

APPEAL # 24-1406

TAX TYPE: PROPERTY TAX

TAX YEAR: 2023

DATE SIGNED: 4/25/2025

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

BEFORE THE UTAH STATE TAX COMMISSION

PROPERTY OWNER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 24-1406 Parcel No: ##### Tax Type: Property Tax Tax Year: 2023 Judge: Phan
---	---

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PROPERTY OWNER

For Respondent: RESPONDENT'S REP-1, Deputy COUNTY-1 Attorney
RESPONDENT'S REP-2, Chief Deputy Assessor, COUNTY-1
RESPONDENT'S REP-3, Certified Residential Appraiser, COUNTY-1

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the County Board of Equalization pursuant to Utah Code §59-2-1006. This matter was argued in an Initial Hearing on December 3, 2024, in accordance with Utah Code §59-1-502.5. The 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 BOE") sustained that value. At the Initial Hearing, the Property Owner requested the value of the subject property be reduced to \$\$\$\$\$. The County requested that the County BOE value of \$\$\$\$\$ be upheld.

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.

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.

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. Although the value of the subject property had been appealed for tax years 2022 and 2020, the value of the subject property had not reduced as a result of those appeals for either tax year. The value of the subject property was not the subject of an appeal for tax year 2021.

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.

II. Property Owner’s Case

At the Initial Hearing, the Property Owner made a number of arguments that he asserted showed error in the due process provided by the County BOE.¹ He also provided some comparable sales to support his market value request and made an equalization argument. The Property Owner’s due process arguments were the following:

- a) The Property Owner argued that the County BOE had denied him due process by failing to issue a proper decision. The Property Owner provided a copy of the County BOE’s decision, which was dated DATE. The decision stated, “The COUNTY-1 Board (sic) of Equalization recently held a hearing to review your 2023 property tax appeal. Below is the Board’s recommendation of value based on the hearing officer’s decision.” The decision then provided an “original” value and a “revised” value. Then the decision stated, “if you disagree with this determination of value, you have 30 days from the date of this letter to appeal the decision with the Utah State Tax Commission. Applications to appeal at the state level may be obtained at: <https://tax.utah.gov/forms/current/tc-194.pdf>. If you have not submitted a state appeal application to the COUNTY-1 Clerk/Auditor’s Office within the 30 days, the board will accept the above value and your 2023 appeal will be closed.” The Tax Commission had issued previously in this appeal an Order Allowing Appeal to Proceed, on DATE. The Tax Commission had originally processed this subject appeal as a late appeal, but after further review had accepted the appeal, noting as one of the reasons for accepting the appeal that the County BOE’s instructions in its decision were unclear.
- b) The Property Owner argued that the County had denied him due process because the County’s appraisal report was prepared by a County employee. The Property Owner argued that the employee had failed to clearly and fully disclose in the appraisal that she was a County employee and the Property Owner argued it was an impermissible conflict of interest. The Property Owner argued that the County should have an independent appraiser appraise the subject property to eliminate this conflict of interest. The Property Owner also argued that the County’s Hearing Officer and the County BOE could not be considered impartial.

¹ See Petitioner’s Initial Hearing Exhibit.

- c) The Property Owner argued that the County BOE erred by ignoring a statutory requirement at Utah Code Sec. 59-2-1004(7)(h)(i) and precedent by not considering equalization.

The Property Owner provided market value evidence in the form of three comparable sales, which he had obtained from Zillow and Homes.com. He had filled out the information the County requested on its Comparable Analysis Sheet for these three properties, as well as provided copies of the sales information from Zillow and Homes.com and provided the County record. The sales information the Property Owner provided was the following:

REDACTED TABLE

The Property Owner concluded that the unadjusted estimated sales price from these three comparables averaged a price of \$\$\$\$\$, which was the value he was requesting for the subject property at the hearing.

The Property Owner also argued that these three comparables supported an adjustment based on equalization. He argued the average estimated price from these three sales of \$\$\$\$\$ deviated by %%% from the assessed market value of the subject property, which was \$\$\$\$\$. He argued that it was twice the statutory threshold of plus or minus 5% prescribed by Utah Code Subsection 59-2-1006(5). He then argued that an adjustment should be made for finished basement square footage, which he estimated should be \$\$\$\$\$ per square foot, and asserted that would further reduce the estimated value of the subject property derived from his comparables. However, although the subject property's above grade square footage was considerably larger than any of the comparables, he did not make an upward adjustment for that difference.

III. County's Evidence

The County submitted an appraisal, which had been prepared by RESPONDENT'S REP-3, Certified Residential Appraiser, and employee of the COUNTY-1 Assessor's Office. It was the County Appraiser's conclusion that the value of the subject property as of the January 1, 2023 lien date was \$\$\$\$\$. However, the County did not request the value be raised to the appraisal value, but instead offered the appraisal to support the County BOE value for the subject property. The appraisal considered six comparable sales and made appraisal adjustments, including adjustments for the GLA, finished basement, quality and condition. The County's comparables and appraisal adjustments were the following:

REDACTED TABLE

In addition to the appraisal, the County's appraiser provided photographs of the Property Owner's comparables as well as pointed out that these properties were all significantly smaller than the subject property in regards to GLA. The photographs indicated that the Property Owner's comparables 2 and 3 were very dated in appearance and dissimilar in style compared to the subject property. These two comparables were also older than the subject property. Comparable 1 was newer, but was a split level style property and considerably smaller than the subject property.

The County also considered the Property Owner's equity argument by analyzing the assessed value, not the sale price, of the Property Owner's comparable sales and making appraisal adjustments to the assessed values for the differences between these comparables and the subject property. While the subject property had been assessed at a value of \$\$\$\$\$, the Property Owner's comparables were assessed at \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$ respectively. Making appraisal adjustments to the assessed values resulted in a range from \$\$\$\$\$ to \$\$\$\$\$. The subject property's assessment was well within this range. The County also provided a list of ten comparable properties and showed that the subject property was assessed within the range of these comparables.

In addition, the County's appraiser chose seven properties she considered to be the most similar to the subject property and then considered the assessed values of these comparables after making appraisal adjustments for the differences between the subject property and these comparables. The County concluded from these comparables that the equalized range of assessed values for the subject property would be from \$\$\$\$\$ to \$\$\$\$\$, with all but one of these comparables indicating an adjusted assessed value of more than \$\$\$\$\$. These comparables demonstrated that the subject property was assessed lower than all but one of the comparables.

The County also made the argument that the Property Owner had misapplied the equalization statute. In its Exhibit 6 the County noted:

Utah Code Ann. 59-2-103 provides that property shall be assessed at a uniform and equal rate on the basis of its fair market value. However, the Court in *Mountain Ranch Estates v. Utah State Tax Comm'n*, 100 P.3d 1206, 1210 (Utah 2004) found:

Fair market value indeed becomes a subordinate consideration in a scenario where a property owner's assessment accurately reflects the fair market value, but nevertheless exceeds by more than five percent the valuation of comparable properties. Where an accurate fair market value assessment stands apart from a group of undervalued comparable properties, valuation accuracy may not be used to defend the otherwise aberrant assessment. The property owner "singled out" for a legitimate fair market value assessment would be entitled to relief under Section 59-2-1006(4).

Utah Code Ann. 59-2-1006(5)(b) is clear that the standard for adjustment is that the subject property "deviates in value plus or minus 5% from the assessed value of comparable properties."

IV. Value Conclusion

In this proceeding, it was only the Property Owner that was requesting a value different from the original assessed value and BOE value. The Property Owner has the burden of proof in this matter and must demonstrate that the subject property's current value contains substantial error and provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount he proposes.

The subject property is not a “qualified real property” as that is defined at Utah Code Ann. §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. Although the Property Owner had appealed the valuation for the 2022 tax year, that appeal did not result in a reduction in value. Additionally, 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.

At the hearing, the Property Owner provided some market value information and made an equalization argument. However, the market value evidence and equalization evidence did not demonstrate the County’s current value contained substantial error. The Property Owner provided three comparable sales. These properties were smaller than the subject property in regards to GLA, and two were older than the subject property and were of a dissimilar style as the subject property. No appraisal adjustments were made for these factors. Based on the totality of the evidence, these comparable sales were less persuasive indicators of value for the subject property than the sales offered by the County in the County’s appraisal. The County’s comparables more than supported the County’s value.

Regarding equalization, the Commission agrees with the County that the Property Owner has misapplied the equalization statutes with his analysis, where he compared the average unadjusted estimated sales price from his three comparables, which was \$\$\$\$\$, to the assessed value of the subject property, which was %%%%%%%%% higher. This is clearly not the analysis required by Utah Code. Subsection 59-2-1006(5). 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.” Therefore, the Property Owner would need to consider the County’s “assessed value” of the equalization comparables and compare that to the County's assessed value of the subject property.

Further, 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 tax valuation 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, 15, 100 P.3d 1206. The Utah Court of Appeals in *Patience* pointed out that “[a] taxpayer seeking equalization bears the burden of identifying comparable properties that deviate more than 5% from the valuation of the property.” *Id.* ¶29. Based on the statute and the case law, the Property Owner would have needed to establish that a group of comparable properties were assessed at a value that was at least 5% different than the assessed value of the subject property. The Property Owner failed to establish this by comparing the estimated sale prices of three comparables to the assessed value of the subject property. Furthermore, the County has demonstrated that the assessed value of the subject property was well in line with the assessed values of comparable properties. The Property Owner has failed to establish a basis for a reduction based on equalization.

The Property Owner made the allegation in his Prehearing Exhibit and at the Initial Hearing that the County BOE’s decision,² the County’s use of a “flawed Appraisal Report” prepared by a County employee/appraiser, and the fact that the County Hearing Officer and County BOE were not impartial, had been a denial of his “due process.” The Property Owner pointed to the Utah Constitution, Article 1, Sec. 7, but did not cite to any case law, statute, or administrative rule that suggested any of these allegations violated the Property Owner’s due process.

The Commission considers whether the County complied with the express provisions of Utah Law that govern appeal rights for property owners. The Property Owner argued that the County BOE and County Hearing Officer were not independent.. Utah Code Section 59-2-1004 provides that a property owner may file an appeal of the County Assessor’s assessed value to the County BOE. Pursuant to Utah Code Sec. 59-2-1001, the County BOE may appoint a hearing officer, who “shall transmit the hearing officer’s findings to the board . . .” Once the County BOE issues a decision on the appeal, that decision is then appealable to the Tax Commission pursuant to Utah Code Sec. 59-2-1006. For the appeal to the Tax Commission, a County employee prepared the appraisal for the County. The Commission notes that the Property Owner had argued against a County employee preparing the appraisal in the appeal he filed for the prior tax year, and the Tax Commission rejected that argument in its *Findings of Fact, Conclusions of Law and Final Decision*, Appeal No. 23-268 (7/3/2024) issued regarding the subject property for tax year

² The Commission addressed some irregularities in the County BOE’s decision by allowing this appeal to proceed, as determined in Order Allowing Appeal To Proceed, issued on DATE.

2022. In that decision, the Commission’s finding regarding the argument that the County’s appraisal should not be considered as credible evidence because it had been prepared by a County employee, the Commission concluded, “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.” For the subject Initial Hearing, the Commission concludes that the County complied with statutes regarding the appeal process. Regardless, the Property Owner argued that these actions violated his “due process.” The Commission does not find support for the Property Owner's arguments on this point. However, the Commission understands that Utah Supreme Court has previously held that the Utah State Tax Commission lacks authority to determine the constitutionality of Utah laws, finding “[i]t is not for the Tax Commission to determine questions of legality or constitutionality of legislative enactments.” *Jim Nebeker Trucking v. Utah State Tax Comm’n*, 2001 UT 74, ¶18; citing *State Tax Commission v. Wright*, 596 P.2d 634 (Utah 1979). See also *Steiner v. Tax Commission*, 2019 UT 47, ¶11. Therefore, the Tax Commission applies these statutes as they are written and presumes them to be constitutional enactments.

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 for the lien date at issue.

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 ____ day of ____, 2025.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner