

04-0330
Locally Assessed Property
Signed 01/24/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	04-0330
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION)		
OF SALT LAKE COUNTY,	)	Tax Year:	2003
STATE OF UTAH,)		
	)	Judge:	Davis
Respondent.)		

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

G. Blaine Davis, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE, from COMPANY
For Respondent: RESPONDENT REPRESENTATIVE 1, from the Salt Lake County Assessor's Office
RESPONDENT REPRESENTATIVE 2, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. 59-1-502.5, on December 13, 2004.

The issue in this proceeding is the fair market value of the subject property as of January 1, 2003.

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The Salt Lake County Assessor originally valued the subject property at \$\$\$\$\$. Upon appeal to the Salt Lake County Board of Equalization, a value of \$\$\$\$\$ was determined.

The subject property is located at ADDRESS, CITY, Utah. The home was built in 1990 and is a split-level home in fair condition on .15 acres of land. The home contains 1122 square feet above ground, and a basement of 1,014 square feet.

The subject property sold during 2002 for \$\$\$\$\$. The sale was a foreclosure sale. Petitioner represented that at the time of the sale, there were some things which needed fixing, such as carpet, paint, and some holes in the walls. There is no evidence that the repairs were not completed prior to the lien date of January 1, 2003. If those repairs were completed by the lien date it may have caused an increase in the value of the home.

Petitioner presented several comparable sales, some of which were foreclosure sales. Petitioner's comparable sale no. 1 sold for a price of \$\$\$\$\$ less concessions of \$\$\$\$\$. The property had a total of 2,818 square feet, including the basement of 1,120 square feet, which Petitioner represented indicated a value per square foot of \$\$\$\$\$. Petitioner's second comparable sale sold for \$\$\$\$\$ with \$\$\$\$\$ of concessions. The property had a total of 1,832 square feet, 451 square feet of which were in the basement. Petitioner represented this indicated a value of \$\$\$\$\$ per square foot. Sales no. 1 and 2 were both foreclosure or bank owned property sales. Petitioner's comparable sale no. 3 sold for a price of \$\$\$\$\$, and contained 1,967 square feet, 475 of which were in the basement. Petitioner represented this indicated a value of \$\$\$\$\$ per square foot. The sale was made by the owner without a real estate agent. Petitioner's sale no. 4 sold for a price of \$\$\$\$\$ and contained 1,803 square feet, 432 square feet of which were in the basement. Petitioner represented this indicated a value of \$\$\$\$\$ per square foot. Petitioner's comparable sale no. 5 sold for a price of \$\$\$\$\$, and it contained 2,023 square feet, 589 square feet of which were in the basement. Petitioner represented this sale

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indicated a value of \$\$\$\$ per square foot. Those sales did not meet a burden of proof to establish a lower value.

Respondent also submitted several comparable sales. Respondent's comparable sale no. 1 sold for a price of \$\$\$\$\$, with concessions of \$\$\$\$\$. The property contained 1,705 square feet, 850 square feet of which were in the basement. Respondent's comparable sale no. 2 sold for \$\$\$\$\$, and contained 1,580 square feet, 528 square feet of which were in the basement. Respondent's comparable sale no. 3 sold for \$\$\$\$\$, and had \$\$\$\$\$ in concessions. The property contained 1,778 square feet, 864 square feet of which were in the basement. Respondent did not present adjustments for those sales. However, even without adjustments, all of those comparable sales supported the value determined by the Board of Equalization, or possibly even a higher value.

APPLICABLE LAW

1. A resident individual means an individual who is either domiciled in this state for any period of time during the taxable year, or who is not domiciled in this state but maintains a permanent place of abode in this state and spends in the aggregate 183 or more days of the taxable year in this state. (Utah Code Ann. §59-10-103(1)(j).)

2. "Domicile" means the place where an individual has a true, fixed, permanent home and principal establishment, and to which place he has (whenever he is absent) the intention of returning. It is the place in which a person has voluntarily fixed the habitation of himself and family, not for a mere special purpose, but with the present intention of making a permanent home. After domicile has been established, two things are necessary to create a new domicile: First, an abandonment of the old domicile; and second, the intention and establishment of a new domicile. The mere intention to abandon a domicile once established is not of itself sufficient to create a new domicile; for before a person can be said to have changed his domicile, a

new domicile must be shown. Utah Administrative Code R865-9I-2.D.

3. A person's intentions are determined by his or her actions, and not by verbal declarations.

DISCUSSION

The comparable sales submitted by both parties all sold for prices in excess of the value placed on the subject property by Respondent. Petitioner argued that some of those sales, after concessions, and after making adjustments for size, would indicate a value slightly less than the value placed on the property by the Board of Equalization. However, neither party made such adjustments to the comparable sales, which would permit a finding of slightly more or slightly less than the value determined by the Board of Equalization. Petitioner's requested adjustment is very minimal, especially when considering that reliance is placed upon a foreclosure sale, a bank owned property sale, and a sale made by the homeowner.

In this matter, Petitioner failed to meet its burden of proof to establish either an error in the value determined by the Board of Equalization, or to establish by credible evidence a lower value.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2003 is \$\$\$\$\$. 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 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

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

DATED this _____ day of _____, 2005.

G. Blaine Davis
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2005.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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