

APPEAL # 24-518
TAX TYPE: PROPERTY TAX
TAX YEAR: 2023
DATE SIGNED: 8/29/2025
COMMISSIONERS: J. VALENTINE, R. ROCKWELL AND J. FRESQUES
EXCUSED: M. CRAGUN

BEFORE THE UTAH STATE TAX COMMISSION

PROPERTY OWNERS, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY-1 COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 24-518 Parcel No: ##### Tax Type: Property Tax Tax Year: 2023 Judge: Phan
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER'S REP-1, Attorney at Law
PROPERTY OWNER-1, Property Owner
PROPERTY OWNER-2, Property Owner
For Respondent: RESPONDENT'S REP-1, Appraiser, COUNTY-1 County

STATEMENT OF THE CASE

Petitioners ("Property Owners") bring 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 March 25, 2025, in accordance with Utah Code Ann. §59-1-502.5. The County Assessor's Office had originally valued the subject property at \$\$\$\$\$, as of the DATE lien date. The County Board of Equalization ("County") upheld that value. At the Initial Hearing, the Property Owners requested the value of the subject property be reduced to \$\$\$\$\$. The County requested that the value remain at \$\$\$\$\$.

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 Property Owners argued two issues before the Tax Commission at this Initial Hearing. The first issue was that the County Board of Equalization (“County BOE”) and the County BOE hearing process had numerous statutory and due process deficiencies and the matter should be remanded back to the County BOE to conduct a hearing that complied with the statutory requirements, at which the Property Owners could be present and provide their evidence and argument, and from which the County BOE could issue the statutorily required written decision regarding the assessed value and equalization of the subject property.¹ The second issue was that the assessed value of the subject parcel was substantially in error and the value should be lowered based on the valuation evidence that the Property Owners submitted at the Initial Hearing.

At an Initial Hearing before the Tax Commission, the Tax Commission is not limited to review of the County BOE record, and instead may receive and consider new evidence and new issues,² and after considering the evidence and information submitted at the Initial Hearing issue a decision as to the fair market value of the subject property on the lien date at issue. If this matter were remanded back to the County BOE for a new hearing and decision, as the Property Owners requested, once the County BOE issued its new decision, the Property Owner or the County Assessor could appeal that decision to the Tax Commission to be adjudicated at an Initial Hearing before the Tax Commission, many months later. This would serve only to further delay the final resolution of the appeal processes outlined in Utah Code Sec. 59-2-1006. Therefore, rather than remand the matter back to the County Board of Equalization for a new hearing and decision, the Tax Commission retains jurisdiction over this appeal in accordance with Utah Code Ann. Sec. 59-2-1006 and hears the appeal on the merits. The issue before the Commission is to determine the fair market value of the subject property as of the DATE lien date.

The subject property is a vacant legal lot of record in the residential subdivision called SUBDIVISION-1 (“SUBDIVISION-1”). The subject property is ##### acres in size and located at STREET-1, CITY-1, Utah. There are currently no structures on the subject lot. The lot is sloped down from the street and has all utilities available, which is typical for the area. The subdivision is located adjacent to the SKI RESORT-1 Ski Resort and has ski-in, ski-out access and other amenities. There are restrictions on what may be built on each lot in the subdivision. The subdivision building entitlements

¹ Petitioners cite Utah Code Secs. 59-2-1002(3), 59-2-1004, 59-2-1006 and Utah Admin. Rule R884-24P-66.

² See Utah Code Sec. 59-2-1006(3) and Utah Admin. Rule R861-1A-9(6).

provide that each lot, regardless of size, may have only one main residence. In addition, one guest house may be built on each lot, but there is a limitation on the size of the guest house and other detached structures on each lot.

The Property Owners own a second property, which is not the subject of this appeal, that is directly adjacent to the subject lot and also located in SUBDIVISION-1. This adjacent lot is improved with the Property Owners' residence ("Residence Parcel"). The Property Owners explained that they had purchased the subject property with the Residence Parcel, noting that they thought at some point they might want to build another residence, guesthouse or other improvements, and they wanted the additional building entitlements that came with having a second lot.

There was one primary factor about the subject property that was directly in dispute between the parties. The Property Owners argued that the subject property did not have its own direct road access and was, therefore, landlocked. The Property Owners argued that the subject property could only be accessed from the Residence Parcel, and there was no easement or right of way currently granting access to the subject property from the Residence Parcel. Therefore, the Property Owners argued that the subject lot was landlocked and not a buildable lot. The County argued that the subject property had its own direct road access as it abutted the same cul-de-sac from where the Residence Parcel had its access. It was the County's position that although the terrain was steep at this point, a driveway could be constructed on the subject property from where the subject property abutted the cul-de-sac and access did not need to go through the Residence Parcel.

The property at issue in this appeal was not the subject of a reduction in value resulting from an appeal for any of the three years preceding tax year 2023.

II. Property Owners' Evidence

The Property Owners' representative submitted as evidence an appraisal prepared by APPRAISER-1, Certified Residential Appraiser. APPRAISER-1 valued the subject property as a landlocked and unbuildable lot. He did not attend the hearing to answer questions about his appraisal. He concluded on this basis that the value of the subject property as of DATE, was \$\$\$\$\$.

In his appraisal, APPRAISER-1 considered three comparable sales. All sales were of residential lots in SUBDIVISION-1 subdivision and were lots that had complete road access and were buildable lots. These comparable lots had ski access. Although the lots varied in size, they all had the same limitations as to what could be built on the lots. The limitations were that only one main residence, one guest house of a limited size and limited other outbuildings could be built on the lots. APPRAISER-1 did not make appraisal adjustments for most of the differences between the subject property and the comparables, with the only adjustment being the adjustment due to the assumption that the subject property was landlocked, while the comparables were all buildable lots. APPRAISER-1 appraisal comparables and adjustments

were the following:³

	Subject	Comp 1	Comp 2	Comp 3
Address	STREET-1	STREET-2	STREET-3	STREET-4
Location	SUBDIVISION-1	SUBDIVISION-1	SUBDIVISION-1	SUBDIVISION-1
Site/View	##### ac	##### ac	##### ac	##### ac
Site/View Adjustment		0	0	0
Topography	Mod-Steep Slope	Mostly Level	Mild Slope	Moderate slope
Topography Adjustment		0	0	0
View	Woods, Mountains	Mountains	Mountains	Mountains
View Adjustment	0	0	0	0
Ski Access	None	Ski In, Ski-Out	Ski In, Ski-Out	Ski In, Ski-Out
Ski Access Adjustment		0	0	0
Other	Landlocked	Buildable	Buildable	Buildable
Other Adjustment		-\$\$\$\$\$	-\$\$\$\$\$	-\$\$\$\$\$
Net Adjustments		-\$\$\$\$\$	-\$\$\$\$\$	-\$\$\$\$\$
Indicated Value of Subject		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

APPRAISER-1 did not attend the hearing, so the only information supporting his “Other Adjustment” or his assumptions regarding the subject property being landlocked and not a buildable lot are what is contained in the appraisal. The appraisal provided the following explanation:⁴

The subject is located adjacent to STREET-5 in CITY-1, UT. It is “landlocked” which is to say there is no legal access from the street to this lot without traversing STREET-5. There is also no ski access out of this lot. It is currently owned by the same owner of STREET-5 and so historically there have been no issues with this. The subject's highest and best use is as surplus land to ##### (see below). This lot has little use outside of additional acreage to STREET-5. The lot is therefore valued as surplus land with no option to build a home on it. There is typically little to no market data for lots of this nature. The market value could range from \$\$\$\$\$ to upwards of approximately \$\$\$\$\$. However, there are some sales that have occurred over the years that are also not buildable or usable outside of surplus land. The market data show these lots to be worth approximately %%% less than the market value of a similar lot that is buildable. For this reason, comparables 1-3 are used and then given a[n] adjustment of %%%. Additionally, market data show that no acreage adjustment is needed. There is minimal marginal utility acreage over ##### acres. Market reaction to the lots in SUBDIVISION-1 is mainly for location, ski access, and views. Because nearly all of the homesites are at or over ##### acres there is plenty of space between the homes. In some cases, larger acre lots can be a market detriment because the homeowners are required to use their own

³ Petitioners’ Exhibit-Appraisal of CWPC-II-61A.

⁴ Petitioners’ Exhibit: Appraisal of CWPC-II-61A, Supplement Addendum.

expense to clear trees and other brush for fire mitigation. Therefore, no acreage adjustment is applied.

The Property Owners also submitted a letter dated DATE, from PERSON-1, managing partner of COMPANY-1.⁵ PERSON-1 stated that COMPANY-1, was the developer of SUBDIVISION-1. In the letter, PERSON-1 stated, “When the SUBDIVISION-1 plat was originally created, parcels ##### and ##### were marketed and sold as a single lot. Before purchasing the lot, PROPERTY OWNER-2 requested that the SUBDIVISION-1 divide it into two separate lots, which they did.” He stated, “Because of these unique circumstances behind the divided ##### and #####, there are easements necessary between the two parcels to have access to ##### through #####. Relatedly, but just the opposite, there is no ski-in access to ##### without an easement granted through #####.” As explained above, ##### is the subject property and ##### is the Residence Parcel. This letter seems to be stating that it is the Residence Parcel that did not have its own access, but this seems contrary to other information offered at the Initial Hearing.

The Property Owners also submitted some satellite photographs and a subdivision plat, which showed that there was road access to the subject property as well as the Residence Parcel. Both parcels had access to the same cul-de-sac abutting STREET-6.⁶ It also appeared, contrary to the letter from PERSON-1, that the Residence Parcel had developed its own access, which was used for the driveway to the residence on that property.

The Property Owners submitted a Declaration of PROPERTY OWNER-2, dated DATE. In the declaration, PROPERTY OWNER-2 explained, “Before the Trust purchased the single parcel, the developer agreed to divide it into two lots, the [subject property] and [Residence Parcel], so that the trust could build homes on each lot in compliance with applicable CC&Rs.” The Declaration further stated, “The Division of the lots left the [subject property] without access to a road. The small portion of the road adjacent to the [subject property] cannot be used to access the [subject property] because of the steep slope from the road to the property.” PROPERTY OWNER-2 Declaration concluded, “I have discussed this issue with both PERSON-2 from COMPANY-2 and PERSON-3 from COMPANY-3 (the individual who built the home on the [Residence Parcel]). Both PERSON-2 and PERSON-3 have confirmed that the steep slope make it impossible to access the [subject property] from the road, necessitating an easement through the [Residence Parcel].”⁷

The Property Owners did not provide a letter, bid or written statement, affidavit or declaration directly from either PERSON-2 or PERSON-3. They also did not explain why PERSON-2 would have expertise regarding what constitutes an unbuildable slope. There were no engineering reports submitted

⁵ Petitioners’ Exhibit 5 (C) & Exhibit 10.

⁶ Petitioners’ Exhibit 5 (D).

⁷ Petitioners’ Exhibit 14.

to support that the road access point to the subject property was too steep for construction of a driveway.

III. County's Evidence

The County's representative also submitted an appraisal of the subject parcel. The appraisal had been prepared by RESPONDENT'S REP-1, Certified Residential Appraiser and employee of the COUNTY-1 County Assessor's Office. It was RESPONDENT'S REP-1 appraisal conclusion that the value of the subject property as of the DATE lien date was \$\$\$\$\$. However, he did not request that the value be raised to his appraisal value and instead asked that the County's value of \$\$\$\$\$ be upheld.

RESPONDENT'S REP-1 valued the subject parcel as being a buildable residential lot with its own access that did not require an access easement across the Residence Parcel and also that the subject parcel had ski access. He explained at the Initial Hearing that the access point into the subject lot was not steeper than the access points into some other lots in SUBDIVISION-1, upon which driveways and residences had already been constructed. He stated that although it would require some additional costs for retaining walls to put a driveway into the subject property from the cul-de-sac, it could be done. He also stated that the subject property had ski-in, ski-out access and that the easements were in place for all of the properties in the subdivision to have ski access.

He explained in his appraisal, "The subject is one of the remaining vacant lots in the subdivision with all utilities available which are typical for the area. The subject is a lot that slopes down from the street with walkout basement potential and ski in ski out access to the SKI RESORT-1 Ski resort. The views from the subject are good for approximately ##### degrees." In his appraisal, RESPONDENT'S REP-1 considered twelve land sale comparables, which were all residential lots located in the SUBDIVISION-1 subdivision. His comparables included properties that had been sold in SUBDIVISION-1 between DATE and DATE. The County did not make any time adjustments or other appraisal adjustments and despite the varying land sizes did not make a site or acreage adjustment, noting that the value of the lots is based on the building entitlements, which were the same for the subject property as they were for all of the sales. RESPONDENT'S REP-1 twelve sales were all located on STREET-6, like the subject property, and were the following:

Address	Sale Price	Sale Date	Ski in/out	Acreage
Subject:STREET-1			Yes	#####
STREET-7	\$\$\$\$\$\$	DATE	Yes	#####
STREET-2	\$\$\$\$\$\$	DATE	Yes	#####
STREET-3	\$\$\$\$\$\$	DATE	Yes	#####
STREET-4	\$\$\$\$\$\$	DATE	Yes	#####

STREET-8	\$\$\$\$\$	DATE	Yes	#####
STREET-9	\$\$\$\$\$	DATE	Yes	#####
STREET-10	\$\$\$\$\$	DATE	Yes	#####
STREET-11	\$\$\$\$\$	DATE	Yes	#####
STREET-12	\$\$\$\$\$	DATE	Yes	#####
STREET-13	\$\$\$\$\$	DATE	Yes	#####
STREET-14	\$\$\$\$\$	DATE	Yes	#####
STREET-15	\$\$\$\$\$	DATE	Yes	#####

The County's appraiser also submitted a letter from the CITY-1 Board of Realtors issued in DATE. This report indicated that the average sale price for vacant land sales in the fourth quarter YEAR in CITY-1 had increased over the prior year.⁸ In addition, he provided statistics from the CITY-1 Multiple Listing Service in regards to land sales. These indicated that the average prices of land sales had continued to increase in YEAR and for properties in the Canyons, where the subject property was located, the average sale price was %%% higher in the fourth quarter YEAR compared to the prior year.⁹

IV. Value Conclusion

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 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.

In this matter, there is one primary factual question that significantly impacts the value of the subject property and that is whether the subject property has its own access independent from the Residence Parcel. The Property Owners stated only that they talked to a builder and another individual, who told them it was too steep at the access point to the subject property to put in a driveway. This is clearly hearsay.¹⁰ There is no evidence directly from the builder, or an engineering firm, or the city

⁸ Respondent's Exhibit 2023 BOE PCMLS Quarterly, pg. 5.

⁹ Respondent's Exhibit 2023 BOE PCMLS Quarterly, PDF #25.

¹⁰ The Tax Commission may admit hearsay evidence. However, no decision of the Commission will be based solely on hearsay evidence. *See Utah Admin. Rule R861-1A-28(2)(b)*.

building department, to support this position that the subject property is landlocked and unbuildable. The Property Owners' appraiser stated in his appraisal that the subject property is "landlocked." He did not state that he had personally inspected the access point, or contacted the city about obtaining a building permit or had any discussion with an engineer about the slope. In fact, the only statement he provided as an explanation in the appraisal is the unsupported assertion that "there is no legal access from the street to this lot."¹¹ Based on the recorded subdivision plat, this is incorrect. The subject property does, in fact, have access to the same cul-de-sac as the Residence Parcel. The County's appraiser refuted this factual assertion, but only by stating that the access point for the subject lot was not steeper than for some other lots in SUBDIVISION-1, which have already been developed.

It is clear that if the subject lot is a developable lot with its own access, the County's value is well supported by the sales from the same subdivision. If the subject property's own access point is, in fact, too steep for development, that would clearly negatively impact the value and an adjustment should be made. However, it is the Property Owners who have the burden of proof in this matter, and the Property Owners have not provided sufficient evidence to show that the access point for the subject property is too steep to be developed. The value should remain as originally set by the County Assessor and upheld by the County BOE.

The subject property is not a "qualified real property" as that is defined at Utah Code §59-2-109(1)(c) for the 2023 tax year. To be considered a "qualified real property" the property owner must have appealed the valuation for the previous taxable year, the appeal must have resulted in a final assessed value that was lower than the assessed value, and the assessed value for the current taxable year must be higher than the inflation adjusted value. The value of the subject property was not appealed for tax year YEAR. In addition, Utah Code Ann. §59-2-301.4 is not applicable in this matter because the subject property had not been the subject of a reduction in value resulting from an appeal during the three years prior to the tax year at issue.

Jane Phan
Administrative Law Judge

¹¹ The Commission points out to the parties, that even if the subject property had no road access of its own, which is not correct based on the plat, the subject would not be landlocked because there is access to the subject property through the Residence Parcel. The Tax Commission has previously considered the question of whether a parcel of land with no access of its own, but located adjacent to a parcel that had access and was owned by the same person or entity, would be considered landlocked and concluded to the contrary. See *Utah State Tax Commission Findings of Fact, Conclusions of Law and Final Decision, Appeal No. 11-1977*, pgs. 10-11 (7/22/2013). This decision is available in a redacted format at: <https://tax.utah.gov/commission/decision/11-1977.pdf>.

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property was \$\$\$\$ as of the DATE 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 ____ day of ____, 2025.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner