization and the County Board of Equalization upheld the value. At the Formal Hearing, the Property Owner requested a reduction to \$\$\$\$\$. During the hearing, the County requested that the County's current value for tax year 2022 of \$\$\$\$\$ be upheld.

4. The property at issue had not been the subject of an appeal for any of the three tax years prior to tax year 2022.

5. The subject property is located at ADDRESS-1, CITY-1, Utah, in the SUBDIVISION-1. The subject property is ##### acres of land improved with a one-story rambler style residence. The residence was constructed in YEAR. It has ##### square feet above grade and a basement of ##### square feet. The property has an attached three-car garage and a covered deck area. The subdivision has fully paved roads and is located in a mountainous area with most parcels being around one acre in size. The subject property lot is sloped with steep terrain.

6. The SUBDIVISION-1 was a subdivision that had not been reappraised for a number of years, but the County Assessor had reappraised the subdivision for tax year 2022. The parties provided at the hearing a history of the assessed market value for the subject property going back to YEAR, which was the following:

YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$
YEAR	\$\$\$\$\$

7. The fair market value of the subject property for tax year 2022 was not in dispute by the Property Owner. The Property Owner had filed the appeal due to the %%% increase in value from tax year YEAR to tax year 2022, which resulted in his property taxes increasing by \$\$\$\$\$ between YEAR and 2022, and the Property Owner's request in this matter was for an adjustment based on equalization.

II. Property Owner's Evidence

8. The Property Owner did not submit an appraisal of the subject property at the hearing or any comparable sales information, as his request was based on equalization. The Property Owner had researched the issue with the County and had acknowledged that all of the developed residential properties in the SUBDIVISION-1 had been reappraised for tax year 2022. He testified that the average tax increase from YEAR to 2022 was %%%%%%%%% in his subdivision. The Property Owner conceded that the subject property was assessed equitably within the SUBDIVISION-1. The Property Owner also acknowledged that the County had reappraised the comparable nearby subdivisions for tax year 2022, and again did not argue that the subject property assessment was inequitable as compared to the nearby subdivisions. The Property Owner had compiled from the information he obtained from the County the following information regarding the reappraisal of the subject subdivision and the nearby subdivisions, which showed that the values had all increased substantially from tax year YEAR to tax year 2022. The Property Owner did not argue that the 2022 assessed values were above market value for these subdivisions and did not argue that the County's assessed market value for the subject property was above the actual fair market value. The Property Owner provided the following compilation of information regarding the subject subdivision and the neighboring subdivision:¹

Subdivision	Number of Properties	Average Market Value 2021	Average % Change	Average Market Value 2022
SUBDIVISION-1 (subject subdivision)	#####	\$\$\$\$\$	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-2	#####	\$\$\$\$\$	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-3	#####	\$\$\$\$\$	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-4	#####	\$\$\$\$\$	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-5	#####	\$\$\$\$\$	%%%%%%%%%	\$\$\$\$\$
Total Properties	#####			

9. The Property Owner then looked at other subdivisions that the County had reappraised for tax year 2022. The Property Owner testified at the hearing, that he had researched ##### properties located in COUNTY-1 County and the County had reappraised about %%%%%%%%% of the properties for tax year 2022, while the rest were unchanged. The average market value increases for some of these other subdivision's were also significantly increased for tax year 2022. The Property

¹ Petitioner's Exhibit 1 & 2.

Owner provided another compilation of data from other subdivisions, which represented another ##### properties in COUNTY-1 County that had been reappraised for tax year 2022.²

Subdivision	Number of Properties	Average % Change	Average Market Value 2022
SUBDIVISION-6	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-7	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-8	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-9	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-10	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-11	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-12	#####	%%%%%%%%%	\$\$\$\$\$
Total Properties	#####		

10. At the hearing, the Property Owner pointed out that while the County had reappraised many residential properties for tax year 2022, the County had not reappraised all of the residential properties in the County for tax year 2022, and that there had been ##### properties that the County had not reappraised. The Property Owner compiled information on some of the subdivisions located in the County where the average assessed market value was the same for tax year 2022 as it had been for tax year YEAR. This information was the following:³

Subdivision	Number of Properties	Average % Change	Average Market Value 2022
SUBDIVISION-13	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-14	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-15	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-16	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-17	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-18	#####	%%%%%%%%%	\$\$\$\$\$
SUBDIVISION-19	#####	%%%%%%%%%	\$\$\$\$\$
Total Properties	#####		

11. As evidence for the Formal Hearing, the Property Owner had sorted from the ##### properties that were not assessed in 2022 to develop a list of properties that he felt were comparable to the subject property. None of these properties were from the subject property subdivision, or located in the neighboring subdivisions because those had all been reappraised, but they came from other neighborhoods in COUNTY-1 County at a distance of four miles or more. The Property Owner explained in his exhibit the criteria he used to search for his equalization comparables. His search criteria were: having a year built from YEAR to YEAR; having acreage from ##### to ##### acres;

² Petitioner's Exhibit 1 & 2.

³ Petitioner's Exhibit 2, pg. 6.

and having a residence with a total size from ##### to ##### square feet. He stated that these properties were all larger custom homes. From this search, the Property Owner found eighteen equalization comparables, which he presented as follows:⁴

Parcel	Address	Acres	Home SqFt	Year Built	2022 Assessed Value Acre	2022 Land Value	2022 Land Value Per	2022 Improvement Value	2022 Improve- ment/SF ⁵
Subject	ADDRESS-1	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-2	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-3	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-4	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-5	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-6	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-7	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-8	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-9	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-10	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-11	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-12	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-13	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-14	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-15	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-16	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-17	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-18	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	ADDRESS-19	#####	#####	YEAR	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
	Average	#####	#####	YEAR	\$\$\$\$\$\$\$		\$\$\$\$\$\$\$	\$\$\$\$\$\$\$	\$\$\$\$\$\$\$
	Median	#####	#####	YEAR	\$\$\$\$\$\$\$		\$\$\$\$\$\$\$	\$\$\$\$\$\$\$	\$\$\$\$\$\$\$

12. The Property Owner calculated his requested value for the subject property of \$\$\$\$ from these equalization comparables by taking the average land value per acre and the average improvement value per square foot and applying that to the subject property. His average land value per acre was \$\$\$\$\$, and his average improvement value per square foot was \$\$\$\$.

13. The Property Owner stated that he had not paid attention to the fact that his assessed value had not been increased for a number of years and then it was a shock to have the tax amount increase so much in one year. He pointed out that state law requires counties to reappraise all properties in the county every year using a mass appraisal system.

⁴ Petitioner's Exhibit 1, pg. 7.

⁵ This appears to be the improvement value divided by the total square footage without any indication of whether that square footage is above grade or contains basement square footage.

14. The Property Owner also provided the assessment history for each of his eighteen equalization comparables to show the percentage increase from tax year YEAR to tax year 2022. While the subject had increased in value by %%%%%%%%% over this time period, the value of the comparable properties on average had increased by only %%%%%%%%% over this time period. The Property Owner also provided information regarding the assessed values of his eighteen equalization comparables for tax year YEAR. It appears from this information that seventeen of these equalization comparables were reassessed for tax year YEAR, and they saw a substantial increase for tax year YEAR. The Property Owner also calculated the percentage increase to the subject property value from tax year YEAR to tax year YEAR, which was %%%%%%%%%. He calculated the average increase for the eighteen comparables from tax year YEAR to tax year YEAR, which was %%%%%%%%%. The Property Owner acknowledged that this indicated that the County had likely caught up the values for tax year YEAR for most of these properties that were not reappraised in tax year 2022. The Property Owner's market value history for his eighteen equalization comparables was the following:⁶

Address	Acres	YEAR Market Value	YEAR Market Value	YEAR Market Value	YEAR Market Value	YEAR Market Value	YEAR Market Value	2022 Market Value	% Increase YEAR to YEAR	No. of Assessed Value Changes	YEAR Market Value	Percent Increase YEAR to YEAR	No. of Assessed Value Changes
Subject	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-20	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-21	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-22	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-4	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-5	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-6	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-7	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-8	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-9	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-10	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-11	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-12	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-13	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-14	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-23	#####	NA	NA	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-15	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-16	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-24	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-17	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-18	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
ADDRESS-19	#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
Average		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####
Median		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	%%%%%%%%%	#####	\$\$\$\$\$	%%%%%%%%%	#####

⁶ Petitioner's Exhibit 2, pg. 13.

15. The Property Owner also provided photographs of the subject property and his eighteen equalization comparables. Some information could be obtained from these photographs, which indicate for the most part that these were custom homes. The subject property is located in a mountain subdivision area where all the properties are on lots near one acre in size. The photographs indicated the following about each comparable property:

Property 1 at ADDRESS-2: Two story property located in a subdivision setting, similar in age/style to the subject, on a flat subdivision lot near in location to neighbors, 1 car garage.

Property 2 at ADDRESS-22: Rambler property of different style and lower grade compared to subject, on flat terrain, 3 car garage.

Property 3 at ADDRESS-4: Similar in style to the subject, not able to determine size of garage from photograph, in area of flat terrain.

Property 4 at ADDRESS-5: Two-story property, different style and lower grade compared to subject, in rural location with flat terrain, 3 car garage.

Property 5 at ADDRESS-6: Rambler residence is different in style from the subject and lower grade compared to the subject, in an area of flat terrain, 3 car garage.

Property 6 at ADDRESS-7: Two-story, different style residence, in an area where properties are on large, flat lots, cannot see the size of the garage in the photo.

Property 7 at ADDRESS-8: Two-story log cabin property with at least a 2 car garage.

Property 8 at ADDRESS-9: Two-story log cabin in a wooded setting, no garage visible.

Property 9 at ADDRESS-10: Two-story, mountain style property in a mountainous area, 2 car garage.

Property 10 at ADDRESS-11: Two story log cabin in a wooded area, 2 car garage.

Property 11 at ADDRESS-12: Log cabin in wooded, mountainous area, 2 car garage

Property 12 at ADDRESS-13: Mountain style property in a mountainous area, garage not visible in the photograph.

Property 13 at ADDRESS-14: Traditional style two-story residence in a mountainous area, with a 2 car garage.

Property 14 at ADDRESS-15: Log cabin property in a mountainous area, garage not visible in photograph.

Property 15 at ADDRESS-16: Two-story log cabin property in a mountainous area, with 3 car garage.

Property 16 at ADDRESS-17: Two story log cabin property in wooded area, with at least a 1 car garage.

Property 17 at ADDRESS-18: Single story rambler property both of lower grade and different style compared to subject, with flat terrain. Appears to have an attached garage, but size of garage cannot be determined from the photograph.

Property 18 at ADDRESS-19: Two-story property in subdivision location with flat terrain, with a 3 car garage.

III. County's Evidence

16. The County Assessor attended the hearing and testified that he had been elected as County Assessor in YEAR, and he had found that there was a long standing issue of property tax assessment disparity. Due to the scale of the issue, the assessor concluded it would be a multi-year process to evaluate all of the properties and get the properties up to current market values. He testified that part of the reason for the disparity was that some areas of the County had received factoring orders from the Property Tax Division of the Utah State Tax Commission over the years, while other areas had not received factoring orders. He explained that the SUBDIVISION-1 and the subdivisions in that area had not been reappraised or the subject of factoring orders for a number of years and were significantly undervalued. He testified that he personally worked on walking the area, updating the attributes and reassessing the neighborhood along with the similar neighboring subdivisions that had parcels of one acre or larger. These reappraisals were completed for tax year 2022. He explained that his office had a limited staff and that situation was made worse when one of his appraisers died unexpectedly. The County Assessor acknowledged that there were other areas in the County that he was not able to review and update for tax year 2022, and there were other areas reappraised in YEAR.

17. At the hearing, the County provided evidence that the subject parcel was assessed at a value that was equalized with all of the other properties in the SUBDIVISION-1. The County Assessor provided a plat map that showed the subdivision to consist of lots of approximately one acre in size. The County then provided the below exhibit to show how each of the parcels in the subdivision had been assessed. However, the Property Owner's equalization argument was not based on properties within the same subdivision, as the Property Owner did not dispute that his assessment was equalized with properties in SUBDIVISION-1. The County's exhibit showing that the subject property's assessment was equalized with the other properties in the SUBDIVISION-1 is the following:⁷

Acre	Address	YEAR Market Value	YEAR Land Value	YEAR Building Value	Yr Blt	Sq Ft	Bsm Sq Ft	2022 Building Value	2022 Land Value	Steep Dr. 10%	2022 Market Value
#### #	ADDRES S-25	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#### #	ADDRES S-26	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$ ⁸	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#### #	ADDRES S-27	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

⁷ Respondent's Formal Hearing Exhibit 1.

⁸ The County's Exhibit indicated that this property had a second or "other building" with a value of \$160,827.

#### #	ADDRES S-28	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#### #	ADDRES S-29	\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-30	\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-31	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#### #	ADDRES S-32	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#### #	ADDRES S-33	\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-34	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-35	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-36	\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-37	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-38	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-39	\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-40	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-41	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-42	\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-43	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-44	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-45	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#### #		\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-46	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#### #		\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #	ADDRES S-47	\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$
#### #		\$\$\$\$\$	\$\$\$\$\$						\$\$\$\$\$		\$\$\$\$\$

#### #	ADDRES S-48	\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #		\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #	ADDRES S-49	\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #	ADDRES S-50	\$\$\$\$	\$\$\$\$	\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$	\$\$\$\$		\$\$\$\$
#### #	ADDRES S-51	\$\$\$\$	\$\$\$\$	\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$	\$\$\$\$		\$\$\$\$
#### #	ADDRES S-52	\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #	ADDRES S-53	\$\$\$\$	\$\$\$\$	\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$ ⁹	\$\$\$\$		\$\$\$\$
#### #	ADDRES S-54	\$\$\$\$	\$\$\$\$	\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$	\$\$\$\$		\$\$\$\$
#### #	ADDRES S-55	\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #	ADDRES S-56	\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #	ADDRES S-57	\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #	ADDRES S-58	\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #	ADDRES S-59	\$\$\$\$	\$\$\$\$	\$\$\$\$	YEAR	#### #	#### #	\$\$\$\$	\$\$\$\$		\$\$\$\$
#### #	ADDRES S-60	\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$
#### #	ADDRES S-61	\$\$\$\$	\$\$\$\$						\$\$\$\$	\$\$\$\$	\$\$\$\$
#### #		\$\$\$\$	\$\$\$\$						\$\$\$\$		\$\$\$\$

18. The County also submitted information to show how the land value had been determined from sales of similar residential lots. The County’s exhibit showed that all the land values in the SUBDIVISION-1 were based on \$\$\$\$ for up to the first acre and \$\$\$\$ per acre for excess land.¹⁰

IV. Commission’s Factual Conclusions

19. As discussed more in the Conclusions of Law section below, it is the Property Owner who has the burden of proof at this hearing and must establish substantial error in the County’s current value and provide a sound evidentiary basis to support the value that he is requesting. The

⁹ The County’s Exhibit indicated that this property had a second or “other building” with a value of \$3,240.

¹⁰ Respondent’s Exhibit 2.

Property Owner did not submit an appraisal or comparable sales. However, the Property Owner did not challenge the fair market value of the subject property; rather, he requested an adjustment based on equalization. In fact, many of the facts in this appeal were not in dispute. For tax year 2022, the County had reappraised the SUBDIVISION-1 and the comparable neighboring subdivisions that had lot sizes of one acre or more. The County has established, and the Property Owner did not refute, that the subject property's assessed market value was equalized with the assessed values of the other properties in the SUBDIVISION-1. This brought the values for these properties in line with market value. The County was not able to reassess all of the properties in the County for tax year 2022, so there were some neighborhoods and subdivisions that were substantially undervalued. The Property Owner has submitted eighteen properties, which have some general similarities to the subject property, but were located in different neighborhoods and areas in COUNTY-1 County, that were assessed at a much lower value per acre and per square foot than the subject property for tax year 2022. The question for this appeal is whether this evidence meets the requirements established in case law and statute for an adjustment based on equalization under Utah Code Subsection 59-2-1006(5).

20. Utah Code Subsection 59-2-1006(5) provides that the Tax 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." The issue of equalization was raised by the Property Owner and the assessed value of the subject property deviates in value far more than 5% from the other properties he presented as comparables. However, the Property Owner did not establish that his eighteen equalization comparables were actually "comparable properties." All eighteen equalization comparables were located in different subdivisions and neighborhoods from the subject property. Location is a factor that affects comparability and the Property Owner did not establish that the value of the subject property deviated more than 5% from properties located within its own subdivision and the nearest comparable neighboring subdivisions. In addition to the location being less comparable, the Property Owner provided only the total square footage, year built and acreage of his eighteen comparables along with an exterior photograph. The photographs establish that there are considerable differences between the subject and the comparables in regards to style and exterior quality and finish. Features like quality of construction, size, age, condition, remodeling, location, basement finish, view and type of access all affect market value. The Property Owner's analysis did not account for the numerous factors that affect market value that would make a property comparable or not comparable to the subject. Furthermore, there were no adjustments made to the assessed values of the

submitted properties to account for any differences between them and the subject property. The Property Owner is requesting a value based only on the average assessed value from his eighteen equalization comparables and has failed to establish that these properties are actually comparable.

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.

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 Owner who is requesting a value different from the County Board of Equalization value and the property is not qualified real property. Thus, it is the Property Owner that has the burden of proof. For the Property Owner to prevail in this case, Utah Code §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 the Property Owner 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); *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.

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.

4. However, 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 Owner did not argue for a reduction based on market value, but instead made an equalization argument. Utah Code Subsection 59-2-1006(5) provides “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.” As the Court of Appeals recently explained:

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 evaluation if the assessment “stands apart from a group of undervalued comparable properties.” *See Mountain Ranch Estates v. Utah State Tax Comm’n*, 2004 UT 86, ¶15, 100 P.3d 1206. This is a process known as equalization.” [Patience LLC v. Salt Lake Cty. Bd. of Equalization, 2021 UT App 4, P28, 480 P.3d 1090, 1096, 2021 Utah App. LEXIS 5, *14, 2021 WL 126573.](#)

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 comparable properties” were assessed at values that deviated at least 5% from the subject property.¹¹ The parties in this appeal have clearly shown that there was a group of undervalued properties in the County as of the January 1, 2022 lien date. However, the question before the Commission is whether the Property Owner has shown that there was a “group of undervalued *comparable* properties” as of the January 1, 2022 lien date.

¹¹ *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.”

5. The Courts have reviewed equalization arguments in a number of cases and have placed a high burden on the property owner generally in establishing that an adjustment is warranted based on equalization. In [Mt. Ranch Estates v. Utah State Tax Comm'n, 2004 UT 86, P19, 100 P.3d 1206, 1211, 2004 Utah LEXIS 193, *14-15, 511 Utah Adv. Rep. 13](#), the owner of the Mountain Ranch Estates subdivision had argued for an equalization adjustment based on the County's assessment of the Glenwild subdivision, which had a number of similar characteristics. The Court concluded in that case, "To win an adjustment in valuation under section [***15] 59-2-1006(4) without joining a battle over fair market value, a property owner must meet the clear statutory mandate of presenting multiple disparate comparable properties. The property owner cannot have both an absence of comparable properties and freedom from the constraints of the fair market value standard of valuation." See [Mt. Ranch Estates P19](#). In [Decker Lake Ventures, LLC v. Utah State Tax Comm'n, 2015 UT 66, 356 P.3d 1243, 2015 Utah LEXIS 212, 793 Utah Adv. Rep. 20](#), the Utah Supreme Court reviewed an appeal of a Tax Commission decision denying an equalization claim, finding that Decker Lake's arguments "fail on the same basic ground: The Commission simply did not make the legal determinations that Decker Lake assails. It examined the evidence in the record and made a determination as to comparability—concluding that the County's comparables supported its position and that Decker Lake's evidence was insufficient to sustain its claim." In *Patience*, the Utah Court of Appeals also affirmed the Tax Commission's decision to deny an adjustment based on equalization. In that case the court concluded, "The Commission evaluated the other properties and found that they were not "actually comparable" because [**1097] they all were in poorer condition than the subject property and most were of a relatively lower construction grade. [*P32] Further, we cannot fault the Commission for finding that Patience's properties were not comparable, where the Board rebutted the evidence by identifying other office conversion properties in the same neighborhood as the subject property, with similar valuations." *Id.* at [P31-P32](#).

6. In this subject appeal, the Tax Commission concludes that when determining the comparability of properties for purposes of equalization, location is a significant factor. The Tax Commission takes administrative notice that if an appraiser were to prepare an appraisal of the subject property, the appraiser would first look for comparables from the same subdivision and same neighborhood, before looking miles farther from the subject property. Therefore, the equalization of properties within the same subdivision and the most similar neighboring subdivisions is more persuasive as these properties are generally the most

comparable. In this matter, the properties within the subject property's subdivision and comparable neighboring subdivisions were equitably assessed.

7. Equalization does not mean that every residential property in a County should have the same average land value on a per acre basis and the same building value on a per square foot basis, as this does not account for the fact that there are differences in the characteristics of properties, including location, view, quality of construction, paved road access, condition, basement or basement finish, features like garages, extra kitchens or out buildings and the age of a property. This is especially true in the instant case, where the homes in the subject subdivision and neighboring subdivisions, and the Property Owner's equalization comparables, are generally custom homes. The Property Owner failed to provide information about each of his equalization properties to determine if they were actually "comparable" to the subject based on the factors that affect market value. Where there are differences, a party arguing equalization would need to make appraisal type adjustments to the assessed values of the equalization comparables. It is not sufficient to argue that a residential property should be valued based on the average per square foot assessed value of other properties in the County without providing sufficient evidence to show that the other properties were actually comparable to the subject property.¹² The Property Owner has not established a basis for a reduction in value of the subject property based on equalization.

8. The subject property is not a "qualified real property" for tax year 2022 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 2021.

9. Utah Code Ann. §59-2-301.4 is also not applicable in this matter because the subject property had not been the subject of a "valuation reduction" in any of the three tax years preceding tax year 2022.

¹² See *Utah State Tax Commission Findings of Fact, Conclusions of Law and Final Decision, Appeal No. 23-546* (June 27, 2024) which may be read in a redacted format at <https://tax.utah.gov/commission-office/decisions>. In that appeal, the Taxpayer asserted that the assessed value per square foot of the property subject to that appeal was higher than the assessed value per square foot of the submitted comparables. The Tax Commission concluded in that decision, at page 25-26, as follows:

In this appeal, the Taxpayer's representative provided the assessed values of four properties and asserted that the assessed value per square foot of the subject property is higher than the assessed values per square foot of the submitted comparables. The Commission finds that the Property Owner's information is insufficient to show that the subject property's value should be reduced for purposes of equalization. The Taxpayer has not provided sufficient information to show that the properties submitted as comparables are actually comparable to the subject property by providing additional information on the property characteristics of those equity comparables, and no adjustments were made to the assessed values of the submitted comparables to account for any differences between the submitted comparables and the subject property.

Based on the evidence presented at this hearing, the Property Owner has failed to establish a basis for reduction based on equalization under Utah Code §59-2-1006(5). Therefore, the Property Owner's request for a reduction should be denied.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the County Board of Equalization and finds that the fair market value of the subject property as of January 1, 2022, is \$1,277,000. It is so ordered.

DATED this _____ day of _____, 2024.

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.