

APPEAL #23-268
TAX TYPE: PROPERTY TAX
TAX YEAR: 2022
DATE SIGNED: 7/3/2024
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER, Petitioner, 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. 23-268 Parcel No: ##### Tax Type: Property Tax Tax Year: 2022 Judge: Phan</p>
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Presiding:

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

Appearances:

For Petitioner: PROPERTY OWNER, Property Owner
For Respondent: RESPONDENT'S REP-1, Chief Deputy 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 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 tax year 2021. The property had been the subject of an appeal in both tax years 2019 and 2020. For tax year 2019, the original assessed value had been \$\$\$\$\$, and the County Board of Equalization reduced the value to \$\$\$\$\$. For tax year 2020, the County Assessor's original assessed value had been \$\$\$\$\$, and the County Board of Equalization reduced the value to \$\$\$\$\$. The County did not explain the reasons for the value reductions at the hearing.

5. The subject property is located at ADDRESS-1, It is ##### acres of land improved with a two-story style residence. The residence was constructed in DATE. It has ##### square feet above grade and a basement of ##### square feet, which the County records indicate are unfinished. There is a two-car garage attached to the residence. The residence has a quality of construction of "average plus" and the County record indicates it is in good condition. The County provided photographs of the exterior of the residence, which supported this quality and condition.¹ The Property Owner did not provide photographs of the exterior or interior, or any evidence that called this grade and condition into question.

II. Property Owner's Evidence

6. The Property Owner did not submit an appraisal of the subject property at the hearing, but provided information for four comparable sales

¹ Respondent's Exhibits 1 and 2.

that he had written out on a Comparable Analysis Sheet.. From the information the Property Owner provided, all four comparables were on residential lots similar in size to the subject property, and they were near in location to the subject property. None of the residences, however, were two-story residences like the subject property. All four comparables were much older residences than the subject property, having been constructed between 1967 and 1977. In his Comparable Analysis Sheet, the Property Owner did account for the age difference by making an adjustment factor of \$\$\$\$ per year of age difference and then he added this adjustment to the values of his comparables. The Property Owner's comparable sales information with the age difference adjustment included is summarized as follows:²

REDACTED TABLE

7. The Property Owner determined the value he was requesting for the subject property, which was \$\$\$\$\$, by calculating the average of the adjusted sale prices from his four comparables (\$\$\$\$\$ + \$\$\$\$\$ + \$\$\$\$\$ + ##### = \$\$\$\$\$/4 = \$\$\$\$\$). This calculation does not take into account the large differences in gross living area between the subject property and the comparables, with the subject property being significantly larger than the comparables.

8. The Property Owner's focus at the Formal Hearing appeared to be based more on the argument that the hearing officer for the County Board of Equalization was not qualified to act as a hearing officer. The Property Owner pointed to Utah Code Sec. 59-2-1001, and stated that the hearing officer was not a licensed appraiser. The Property Owner argued at the hearing that the County did not know the hearing officer's qualifications. The Property Owner provided documentation that the hearing officer, PERSON-1, had been a licensed real estate agent from DATE until DATE, and he had been a Utah licensed appraiser from DATE to DATE.³ The Property Owner also submitted documentation that PERSON-1 had worked as a county hearing officer since DATE.⁴

² Petitioner's Exhibit 1, PDF# 13-15.

³ Petitioner's Exhibit 1, PDF# 19-20.

⁴ Petitioner's Exhibit 1, PDF# 12.

9. Another concern the Property Owner focused on at the hearing was the argument that the County's appraisal, which the County offered as evidence at this hearing, should not be considered as credible evidence. The Property Owner stated several reasons. He pointed to differences between the comparable sales the County had used in its appraisal and the subject property. He also argued that the County employee who prepared the appraisal was a subordinate employee of the County Assessor, who was the client for the appraisal. The Property Owner argued that a County employee should be disqualified from appraising a parcel on appeal before the County BOE. He argued that a County employee could not be viewed as independent and he argued that the County employee's failure to disclose this information in the appraisal was a violation of the Uniform Standards of Appraisal Practice (USPAP).

III. County's Evidence

10. The County submitted an appraisal at the hearing, which indicated that the market value for the subject property was actually higher as of the lien date January 1, 2022, than the County's assessed market value. However, the County did not request that the value for the subject property be increased and instead offered the appraisal to support the County's current value for the subject property of \$\$\$\$\$. The appraisal had been prepared by County employee RESPONDENT'S REP-2, Licensed Residential Appraiser. It was the County appraiser's conclusion that the value of the subject property as of January 1, 2022 was \$\$\$\$\$. The County appraisal was based on a sales comparison approach and four comparable sales were submitted in the appraisal. There were differences between the characteristics of the County appraiser's comparable sales and the subject property, including that all the residences were a little newer than the subject property and they all had some basement finish. However, the County appraiser made appraisal adjustments for the differences. The County's comparable sales and adjusted values derived from the sales are as follows:⁵
REDACTED TABLE

⁵ Respondent's Exhibit 2.

11. The County also offered at the hearing information about the four comparable sales that the Property Owner had relied on, including a photograph of each property. This information indicated that the Property Owner's comparables were all older and outdated properties compared to the subject property, and were not better comparables for the subject property than the ones used by the County. The County prepared an appraisal adjustment grid using the Property Owner's comparables, and made appraisal adjustments for a broader range of differences. After making appraisal adjustments, the County indicated the value range for the subject property from these comparables was from \$\$\$\$\$ to \$\$\$\$\$, which supported the County's current value for the subject property. The County's adjustment grid of the Property Owner's comparables was the following:⁶

REDACTED TABLE

12. The County also submitted an equity study of the assessed value of properties similar to the subject property and demonstrated from this study that the assessed value of the subject property was in line or even lower than these other comparable properties for the tax year at issue.⁷ The equity study is as follows:

REDACTED TABLE

13. The County appraiser then selected four of the equity comparables, which she determined were the most similar to the subject property, and did an analysis of the assessed value with appraisal adjustments. From this study she concluded that the subject property was actually assessed at a value that was less than these comparable properties. The County's equity grid was the following:⁸

REDACTED TABLE

14. Regarding the County Board of Equalization hearing officer, the County Assessor testified that he had recently retired from being a licensed appraiser.

IV. Commission's Value Conclusions

⁶ Respondent's Exhibit 1, pg. 24.

⁷ Respondent's Exhibit 1, pgs. 25-26.

⁸ Respondent's Exhibit 1, pg. 27.

15. As discussed more in the Conclusion 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 Property Owner did not present an appraisal. The Property Owner presented four comparable sales. All of these sales were older than the subject property and had less above grade living area than the subject property. However, they had more finished basement area than the subject property. They did have some similarities as well, as they were near in location to the subject property and they all were properties constructed on similar sized lots to the subject property's lot. The County has demonstrated that if appraisal adjustments were made for the differences between the Property Owner's comparables and the subject property, the Property Owner's comparables support the County's value for the subject property. The Tax Commission takes administrative notice that in this analysis, the County has applied typical appraisal adjustments. The County also submitted its own appraisal, with comparable sales that the County's appraiser had concluded were more similar to the subject property, and these comparables more than supported the County's value for the subject property. The Property Owner had argued that the County's appraiser was not credible because these comparables were too dissimilar to the subject property, but the Property Owner had not established that there were better comparables, and his own comparables were also dissimilar to the subject property in many aspects. The Property Owner's direct evidence of market value did not establish substantial error in the County's value. Therefore, the Property Owner failed to meet his burden of proof in this matter.

16. The Property Owner had made the argument at the hearing that the County's appraisal should not be considered as credible evidence for a number of reasons, stemming from the fact that the appraiser who prepared the appraisal was an employee of COUNTY-1 and a subordinate to the County Assessor, who was the client for the appraisal.⁹ In addition, the

⁹ The Tax Commission notes that the County Board of Equalization, which upon appeal reviews the value at the County Board of Equalization proceeding, consists of elected officials who are independent from the County Assessor.

Property Owner argued a violation of USPAP occurred because the relationship between the appraiser and the County Assessor was not disclosed. The Tax Commission is aware that most counties in the state of Utah have employee appraisers that prepare appraisals, which are then submitted in hearings before the Utah State Tax Commission. There are a number of economic reasons for doing so rather than hiring an outside appraiser for every required appraisal. If the County hired out every needed appraisal to an outside appraiser, the outside appraiser would still be working for the County. There is no outside entity in the state of Utah that pays for and hires out appraisals for property tax hearings. The Property Owner could have hired an appraiser to appraise the subject property and submit that as evidence, but he did not choose to do so. The Tax Commission understands that the County appraiser was an employee of the County and notes that a County employee is not precluded from appraising property for assessment purposes under Utah Code Sec. 59-2-701.¹⁰ The Commission considered that the appraisal was prepared by a County employee in the weight given to the appraisal, but the Commission finds that the appraisal provided credible and reliable valuation evidence. The Property Owner did not argue that the County's appraiser had not complied with the applicable statutory and Administrative Rules governing individuals employed by a county assessor working as an appraiser. The Property Owner argued at the hearing that the Hearing Officer for the County Board of Equalization may not have been qualified to act as a Hearing Officer. As discussed below in the Conclusions of Law, Utah Code Sec. 59-2-1001 provides the statutory requirements to serve as a Hearing Officer at a county board of equalization. The statute leaves to the county board of equalization the decision of whether a person has competency to serve as a hearing officer.

17. The Property Owner has failed to meet his burden of proof to establish substantial error in the County's value.

APPLICABLE LAW

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

¹⁰ Requirements for the ad valorem training and designation program for county or state employees are provided at Utah Admin. Rule R884-24P-19.

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 subject 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 he 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. The Property Owner has 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. "Fair market value" for a single family residential property is generally estimated based on comparable sales and appraisal adjustments for the differences between the subject and the comparables. When appraisal adjustments were made to the Property Owner's comparable sales and the County's comparable sales, they supported the County's value.

4. 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.

5. Utah Code Ann. §59-2-301.4 is applicable in this matter because the subject property was the subject of a "valuation reduction" in two of the three years preceding the tax year at issue in this appeal. The value of the subject property had been appealed and the value reduced on appeal in both tax years 2019 and 2020. Utah Code Ann. §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 not established that it met the requirements of Utah Code Ann. §59-2-301.4 in assessing the value of the subject property because the County did not present information regarding why the value was reduced. However, considering the market sales information relevant for tax year 2022, the County has supported its assessed value for the subject property and the Property Owner has failed to establish substantial error in the County’s value.

6. The Property Owner has argued that the County failed to comply with Utah Code Sec. 59-2-1001¹¹ in regards to the Hearing Officer who heard the Property Owner’s appeal at the County Board of Equalization. Utah Code Sec. 59-2-1001(3)(a) provides that a county board of equalization may “(i) appoint an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification

¹¹ Utah Code Sec. 59-2-1001 provides in relevant part as follows:

(3) (a) Except as provided in Subsection (3)(d), a county board of equalization may: (i) appoint an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness; or (ii) appoint an individual who is not licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness if the county board of equalization determines that the individual has competency relevant to the work of a hearing officer, including competency in: (A) real estate; (B) finance; (C) economics; (D) public administration; or (E) law.

(b) Except as provided in Subsection (3)(d), beginning on January 1, 2014, a county board of equalization may only allow an individual to serve as a hearing officer for the purposes of examining an applicant or a witness if the individual has completed a course the commission: (i) develops in accordance with Subsection (3)(c)(i); or (ii) approves in accordance with Subsection (3)(c)(ii).

(c) (i) On or before January 1, 2014, the commission shall develop a hearing officer training course that includes training in property valuation and administrative law. (ii) In addition to the course the commission develops in accordance with Subsection (3)(c)(i), the commission may approve a hearing officer training course provided by a county or a private entity if the course includes training in property valuation and administrative law. (iii) The commission shall ensure that any training described in this Subsection (3)(c) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(d) A county board of equalization may not appoint a person employed by an assessor's office as a hearing officer.

(e) A hearing officer shall transmit the hearing officer's findings to the board, where a quorum shall be required for final action upon any application for exemption, deferral, reduction, or abatement.

Act, as a hearing officer . . . or (ii) appoint an individual who is not licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer” . . . “if the county board of equalization determines that the individual has competency relevant to the work of a hearing officer, including competency in: (A) real estate; (B) finance; (C) economics; (D) public administration; or (E) law.” There was nothing in the information that the Property Owner submitted to suggest the County’s Hearing Officer did not meet the statutory criteria. The County’s Hearing Officer had been a licensed appraiser for ##### and a licensed real estate agent for #####. He had also worked as a County Hearing Officer since DATE, so had ##### years of experience directly relevant to the work of a hearing officer. Utah Code Sec. 59-2-1001(3)(a) is clear that the hearing officer does not need to be a licensed appraiser, and no other licensing is required as long as they have competency relevant to the work of a hearing officer. The Hearing Officer has had many years of experience relevant to the work of a hearing officer. Utah Code Sec. 59-2-1001(3)(b) provides that a county board of equalization may only allow as a hearing officer an individual who has completed a training course. The Property Tax Division of the Utah State Tax Commission maintains a list (updated 2/20/24) of the people who have completed the required training course, and PERSON-1 is on that list.¹² Utah Code Sec. 59-2-1001(3) leaves it to the county board of equalization to determine who to appoint as a hearing officer and based on this statutory provision the county board of equalization has the authority to determine whether a person has the competency to serve as a hearing officer. If a property owner seeks to challenge the competency of a hearing officer they should do so before the County Board of Equalization and the county board of equalization can make its own determination.

7. Additionally, Utah Code §59-2-1006(3) provides that the Tax Commission is not limited to a review of the County Board of Equalization record and may “(a) admit additional evidence; (b) issue orders that it considers to be just and proper; and (c) make any

¹² This list is available at: <https://propertytax.utah.gov/train/hearing-officer.pdf>.

correction or change in the assessment or order of the county board of equalization or entity with decision-making authority.”

The Property Owner has failed to establish substantial error in the County’s current value and, therefore, his appeal should be denied. 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 sustains the County Board of Equalization and finds that the fair market value of the subject property as of January 1, 2022, is \$\$\$\$\$\$. 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.