

APPEAL # 23-1826

TAX TYPE: PROPERTY TAX/ LOCALLY ASSESSED

TAX YEAR: 2023

DATE SIGNED: 02/18/2025

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

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER	INITIAL HEARING ORDER
Petitioner,	Appeal No. 23-1826
v.	Parcel No: #####
BOARD OF EQUALIZATION OF	Tax Type: Property Tax
COUNTY-1 COUNTY, STATE OF UTAH,	Tax Year: 2023
Respondent.	Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, Managing Member, COMPANY

For Respondent: RESPONDENT REP, Certified Residential Appraiser, COUNTY-1 County

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the COUNTY-1 County Board of Equalization pursuant to Utah Code §59-2-1006. This matter was argued in an Initial Hearing on October 22, 2024, in accordance with Utah Code Ann. §59-1-502.5. The COUNTY-1 County Assessor's Office had originally valued the subject property at \$\$\$\$ as of the January 1, 2023 lien date at issue in this appeal. The County Board of Equalization ("County") reduced the value to \$\$\$\$\$. At the Initial Hearing, the Property Owner requested the value of the subject property be reduced to \$\$\$\$\$. The County requested 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.

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 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 AND ANALYSIS

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, 2023. The value of the subject property had not been appealed for any of the three years preceding tax year 2023.

The subject property is located at ADDRESS, CITY, Utah. It is ##### acres of land improved with a multi-level style single family residence. The residence has ##### square feet above grade with a basement of ##### square feet that was fully finished. The County has classified the property as having a "Q2" quality of construction and "C3" condition. The residence was constructed in 1989. There is also an attached 2-car garage.

The subject property is located in the X subdivision, which is in the X area and has ski-in ski-out ski resort access. There is not an HOA and no HOA amenities. The subject, with only ##### acres, is one of the smaller lots in the subdivision. However, the subject backs onto open space and ski runs.

The County BOE had lowered the value of the subject property by \$\$\$\$\$, from \$\$\$\$\$ to \$\$\$\$\$. The County BOE decision indicates this was due to adjusting the land value down to \$\$\$\$\$.

II. Property Owner's Evidence

The Property Owner submitted evidence of substantial repairs that they had to make to the subject property. The Property Owner explained at the hearing that the lodge timbers that supported the deck and roof had begun to rot and they have had to replace parts of the roof, the big beams from the ground to the second floor deck, the beams from the second floor deck to the roof and the whole deck. The Property Owner provided an invoice dated July 19, 2024 from COMPANY 1, which showed that as of that date the Property Owner had already been billed \$\$\$\$\$ for repairs and the total contract with COMPANY 1 was \$\$\$\$\$. The invoice showed expenses for items like "shoring" the site, exterior masonry, concrete pavers, handrail, timber framing, timber framing material, deck waterproofing and roofing. The invoice also showed expenses for some limited interior improvements like paint/stain and specialty appliances.

The Property Owner's argument for a reduction in value was based primarily on equalization. The Property Owner analyzed the assessed value for tax year 2023 for all six properties located on ADDRESS 13 and the two directly adjacent on ADDRESS 14 and compiled the following information about these properties and how they were assessed by the County:

Address	Total Assessed Market Value	Assessed Land Value	Assessed Improvement Value	Land Size	GLA	Year Built	County's Improv. Value PSF	County's Land Value Per Acre (\$000)
Subject	\$\$\$\$\$ ¹	\$\$\$\$\$ ²	\$\$\$\$\$	0.38	4,256	1989	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 1	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	1.21	5,219	1994	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 2	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	0.59	10,183	1995	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 3	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	1.48	6,820	1991	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 4	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	0.38	3,195	1994	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 5	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	0.83	6,243	1994	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 6	\$\$\$\$\$	\$\$\$\$\$	None	1.20	NA	NA	NA	\$\$\$\$\$
ADDRESS 7	\$\$\$\$\$	\$\$\$\$\$	None	1.25	NA	NA	NA	\$\$\$\$\$
Average							\$\$\$\$\$	\$\$\$\$\$

For his equalization argument, the Property Owner asserted that because the subject residence was the first constructed and the oldest of these neighboring properties, a further reduction should be made in the equalization analysis for the age of the home. He calculated an adjustment of %%% per year based on federal income tax depreciation rates. He subtracted this amount from the County's assessed value of the improvement per square foot calculation and this further reduced the average assessed value per square foot of improvement to \$\$\$\$\$, which he argued should be the improvement value of the subject based on equalization. The Property Owner's calculation was as follows:

Address	Year Built	County's Improv. Value PSF	Depreciation Adjustment Value PSF	Depreciated Improvement Value PSF
Subject	1989	\$\$\$\$\$		
ADDRESS 1	1994	\$\$\$\$\$	(\$\$\$\$\$)	\$\$\$\$\$
ADDRESS 2	1995	\$\$\$\$\$	(\$\$\$\$\$)	\$\$\$\$\$
ADDRESS 3	1991	\$\$\$\$\$	(\$\$\$\$\$)	\$\$\$\$\$
ADDRESS 4	1994	\$\$\$\$\$	(\$\$\$\$\$)	\$\$\$\$\$
ADDRESS 5	1994	\$\$\$\$\$	(\$\$\$\$\$)	\$\$\$\$\$
Average				\$\$\$\$\$ X \$\$\$\$\$ = \$\$\$\$\$

The Property Owner also argued that the land value of the subject property should be reduced because it was assessed at a higher rate per acre than the two neighboring land-only properties. He calculated an average value from these two land-only parcels of \$\$\$\$\$ per acre. He applied this per acre rate to the subject property and argued that the land value of the subject property should be \$\$\$\$\$. He added the improvements value of \$\$\$\$\$ to the land value of \$\$\$\$\$, which totaled \$\$\$\$\$. This was the value the Property Owner asserted the Commission should adopt for tax year 2023.

¹This is the original assessed value, as the County had reduced the total value from \$\$\$\$\$ to \$\$\$\$\$. All the calculations on the Property Owner's exhibit regarding the subject property use the original assessed value and not the County BOE value.

² This is the original assessed value, as the County BOE reduced the land value to \$\$\$\$\$.

Additionally, at the Initial Hearing, the Property Owner argued that the County had submitted an expanded set of equalization comparables that included 121 homes. The Property Owner argued that this expanded set of comparables showed that they were not materially different in assessed value from the Property Owner's smaller data set. For the County's comparables, the County calculated an average improvement value divided by total area, which was \$\$\$\$ per square foot. The Property Owner pointed out that the average of the Property Owner's comparable residences on the same block as the subject had been \$\$\$\$ per square foot, so he concluded that these values were not materially different. The Property Owner, however, argued that it would be more appropriate to analyze the assessed values of the equalization properties based on dividing only the assessed improvement value by the total square footage. The County divided the total assessed value by the total square footage.

III. County's Evidence

The County submitted an appraisal, which had been prepared by RESPONDENT REP, Certified Residential Appraiser, and employee of the COUNTY-1 County Assessor's Office. RESPONDENT REP had concluded a value for the subject property of \$\$\$\$ as of the lien date at issue. However, he offered the appraisal in support of the County Board of Equalization value of \$\$\$\$ and did not request an increase to the appraisal value. In the appraisal he considered five comparables, all of which were located very near the subject property. All sales had occurred during 2022 or early 2023, near the lien date at issue in this appeal, and the County's appraiser did not make any time adjustments. Additionally, four of the five comparables had similar ski-in ski-out resort access like the subject property. RESPONDENT REP did make substantial condition, quality and view adjustments to these comparables. His comparables and appraisal adjustments were as follows:

Address	Subject ADDRESS-	Comp 1 ADDRESS 8	Comp 2 ADDRESS 9	Comp 3 ADDRESS 10	Comp 4 ADDRESS 11	Comp 5 ADDRESS 12
Distance (miles)		0.51	0.55	0.07	0.07	0.27
Sale Price		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Sale Date		12/2022	06/2022	02/2023	3/2022	3/2023
Concessions		-\$\$\$\$	-\$\$\$\$	None	None	None
Site(acres)	#####	#####	#####	#####	#####	#####
Site Adjustment		0	-\$\$\$\$	0	0	+\$\$\$\$
Location	Ski	Gated	Ski	Ski	Ski	Ski
Location Adjustment		+\$\$\$\$	0	0	0	0
View	Gd, Mtn	Gd, Mtn	Gd, Mtn	Gd, Mtn	Gd, Mtn	Vry Gd, Mtn
View Adjustment		0	0	0	0	-\$\$\$\$
Quality	Q2	Q2	Q2	Q2	Q2	Q2
Quality Adjustment		0	0	-\$\$\$\$	-\$\$\$\$	0
Age	34	9	41	26	39	26
Condition	C3	C3	C3	C3	C3	C3
Condition Adjustment		-\$\$\$\$	-\$\$\$\$	-\$\$\$\$	-\$\$\$\$	-\$\$\$\$

Above Grd Bths	2.0	1.1	3.1	1.1	5.1	2.1
Above Grd Bths Adjustment		+\$\$\$\$\$	-\$\$\$\$\$	+\$\$\$\$\$	-\$\$\$\$\$	-\$\$\$\$\$
GLA	4,256	3,044	3,684	3,824	5,245	2,788
GLA Adjustment		+\$\$\$\$\$	+\$\$\$\$\$	+\$\$\$\$\$	-\$\$\$\$\$	+\$\$\$\$\$
Bsmt Total SF	3,002	3,044	2,086	2,302	1,748	2,470
Bsmt Total SF Adjustment		0	+\$\$\$\$\$	+\$\$\$\$\$	+\$\$\$\$\$	+\$\$\$\$\$
Bsmt Finish SF	3,002	3,044	2,086	2,302	1,748	2,470
Bsmt Finish SF Adjustment		0	+\$\$\$\$\$	+\$\$\$\$\$	+\$\$\$\$\$	+\$\$\$\$\$
Heating/Cooling	GFA/Central	GFA/None	GFA/Rad/Cen	Rad/Cent Air	GFA/Central	GFA/Central
Heating/Cooling Adjustment		+\$\$\$\$\$	0	0	0	0
Garage	2-car	2-car	2-car	2-car	3-car	2-car
Garage Adjustment		0	0	0	-25,000	0
Features/Upgrds	Some/Good	Some/Good	Turn Key/Gd	Turn Key/Good	Some/Good	Turn Key/Gd
Features/Upgrds Adjustment		0	-\$\$\$\$\$	-\$\$\$\$\$	0	-\$\$\$\$\$
Net Adjustments		\$\$\$\$\$	-\$\$\$\$\$	-\$\$\$\$\$	-\$\$\$\$\$	-\$\$\$\$\$
Adjusted Sales Price		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The County's appraiser made a negative \$\$\$\$\$ condition adjustment to each of his comparables to account for the damage that the Property Owner was having repaired after the lien date at issue in this appeal. If the County had adjusted for the full costs from the Property Owner's bid of \$\$\$\$\$, the appraisal would still support the County BOE value.

At the hearing, the County explained that smaller lots generally have a higher value per acre as compared to larger lots, pointing out that the majority of the value is in the entitlement to build a residence on the lot. He pointed out that additional acreage added some value but not to the same extent as the base lot. He also explained that in the area of the subject property the additional acreage was often steep and not very usable. He pointed out that the subject lot backed onto open space and the ski run, and it was easier to get to the ski run from the subject lot than some of the other lots in ADDRESS 13. He also said that ski access and views affected the value more than the size of the lot. His appraisal adjustments for the lot size were far smaller than the adjustments for ski access or views.

In addition to the appraisal, the County presented evidence that the subject property was equalized with the County's assessed values of the other properties in the subdivision and neighboring subdivision. The County's appraiser explained that the subject is located in the X Subdivision and the adjacent subdivision was the X Subdivision. He stated that these are competing subdivisions with very similar homes and the market for both subdivisions are about the same. He provided an exhibit that listed the 121 properties in these two subdivisions, of which 105 were improved. He stated that the subject property's value was 40th out of 105 improved properties ranked from lowest to highest in value, so from the County's point of view the assessment was equalized. The exhibit thus indicated that the subject was assessed at a below average rate. This exhibit shows that the subject was assessed at a total value per square foot of \$\$\$\$\$. The exhibit also showed the land size and the portion of the total value attributed to

the land. Many of these 121 properties were as small as the subject, or even smaller, and none were valued lower than \$\$\$\$\$. The subject property's land value was \$\$\$\$\$, but given that the subject backed onto open space and the ski run, and some of these other parcels did not, this value was not out of line with the assessments.

IV. Value Conclusion

At this Initial Hearing only the Petitioner is requesting a value different from the value set by the County Board of Equalization. The County BOE had lowered the value from \$\$\$\$\$ to \$\$\$\$\$. The Property Owner requested the value be lowered to \$\$\$\$\$ based on equalization rather than fair market value. For the Property Owner 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 value of the subject property was not reduced based on an appeal for the 2022 tax year, therefore the subject property is not considered a “qualified real property” under Utah Code Ann. §59-2-109 for the 2023 tax year. Additionally, in accordance with Utah Code Ann. §59-2-301.4, the County is required to consider a valuation reduction that occurred in the three prior tax years when making a determination of the property's fair market value for the current tax year. The “valuation reduction” provisions described in Utah Code Ann. §59-2-301.4, do not apply in this matter because the value of the subject property was not reduced on appeal for the 2020, 2021, or 2022 tax year.

The Property Owner did not submit an appraisal, comparable sales or market value evidence at the Initial Hearing and argued for a reduction based on equalization by comparing the assessed value per square foot of his property's improvements and land to the assessed value of the neighboring properties' improvements and land. Pursuant to Utah Code Sec. 59-2-1006, a property owner may appeal an assessment based on either fair market value or equalization. Utah Code Subsection 59-2-1006(5) provides that the Commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if the issue of equalization is raised and “the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.” As the Court of Appeals explained in *Patience LLC v. Salt Lake County Board of Equalization*, 2021 UT App 4, 28, “The Utah Constitution states that ‘all tangible property in the State . . . shall be taxed at a uniform and equal rate’ in proportion to its fair market value. Utah Const. art. XIII, §2, cl. 1. Consistent with this constitutional mandate, a property owner may seek adjustment of a property's assessment if the assessment “stands apart from a group of undervalued comparable properties.” *Citing Mountain Ranch Estates v. Utah State Tax Comm'n*, 2004 UT 86, 100 P.3d

1206. The court in *Patience* pointed out that “[a] taxpayer seeking equalization bears the burden of identifying comparable properties that deviate more than 5% from the valuation of the property.” *Id.* 29. The Property Owner did not meet this requirement because he failed to show a group of “comparable properties” that were valued at least 5% lower than the subject property.

To prevail in an equalization argument, a property owner must show that properties that are actually comparable to the subject property are valued at least 5% lower than the subject property. In this matter, instead of comparing the subject land parcel to other parcels which were similar in land size to the subject and had ski run access, he compared the subject land to much larger land parcels. The evidence submitted at this hearing showed that all of the land parcels that were similar in size to the subject were valued by the County at no less than \$\$\$\$\$ and many were valued higher. The \$\$\$\$\$ value the County had attributed to the subject land with its ski run access was clearly within the range of assessed values of the smaller land parcels. The Property Owner argued that a per acre rate developed from much larger land parcels should be applied to the subject parcel, which he argued indicated a value for the subject property of \$\$\$\$\$. This value is less than half of the assessed land value of any of the 121 neighboring properties. The County’s appraiser explained at the hearing that using a straight per acre rate is not how the County values developable or developed residential building lots. The Tax Commission notes that it has heard the Property Owner’s argument from other petitioners in other cases and the argument is contrary to standard appraisal principles. The base lot portion of a residential building lot comprises the most significant part of the value, assuming that the lot is large enough to meet zoning, setback, and other requirements, has utilities, and is functional enough to allow for construction of a typical residence in the subdivision. Additional acreage above that base lot size will generally add some value, but not to the same extent as the base lot. Furthermore, in the subject neighborhood, ski run access and views are the more significant factors in determining value. The Property Owner has not established that any land parcel comparable in size to the subject with ski access and views similar to the subject was assessed at a lower value than the subject property.

The Property Owner also argued for an improvement value based on an average value per square foot minus an age adjustment. However, the age adjustment he applied was not a standard appraisal adjustment, but rather was based on federal depreciation schedules. The Property Owner provided the assessed improvement value for every house on ADDRESS 13. The subject’s original assessed improvement value per square foot was \$\$\$\$\$,³ ADDRESS 1 was assessed at \$\$\$\$\$ per square foot, ADDRESS 3 was assessed at \$\$\$\$\$ per square foot and ADDRESS 4 was assessed at \$\$\$\$\$ per square foot. The subject’s assessed value was clearly within this range. The newest of these residences was constructed in 1994 and was only five years newer than the subject. The Property Owner did not provide

³ This was based on the original assessed value, which was higher than the County BOE value.

documentation of the square footage, evidence regarding the quality or condition of these properties or even exterior photographs for the Commission to determine if they were actually comparable. Further, the Property Owner did not make any appraisal adjustments for differences between the characteristics of the subject property and those of the comparables, except for the age adjustment which, as noted above, was not a standard appraisal adjustment. The Property Owner added into his comparable mix two houses that were on ADDRESS 14, which had lower assessed values per square foot, but the Property Owner did not provide any information other than age to establish that they were comparable to the subject. Therefore, the Property Owner has not identified a group of comparable properties that were valued at least 5% lower than the subject.

The County supported its value with an appraisal, which is market value evidence. The appraisal conclusion was a value of \$\$\$\$\$. In the appraisal, the County had made a \$\$\$\$\$ adjustment to each comparable based on the information the Property Owner had provided regarding the structural problems and other issues with the subject property that needed to be repaired. The Tax Commission notes that even if that adjustment were increased to the full amount of the \$\$\$\$\$ bid submitted by the Taxpayer, the County's appraisal value would still support the County BOE value of \$\$\$\$\$. The County also submitted an equalization exhibit, which did not show that the values of the 105 nearest improved properties were improperly equalized.

After considering the information submitted by the parties at the Initial Hearing, the value of the subject property should remain as set by the County BOE at \$\$\$\$\$ for the lien date at issue in this appeal.



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, 2023 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:

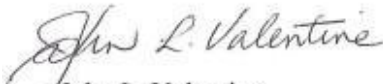
Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

or emailed to:

taxappeals@utah.gov


Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this 18th day of February, 2025.


John L. Valentine
Commission Chair


Rebecca L. Rockwell
Commissioner




Michael J. Cragun
Commissioner


Jennifer N. Fresques
Commissioner