

13-878  
TAX TYPE: PROPERTY TAX  
TAX YEAR: 2012  
DATE SIGNED: 4/4/2014  
COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO  
EXCUSED: D. DIXON

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,</p> <p style="text-align: center;">Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;"><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 13-878</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2012</p> <p>Judge: Phan</p>
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: REPRESENTATIVE FOR PETITIONER, Owner,  
REPRESENTATIVE FOR PETITIONER

For Respondent: RESPONDENT, Certified Residential Appraiser, COUNTY

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the COUNTY Board of Equalization under Utah Code §59-2-1006. This matter was argued in an Initial Hearing on January 13, 2014, in accordance with Utah Code §59-1-502.5. The COUNTY Assessor's Office valued the subject property at \$\$\$\$\$, as of the January 1, 2012 lien date. The County Board of Equalization ("the County") sustained the value. At the hearing the Property Owner is requesting a reduction to \$\$\$\$\$. The County is asking the Commission to stay with the value of \$\$\$\$\$.

APPLICABLE LAW

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

- (1) All tangible personal 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(12), as follows:

“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. 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 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, may appeal that decision to the commission by 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.
- (5) In reviewing the county board’s decision, 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.

A party requesting a value other than that established by the county Board of Equalization has the burden of proof to establish that the market value of the subject property is different. To prevail, a party must 1) demonstrate that the value established by the County contains error; and 2) provide the Commission with a sound evidentiary basis for changing the value established by the county board of equalization to the amount proposed by the party. The Commission relies in part on *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); and *Utah Railway Co. v. Utah State Tax Comm’n*, 5 P.3d 652 (Utah 2000).

#### DISCUSSION

The subject property is located at SUBJECT ADDRESS. It is a .53 acre vacant residential building lot located adjacent to the SKI RESORT. The lot is in an area referred to by the parties as PROPERTY NAME. It is in a ski-in, ski-out location adjacent to the ski lifts for the SKI RESORT.

In seeking a value other than that established by the County Board of Equalization, a party has the burden of proof to demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide a sound evidentiary basis to support a new value. The Property Owner did not submit any comparables in the SKI RESORT area that had sold for as low as the \$\$\$\$\$ that he requested at this hearing. He provided some comparable sales in COMMUNITY-1 or COMMUNITY-2, which are away from ski resorts and generally summer only cabin properties. These properties had sold for prices from \$\$\$\$\$ to \$\$\$\$\$.

In addition, the Property Owner argued that the County was ignoring the lower priced sales in the resort area and relying on the higher sales. He pointed to the Tax Commission's decision for the subject property in an appeal filed for the 2010 year, Appeal No. 11-1771. In that case the Tax Commission had concluded some weight should be placed on the lower priced sales and found a value as of the January 1, 2010 lien date of \$\$\$\$\$. In that decision, however, there were seven properties that had sold in 2004 and two that had sold in 2008. There were no sales between the 2004 and the 2008 sales and no sales in 2009 or 2010. It appeared that the County's value had been influenced by the higher priced 2004 sales, with no consideration to the lower priced 2004 sales. In that decision the Commission agreed with the County that the amenities from the SKI RESORT VILLAGE parcels were offset by the fact that the SUBJECT PROPERTY NAME properties were nearer to the ski lift and ski run.

It was the County's position that the COMMUNITY-2 and COMMUNITY-1 sales are not comparable to the subject property, because the value of the subject is based on its location adjacent to the ski resort. The subject is a ski-in, ski out property. COMMUNITY-2 and COMMUNITY-1 are not near ski resorts. The County's representative provided a plat of the SUBJECT PROPERTY NAME area where the subject is located and the adjacent SKI RESORT VILLAGE area and listed every sale from 2008 forward. The lien date at issue in this appeal is January 1, 2012. In addition to the two sales that occurred in 2008, there was one sale in 2009 and one in 2012. The County's sales are as follows:

Parcel	Sale Price	Sale Date	Size	Area
Subject			###	
###	\$\$\$\$\$	DATE	###	SKI RESORT VILLAGE
###	\$\$\$\$\$	DATE	###	PROPERTY NAME
###	\$\$\$\$\$	DATE	###	SUBJECT PROPERTY NAME (Sale Between Family Members)
###	\$\$\$\$\$	DATE	###	SKI RESORT VILLAGE

In addition to the sales, there were three listings of SKI RESORT VILLAGE properties provided by the County. These were listed for \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. There were no listings of SUBJECT PROPERTY NAME properties. There was a consensus from both parties that the \$\$\$\$\$ was really too high of a listing price for that property. The County also noted that that a mortgage was taken out on the lot next door to the subject in October 2010 for \$\$\$\$\$ and a #####-square foot cabin constructed on that lot.

Property tax is based on the fair market value as of January 1 of the tax year at issue, under Utah Code §59-2-103. Utah Code §59-2-102 defines “fair market value” as the amount for which property would exchange hands between a willing buyer and seller. There is limited evidence of fair market value for the subject lot, due to limited sales in the area. However, from the sales in SUBJECT PROPERTY NAME and SKI RESORT VILLAGE, the value set for the subject of \$\$\$\$\$ is within the range of sale prices. The Property Owner has the burden of proof to establish a lower value and has failed to provide relevant comparables that support a value as low as the \$\$\$\$\$ he is requesting. The value should remain as set by the County Board.

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, 2012 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 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

Appeal No. 13-878

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner