

APPEAL # 23-138
TAX TYPE: PROPERTY TAX
TAX YEAR: 2022
DATE SIGNED: 2/28/2024
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 23-138 Parcel No: ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2022 Judge: Halverson</p>
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Presiding:
Shannon Halverson, Administrative Law Judge

Appearances:
For Petitioner: PROPERTY OWNER
For Respondent: RESPONDENT'S REP-1, County Assessor, COUNTY-1

STATEMENT OF THE CASE

Petitioner ("Taxpayer") brings this appeal from the decision of the COUNTY-1 Board of Equalization ("County"). This matter was argued in an Initial Hearing on October 4, 2023 in accordance with Utah Code Ann. §59-1-502.5. The COUNTY-1 Assessor's Office valued the subject property at \$\$\$\$ as of the January 1, 2022 lien date. The Board of Equalization sustained the value at \$\$\$\$\$. The County is asking the Commission to sustain the Board of Equalization value. The Taxpayer is requesting the value of the subject property be reduced to \$\$\$\$.

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 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 or equal to 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.

For a qualified real property proceeding before the Tax Commission, Utah Code Ann. §59-2-109(4)(b) provides that the burden of proof is on the county only where the county proposes a value that is greater than or equal to the subject property's inflation adjusted value and where the taxpayer does not propose a value that is less than the property's inflation adjusted value. To prevail in this case, Subsection 59-2-109(2) provides that the county must: 1) demonstrate substantial error in the inflation adjusted value; and 2) provide a sound evidentiary basis upon which its proposed value could be adopted.

DISCUSSION

The subject property is a ##### acre lot that is improved with a building located at ADDRESS-1. The subject property has ##### square feet of gross living area. The County classifies the subject property as being built in DATE. The Taxpayer’s information indicated that the subject property was originally built in DATE as a home and was built with a sandstone foundation. The Taxpayer indicated that the subject property was not originally built to include power, water, sewer, or gas but an addition was added to the home in DATE, which added a sink, a toilet, and a spray shower. The Taxpayer’s submissions stated that the subject property is unfit for reasonable occupancy and residency because there is no heat source to the rooms in the older portion of the home, no closets, and no stove or oven. The Taxpayer indicated that the subject property is usually only habitable for approximately three months out of the year in the summer as the weather warms to over 70 degrees. The subject property was classified by the County as a salvage property in prior years but was assessed as a non-primary residential property for the 2022 tax year.

The subject property’s assessed value was not appealed and, therefore, was not reduced on appeal for the 2019 or 2020 tax year. The subject property’s assessed value was appealed in 2021 and was reduced on appeal to the Board of Equalization for the 2021 tax year. The subject property’s valuation history is as follows:

Tax Year	Original Assessed Value	BOE Value	Commission Value
2019	\$\$\$\$\$	N/A	N/A
2020	\$\$\$\$\$	N/A	N/A

2021 \$\$\$\$\$ \$\$\$\$\$ N/A

The Taxpayer indicated that the reduction for the 2021 tax year was based on the subject originally being assessed as a residential building and the County Board of Equalization making a determination that the subject property's property type should remain as a salvage building.

The Taxpayer stated at the Initial Hearing that the subject property has been deemed a salvage property, not a residence, for many years. She stated that she is appealing the decision from the Board of Equalization because the subject property's property type was changed from salvage to residence. She argued that the subject property is unfit as a residence and cannot be fixed. She asserted that it will cost more than \$\$\$\$\$ to add heat to the home. She noted that she appealed the property's assessed value in 2017 and 2021 and in both of those years it was determined that the subject property was not a residence and should be reclassified as a salvage property. She stated that nothing has changed on the property and the conditions of the building remain the same. She stated that the home was originally built in DATE and has no heat. She stated that the subject property is not used as a residence and cannot be changed to do so. She argued that the County did not have proof of upgrades or changes to the building that would increase the subject property's improvement value from \$\$\$\$\$ to \$\$\$\$\$. She expressed concern that this change in property type increased her taxes by %%%%.

The Taxpayer indicated that the subject property has been in her family for a long period of time and has been used for over 60 years for tending horses on the property. She indicated that the horses are there for 45 days and can only be there in the warm summer months. She indicated that the home is used as a refuge when she is tending and caring for horses. She acknowledged that the addition has a toilet and sink but noted that the addition is now over 60 years old. The Taxpayer submitted photographs of the horses grazing on the property over the years. She also submitted a temperature chart for LOCATION-1, which showed the average monthly temperature in the LOCATION-1 in 2021. She noted that from September to May the average monthly temperature is under 55 degrees and from November to April the average monthly temperature is under 32 degrees, which is freezing.

The Taxpayer indicated that the County Assessor recommended that she contact heating contractors to have them provide bids for adding heat to the subject property. She indicated that she had three heating contractors, CONTRACTOR-1, CONTRACTOR-2, and CONTRACTOR-3, provide bids to add heat to the home. She indicated that each contractor stated that adding heat would not be feasible without major structural changes, which would include demolition, abatement of asbestos, reconstruction, and electrical updates to the home. She also noted that the contractors indicated that adding heat would require drilling through the

outside into the home. She stated that this is not possible due to the sandstone because it would compromise the structure. The Taxpayer submitted bids from CONTRACTOR-1, which estimated a total cost of \$\$\$\$\$. The estimate indicated that the window would need to be resized to bring refrigerant lines in and the asbestos in the lower level ceiling would need to be abated before install. The Taxpayer also submitted a bid from CONTRACTOR-4, which estimated the cost of repairs for demolition, framing and sheetrocking, electrical upgrades, trim carpentry, paint, and other tools and repairs at \$\$\$\$\$. She submitted a bid estimate of \$\$\$\$\$ to \$\$\$\$\$ for moving and storing items in the home, and a bid from CONTRACTOR-5 to move the piano from the home for \$\$\$\$\$. She noted that the total costs are estimated at \$\$\$\$\$ to add heat and remodel the subject property. She noted that the CONTRACTOR-1 bid for approximately \$\$\$\$\$ to install four lines did not include the \$\$\$\$\$ to remodel the subject property. The Taxpayer also submitted a bid from CONTRACTOR-6 for a total of \$\$\$\$\$ for the remodeling of the subject property and to bring the property to code. The CONTRACTOR-6 quote indicated that the cost estimate does not include asbestos abatement, electrical upgrades, plumbing, heating, gas, permits, paint, sheetrock, or demolition costs.

The Taxpayer indicated that a heating expert, PERSON-1, was sent by the County Assessor to inspect the building. She indicated that the property was inspected on DATE. She indicated that the heating expert stated that it is not reasonable or feasible to add heating, plumbing with gas, and/or water to the house. She noted that the other bids already stated that it cannot be done reasonably without a high cost and destroying the historical aspects of the home.

The Taxpayer noted that the comparative market analysis submitted by the County used other residential homes as comparable properties. She argued that those properties are not comparable because those properties can be occupied year round. She stated that the subject property has been uninhabitable for over ##### years, it is ##### years old, and it has no heat. She indicated that no cooking can be done and she is unable to have a fire in the wood burning stove. She stated that the subject property is not built to code and has outdated electrical aluminum wiring. She argued that there has been no change in property type and the County should assess the property in a manner consistent with its prior year decisions. She argued that the subject property has been assessed based on the subject property's potential and not based on its current condition as a salvage property. She argued that the costs are high to improve the subject property and would destroy the subject property's historical value. She argued that the subject property is made of sandstone. She indicated that she is not satisfied with the bids and needs an easier way to address the subject property's issues. She argued that the subject property is not a residence and cannot be lived in. The Taxpayer indicated that her requested value is \$\$\$\$\$ for the

improvement plus \$\$\$\$\$ for the land, for a total requested value of \$\$\$\$\$ for the subject property.

The County's representative submitted a comparative market analysis (CMA) for the subject property that included the adjusted values of three comparable sales. The CMA concluded a value estimate of \$\$\$\$\$ for the subject property. The sale dates of the comparable sales ranged from DATE to DATE. The unadjusted sale prices of the comparable sales included in the CMA ranged from \$\$\$\$\$ to \$\$\$\$\$ and the adjusted sale prices ranged from \$\$\$\$\$ to \$\$\$\$\$. The County made adjustments to the comparable sales for differences in acreage and square footage. The County did not make an adjustment to the comparable sales to account for the subject property's cost to cure for the lack of heating or other needed repairs.

The County's submitted information also included the adjusted sale prices of the following four comparable sales to support the subject property's original assessed value:

REDACTED TABLE

The adjusted values of these four comparable sales ranged from \$\$\$\$\$ to \$\$\$\$\$ and the average adjusted value of the comparables was \$\$\$\$\$. The County's submitted information indicated that the cost to cure adjustment was based on the bid submitted by the Taxpayer from CONTRACTOR-1. for \$\$\$\$\$. The County's representative acknowledged that the repairs proposed by the CONTRACTOR-1 bid may not be cosmetically appealing but could be made for \$\$\$\$\$. He acknowledged that the Taxpayer would need to resize the windows but argued that the improvements do not require pulling the floorboards.

The County's submitted information also included photographs of the exterior of the subject property on DATE and DATE. The County's submitted photographs included notations that there were multiple exhaust fans on the subject property.

The County's representative stated that the County's position is that the subject property should be assessed as a residential property. He acknowledged that the subject property has historically been assessed as a salvage property. However, he stated that it is occupied during the summer months. He stated that there are a number of seasonal properties that are typically assessed as residential properties. He stated that the County has been denied an inspection of the interior of the property. He indicated that the subject property was assessed as a full-time residence and the value was discounted by \$\$\$\$\$ for the cost to cure the repairs in the CONTRACTOR-1 bid. The County submitted photographs of the exterior of the subject property and argued that those photographs demonstrate that the subject property is far from a salvage property. He argued that a salvage property is considered scrap. He stated that the subject

property's kitchen is in good repair, and its bathroom is also in good repair. He stated that the issue in this appeal is the classification of the structure of the property. He noted that the County assessed the subject property's land at the same value as surrounding lots. He noted that the Taxpayer has never had a fee appraisal prepared for the subject property.

The County's representative argued that the comparable properties show that, after adjustments, the subject property's original assessed/Board of Equalization value is supported. He argued that the original woodwork makes the property valuable as it is, and if it was scrap, it would not have value. He acknowledged that the subject property is a seasonal property and acknowledged that, to make it a year round property, the Taxpayer would need to make some changes. He noted that the summer photograph of the subject property shows the nature of the property, which is used as a horse property. He noted that the Taxpayer resides in the home in the summer. He acknowledged that the estimate for the costs to cure provided by the Taxpayer may be low but argued that the County has underestimated the value of the home. He argued that the land value is very high and argued that the property could be subdivided.

The Taxpayer argued that seasonal homes have some sort of heat source and the subject property does not. She stated that the definition of salvage is that it cannot be used for its intended purpose. She acknowledged that the subject property has historical value and acknowledged that she mows the lawn, plants the flowers, and keeps it clean. She stated that the exterior of the subject property is the same exterior that was put on the home in 1965. She argued that a radiant heating system is not possible.

Commission Findings & Analysis

The issue before the Commission is to determine what the fair market value of the subject property was as of the lien date. The Utah Constitution, Article XIII, Sec. 2 provides, "[s]o that each person and corporation pays a tax in proportion to the fair market value of his, her or its tangible property, all tangible property in the state that is not exempt under the laws of the United States or under this Constitution shall be: (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law; and (b) taxed at a uniform and equal rate." Utah statutes implement the constitutional provision and provide that property tax is assessed on the basis of the property's "fair market value" as of January 1 of the tax year at issue pursuant to Utah Code Ann. §59-2-103. "Fair market value" is defined in Utah Code Ann. §59-2-102 as the "amount for which property would exchange 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."

Utah Code Ann. §59-2-109 addresses the burden of proof in certain circumstances, including if a property is a “qualified real property.” Subsection 59-2-109(1)(c) provides that a property is a “qualified real property” if the following requirements are met: the property’s value was reduced in the appeal process for the prior tax year; the property’s assessed value for the current year is higher than its inflation adjusted value; and between the prior year’s lien date and the current year’s lien date, the property has not had a qualifying change as defined in Utah Code Ann. §59-2-109(1)(d).

In this appeal, the Taxpayer appealed the valuation of the subject property for the 2021 tax year to the COUNTY-1 Board of Equalization in accordance with Utah Code Ann. §59-2-1006, and, as a result of that appeal, the final assessed value of the subject property was reduced below the 2021 original assessed value. The subject property’s original assessed value for the 2021 tax year was \$\$\$\$ and was reduced to \$\$\$\$ based on an appeal to the County Board of Equalization. However, the County Assessor did not provide the Commission with a computed inflation adjusted value as required in Utah Code Ann. §59-2-1004. Under Utah Code Ann. §59-2-1004, the County Assessor is required to compute the inflation adjusted value “by changing the final assessed value for the previous taxable year for the real property by the median property value change.” Utah Code Ann. §59-2-1004 defines “median property value change” as the midpoint of the property value changes for all real property that is:

- (i) of the same class of real property as the qualified real property; and
- (ii) located within the same county and within the same market area as the qualified real property.

Furthermore, in *Appeal No. 20-62*, the Commission noted that Subsection 59-2-1004(2)(c)(ii)(B) provides that “[t]he county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission” and found that “for a property that meets the first two requirements of being a qualified real property (as set forth in Subsections 59-2-109(1)(c)(i) and (ii)), but for which a county assessor does not believe meets the third requirement concerning the improvements being ‘improved’ or ‘changed’ (as set forth in Subsection 59-2-109(1)(c)(iii)); a county assessor should provide to the county board of equalization and/or the Tax Commission: 1) notice of the inflation adjusted value; and 2) notice that the preliminary issue exists as to whether the property is or is not a qualified real property. By so doing, the county board of equalization and/or Tax Commission will know to address the

preliminary qualified real property issue before it addresses the underlying valuation issue.” See *Interim Order, Appeal No. 20-62*, Utah State Tax Commission (June 23, 2020)¹.

In this appeal, the County Assessor did not notify the Tax Commission of the subject property’s inflation adjusted value. In addition, none of the information forwarded to the Commission provided notice that the subject property was potentially a qualified real property for appeal purposes and/or provided notice of the subject’s 2022 inflation adjusted value. The County asserted that the subject property had a qualifying change as defined in Utah Code Ann. §59-2-109(1)(d) between January 1, 2021 and January 1, 2022 and, therefore, asserted that the subject property is not a qualified real property for the 2022 tax year. Utah Code Ann. §59-2-109(1)(d) defines “qualifying change” as follows:

- (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 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.

The County’s representative, in a Post Hearing submission, indicated the following:

After the 2021 BOE, I completed an exterior inspection of Subject property. I observed an active natural gas meter, active power meter and the overall well maintained exterior of the subject structure as well as apparent recent improvements to the natural ventilation pipes. (The photos were attached for the initial hearing). After my inspection I determined the property to be currently misclassified as a salvage building and highest and best use to be a residence. I changed the classification of the property to be a secondary residence.

However, the Taxpayer indicated that the property was not modified in any way between January 1, 2021 and January 1, 2022 and indicated that the property has had gas and power meters since DATE but has “no heat as it is not viable to add to the house at any reasonable price.”

The Commission finds that the County’s reclassification of the subject property from a salvage building to a residential building does not meet the definition of a “qualifying change” because there were no physical improvements made to the subject property, there was no zoning change,

¹ Redacted copies of this and other selected Commission decisions can be reviewed on the Commission’s website at <https://tax.utah.gov/commission-office/decisions>.

and there was no change in the legal description of the real property. Thus, the Commission finds that because the subject property did not have a qualifying change as defined in Utah Code Ann. §59-2-109(1)(d) between January 1, 2021 and January 1, 2022, and meets the other qualifications of Subsection 59-2-109(1)(c), the subject property is a qualified real property for the 2022 tax year. The subject property's final assessed value for the 2021 tax year, after a reduction on appeal, was \$\$\$\$\$. However, the County did not provide the Commission with an inflation adjusted value computed in accordance with Utah Code Ann. §59-2-1004. Thus, the Commission finds that, because the County did not provide the Commission with an inflation adjusted value computed in accordance with Utah Code Ann. §59-2-1004, the Commission will use the subject property's final assessed value of \$143,750 for the 2021 tax year as the inflation adjusted value for the 2022 tax year in this appeal.

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 apply in this matter because the value of the subject property was reduced on appeal for the 2021 tax year. Utah Code Ann. §59-2-301.4(2) requires the county assessor to 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." The subject property's reduction in value for the 2021 tax year was based on the County Board of Equalization's determination that the subject property should remain classified as a salvage building. The County Assessor reclassified the subject property's property type for the 2022 tax year to residential but did not submit evidence that the property had physically changed in any way from the prior year or provide other information that would support changing the classification. The Commission finds that the County Assessor did not adequately consider the reason for the reduction in the 2021 tax year and whether that reason continued to influence the fair market value of the subject property in this appeal.

For a qualified real property proceeding before the Tax Commission, Utah Code Ann. §59-2-109(4)(b) provides that the burden of proof is on the County only where the County proposes a value that is greater than or equal to the subject property's inflation adjusted value and where the Taxpayer does not propose a value that is less than the property's inflation adjusted value. In this appeal, the County is requesting a value that is higher than the subject property's inflation adjusted value and the Taxpayer is not requesting a value that is less than the subject

property's inflation adjusted value for the 2022 tax year. Thus, to prevail in this case, Subsection 59-2-109(2) provides that the County must: 1) demonstrate substantial error in the inflation adjusted value; and 2) provide a sound evidentiary basis upon which its proposed value could be adopted.

The Commission finds that the County's submissions are not sufficient to demonstrate substantial error in the subject property's inflation adjusted value. The County submitted a CMA with three adjusted comparable sales that were residential properties. The CMA concluded a value estimate of \$\$\$\$\$ for the subject property. The sale dates of the comparable sales ranged from DATE to DATE, and the adjusted sale prices ranged from \$\$\$\$\$ to \$\$\$\$\$. However, the County did not make adjustments to the comparable sales to account for the subject property's lack of heating to make the subject property a year-round habitable residence similar to the comparable sales. The County also submitted four additional adjusted comparable sales with adjusted sale prices that ranged from \$\$\$\$\$ to \$\$\$\$\$. These comparables included a cost to cure adjustment that was based on the bid submitted by the Taxpayer from CONTRACTOR-1. for \$\$\$\$\$. However, the Taxpayer submitted bids from two other contractors showing that the repair costs would require asbestos abatement, demolition, framing and sheetrocking, electrical upgrades, trim carpentry, paint, tools, and other repairs that would range from \$\$\$\$\$ to \$\$\$\$\$. The Commission acknowledges that all of the repairs listed in those bids may not be necessary to make the subject property habitable year-round but finds that the Taxpayer's submitted information demonstrates that the bid from CONTRACTOR-1. does not include all of the costs for the necessary improvements that would be required to make the subject property habitable year-round as a residential property. The Commission finds that the County's adjustments to the comparable sales do not adequately account for the costs to make the subject property a year-round habitable residence and do not show substantial error in inflation adjusted value.

The Taxpayer is requesting a value of \$\$\$\$\$, which is above the subject property's inflation adjusted value of \$\$\$\$\$. She noted that the subject property's land value increased from \$\$\$\$\$ for the 2021 tax year to \$\$\$\$\$ for the 2022 tax year. She stated that she is not disputing the County's increase in the land value but is disputing the subject property's improvement value. The Commission finds that the evidence taken as a whole supports a value of \$\$\$\$\$ for the subject property because there is no dispute regarding the subject property's increased land value and the County's submission does not demonstrate substantial error in the subject property's inflation adjusted value. The Commission finds that the subject property's assessed value should be reduced to the Taxpayer's requested value of \$\$\$\$\$ for the 2022 tax year.

Shannon Halverson
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, 2022 lien date. The Auditor is hereby ordered to adjust its records accordingly. 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 ____, 2024.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner