

APPEAL 25-267
TAX TYPER: PROPERTY TAX
TAX YEAR: 2024
DATE SIGNED: 03/03/2026
COMMISSIONERS: J. VALENTINE, R. ROCKWELL, J. FRESQUES AND J. DEEDS

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1 COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;">INITIAL HEARING ORDER</p> <p>Appeal No. 25-267</p> <p>Parcel No: #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2024</p> <p>Judge: Phan</p>
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Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER’S REP-1, Representative
PETITIONER’S REP-2, Representative
For Respondent: RESPONDENT’S REP-1, Deputy County Attorney, COUNTY-1 County
RESPONDENT’S REP-2, Licensed Residential Appraiser, COUNTY-1 County

STATEMENT OF THE CASE

Petitioner (“Property Owner”) brings this appeal from the decision of the COUNTY-1 County Board of Equalization pursuant to Utah Code §59-2-1006. This matter was argued in an Initial Hearing on August 5, 2025, in accordance with Utah Code Ann. §59-1-502.5. The Weber County Assessor’s Office originally valued the subject property at \$\$\$\$\$, as of the January 1, 2024 lien date. The County Board of Equalization (“County”) reduced the value to \$\$\$\$\$. At the Initial Hearing, the Property Owner requested a reduction to \$\$\$\$\$ and the Respondent (“County”) requested that the value be increased above the value set by the County Board of Equalization 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 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 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.

...

- (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) For an appeal to the commission involving the valuation or equalization of real property assessed under Part 2, Assessment of Property, the party carrying the burden of proof shall demonstrate:
 - (a) substantial error in the original assessed value; and
 - (b) a sound evidentiary basis to support the value the party requests.
- (2) (a) For an appeal to the county board of equalization or the commission involving the valuation or equalization of real property assessed under Part 3, County Assessment, the party carrying the burden of proof shall demonstrate:
 - (i) except as provided in Subsection (2)(b), substantial error in:
 - (A) the original assessed value in an appeal to the county board of equalization; or
 - (B) the value set by the county board of equalization in an appeal to the commission; and
 - (ii) a sound evidentiary basis to support the value the party requests.
- (b) The party carrying the burden of proof does not have to show substantial error as required by Subsection (2)(a)(i) if the party is requesting:
 - (i) the original assessed value in an appeal to the county board of equalization; or
 - (ii) the value set by the county board of equalization in an appeal to the commission.
- (3) For property assessed under Part 2, Assessment of Property, the commission has the burden of proof, 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.
- (4) For property assessed under Part 3, County Assessment, the following shall carry the burden of proof before a county board of equalization or the commission:
 - (a) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof to support the value the county assessor or the county board of equalization requests; and
 - (b) the taxpayer that is a party to the appeal has the burden of proof to support the value the taxpayer requests.
- (5) A preponderance of the evidence suffices to sustain the burden for all parties.

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 property assessed under Title 59, Chapter 2, Part 3, County Assessment, Utah Code Ann. §59-2-109(4) provides that the following shall carry the burden of proof before the Commission: (1) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof to demonstrate a sound evidentiary basis to support the value the county assessor or the county board of equalization requests; and (2) the taxpayer that is a party to the appeal has the burden of proof to demonstrate a sound evidentiary basis to support the value the taxpayer requests. Further, because both parties in this appeal are requesting a value different than the value established by the county board of equalization, Utah Code Ann. §59-2-109(2) provides that each party must also demonstrate substantial error in the value set by the county board of equalization. In accordance with Utah Code Ann. §59-2-109(5), a preponderance of the evidence suffices to sustain the burden for all parties.

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 the subject property for property tax assessment purposes. The lien date at issue in this appeal is January 1, 2024.

The subject property is ##### acres of mountainous graze land located in Section #####, LOCATION-1 in COUNTY-1 County. There is not a mailing address for this property. The subject property is improved with four A-frame cabins. The main cabin has a 3/4 bathroom with running water sourced from a spring on the subject property and a septic system. There is no electricity. The main cabin is ##### years old, has ##### square feet above ground and no basement. There is a wooden deck off the front of the cabin and a smaller deck off the rear of the cabin. The main cabin interior is rough lumber or plywood for walls and ceilings, with open rafters and no insulation. There is also a small kitchen area with cupboards and some appliances. There is no garage or carport on the subject property. The three other cabins are also A-frame structures. No interior photographs of the three other cabins were provided and it is unclear whether they had bathrooms, running water, or kitchens.

The subject property land is used for grazing and, other than the homesite area, is assessed as

greenbelt under the Farmland Assessment Act. The subject property is located in a remote mountainous area and accessible only by an unimproved dirt track, which is maintained by the property owners in Land Section #####, and requires a 4-wheel drive vehicle. The land is accessible only ##### months of the year.

The subject property is subject to a deed restriction placed on the property by the Property Owner's grandparents in YEAR. The deed restriction states that the property may only be sold for a price of not more than \$\$\$\$\$ per acre and may only be sold to a person who already owns property in Land Section #####. In general, these persons are relatives of the Property Owner.

The value of the subject property had been appealed for tax year YEAR. For tax year YEAR, the original assessed value had been \$\$\$\$\$ and the value had been reduced to \$\$\$\$\$ by the County Board of Equalization as the result of the appeal. Based on the limited information provided by the County regarding this reduction, the reduction was to the value of the improvements and the land value remained unchanged. The value of the improvements were reduced by \$\$\$\$\$, resulting in a value of \$\$\$\$\$ for the improvements for tax year YEAR.

For tax year 2024, which is the year at issue in this appeal, the County Assessor's original market value was \$\$\$\$\$ for the improvements, \$\$\$\$\$ for the home site land, and \$\$\$\$\$ for the graze land, for a total of \$\$\$\$\$. For tax year 2024, the County Board of Equalization reduced the market value of the improvements to \$\$\$\$\$, reduced the homesite land value to \$45,001, and reduced the market value for the greenbelt grazeland to \$\$\$\$\$ (\$\$\$\$\$ per acre), which resulted in a total market value of \$\$\$\$\$.

II. Property Owner's Evidence

The Property Owner's representatives did not submit any comparable land sales or comparable cabin sales to support their requested value for the subject property. Instead, they made three arguments. They argued first that the subject property was deed restricted so could only be sold for \$\$\$\$\$ per acre. Second, they argued that the comparables used by the County were much more easily accessed compared to the subject property and were thus not comparable. Third, they argued that the improvements should be valued based on a cost approach.

At the Initial Hearing, the Property Owner argued that the land could not be sold on the open market because of the deed restriction. The Property Owner provided a copy of the Warranty Deed for the subject property recorded on MONTH DATE, YEAR. Included on this deed was the statement that the "Grantee, by accepting the Warranty Deed, covenants and agrees that she will not sell the above described land to any person or entity other than a person or entity owning land in Section #####. . . and then only for a price which shall not exceed \$\$\$\$\$ per acre. This covenant shall run with and be a burden on the land conveyed by this Warranty Deed." The Property Owner provided citations to four court cases from

other states for the position that courts had upheld deed restrictions similar to this.¹ The Property Owner's representatives asserted that these cases had all held that deed restrictions similar to the one on the subject property were enforceable.

The Property Owner provided satellite images that showed the location of the subject property, which is in a remote area surrounded by LAND-1 land and land owned by COUNTY-1 County. The Property Owner explained that the property is accessible only by traveling ##### miles on a dirt trail from STREET-1. He stated that the access trail is only accessible by 4-wheel drive vehicles. The Property Owner also provided satellite images of where the County's cabin comparables were located, which showed those properties to be in recreation subdivisions near paved roads and easily accessible. The Property Owner stated that these comparables had easy access by passenger car and easy access to Highway #####. He also argued that they were not very comparable to the subject because they could be marketed and sold on the open market for a market price, while the subject property could only be sold to other persons in Section ##### and then only for \$\$\$\$\$ per acre.

The Property Owner's representatives argued that the improvements on the subject property should be valued based on a cost approach. They explained at the hearing that the A-frame structures on the property were of a similar construction as a storage shed and were not standard housing. They stated that it would take a framing crew ##### days to put the structures up, at a cost of \$\$\$\$\$ per day. They provided a list of costs for the materials, to which they added \$\$\$\$\$ for the framing crew. This totaled a cost of \$\$\$\$\$ per A-frame structure. The list did not include costs for sinks, kitchen cabinets, showers, toilets, delivery charges, any other labor or installation costs, or other similar costs. The list included two "interior doors" per cabin and no exterior doors, although it is possible interior doors were used on the exterior of the cabins. It appeared from the photographs that these A-frame cabins were constructed on wood beams rather than on a concrete foundation. The Property Owner's requested value of \$\$\$\$\$ was based on the \$\$\$\$\$ costs per structure plus a value for the land of \$\$\$\$\$, which was \$\$\$\$\$ per acre.

The Property Owner's representatives also provided a sales offering from Home Depot for a ##### foot by ##### foot wood storage building offered for sale for \$\$\$\$\$. It was not clear if the building would come fully assembled or if the sales price only included the materials. If it was fully assembled, no information was provided on the cost to deliver the structure to the remote location of the subject property. The Property Owner's representatives also included an offering on COMPANY-1 for a "prefab tiny home" that was described as a "foldable modular house with ##### bedrooms, 1 full equipped

¹ See Petitioner's Exhibit 1, PDF# 1. The Property Owner listed the purported case citations in his exhibit as follows: "Lathrop v. Boor (2001) 774 N.E.2d 1064 (Ind. Ct. App.)"; "In re Estate of Jones (2007) 172 S.W.3d 101 (Tex. App.)"; "Wolfe v County of Alameda (2014) 227 Cal.App. 4th 1344"; "In re Assessment of Property of Heritage Hills (2018) 755 S.E.2d 298 (Ga. Ct. App.)" As noted later in this decision, although these appear as if they are citations to real cases, neither the County nor the Tax Commission were able to find cases based on these citations.

kitchen and bathroom.” This offering listed a price of \$\$\$\$\$, but included a statement from the seller that stated that the price is “for reference only” and was unclear as to whether this came fully assembled. Another offering on COMPANY-1 was a “DIY Tiny House Kit” for \$\$\$\$\$ that stated that the kit “comes with all necessary components for quick and efficient assembly.”

III. County's Evidence

At the Initial Hearing, the County presented a legal memo from RESPONDENT’S REP-1, Deputy County Attorney, COUNTY-1 County, on the issue of the deed restriction. In the memo, RESPONDENT’S REP-1 explained that he had attempted to look up the cases that the Property Owner had cited to on Westlaw, but he was not able to find the cases.² He also explained in the memo that he was not able find any Utah cases on point to the issue of deed restrictions and property tax assessments, but that other jurisdictions have made “clear statements indicating that self-imposed deed restrictions cannot be used to allow owners to avoid paying their fair share of taxes,” citing NeBoShone Ass’n v. State Tax Comm’n, 58 Mich.App. 324, 334, 227 N.W.2d 358, 363 (1975) and Mashpee Wampanoag Indian Tribal Council, Inc. v. Assessors of Mashpee, 379 Mass. 420, 420–22, 398 N.E.2d 724, 725–26 (1980).³ The memo also cited to an Arizona case, Recreation Centers of Sun City, Inc. v. Maricopa Cnty., 162 Ariz. 281, 288–89, 782 P.2d 1174, 1181 (1989) in which that court found:

The property tax . . . is levied upon the land itself and not the interests in the land or its profitability. See Carlson v. Assessment Appeal Bd. I, 167 Cal.App.3d 1004, 213 Cal. Rptr. 555, 559 (1985) (deed restriction ignored; separate legal interests in property do not affect manner of assessment, therefore “it is not the profitability of the property to the present owner” that is relevant so long as property itself has value); Lake County (where the owner is not exempt, tax is on value of property, not the value of the owner's interest); In re Neptune Township (where witnesses testified that property could not be sold and thus had “zero” value, deed restriction—including provision prohibiting profit—should be ignored because “[t]he law requires an assessment of the value, not of the owners' title, but of the land; the assessed value represents the value of all interests in the land”); . . . ; Hoover v. State Bd. of Equalization, 579 S.W.2d 192 (Tenn. App.1978) (for property tax purposes, value attaches to the property itself, not to the interest of the party in possession, thus alienation restrictions preventing sale were not to be considered in assessing value).

In the memo, RESPONDENT’S REP-1 distinguished deed restrictions that impacted the use of the property from self-imposed deed restrictions that impacted the ownership issues. He also noted that it

² The Tax Commission Administrative Law Judge also attempted to find the Property Owner’s case citations on Lexis and was not able to find any cases by those names. When entered by citation number, two of the citation numbers came up as different cases that had nothing to do with the opinions the Property Owner stated the cases supported.

³ Memo, pg. 3.

was unclear whether Utah courts would find the deed restriction on the subject property enforceable.⁴

The memo concluded:⁵

In contrast, the deed restrictions in these appeals do not inherently impact the use or value of the land. The Appellant’s argument with respect to the deed restriction cannot be that the land itself has less value because of the restriction; rather, it boils down to an argument that it has little or no “fair market value” because the previous owners have prevented it from being placed on the open market at all, at least for now. State law requires rejection of this argument, because property must be valued as it would be in the open market. Allowing a reduction in assessed value on this basis would allow the owners to circumvent the fundamental principles of fairness that Utah’s property tax system requires. It could also invite others to avoid paying their fair share of taxes by placing such deed restrictions on their properties, with the understanding that they would be able to terminate the deed restrictions at a future time, when needed.

As evidence of market value, the County provided an appraisal. The appraisal had been prepared by RESPONDENT’S REP-2, Licensed Residential Appraiser and employee of COUNTY-1 County. The appraisal considered only a sales comparison approach, which was based on two comparable sales. Both comparables were located in subdivisions that had easy access. Both comparables had only one cabin on the property. To adjust for the multiple cabins, the County’s Appraiser added \$\$\$\$\$ per each additional cabin. A summary of the County’s comparable sales and appraisal adjustments are as follows:

	Subject	Comp. 1	Comp. 2
	#####	STREET-2 CITY-1, UT	STREET-3 CITY-1, UT
Sale Price		\$\$\$\$	\$\$\$\$
Sale Date		MONTH. DATE, YEAR	MONTH DATE, YEAR
Location	LOCATION-1	LOCATION-1	LOCATION-2
Location Adjustment		#####	\$\$\$\$
Site/Acres	#####	#####	#####
Site/Acres Adjustment		\$\$\$\$	\$\$\$\$
View	Mountains	Mountains	Mountains
Design	Cabin	Cabin	Cabin
Quality	Fair	Average	Fair
Quality Adjustment		-\$\$\$\$\$	#####
Age	#####	#####	#####
Age Adjustment		-\$\$\$\$\$	-\$\$\$\$\$
Condition	Average	Average	Average
Bathrooms	#####	#####	#####
Bathroom Adjustment		#####	\$\$\$\$
GLA	#####	#####	530
GLA Adjustment		-\$\$\$\$\$	-\$\$\$\$\$
Basement	#####	#####	#####
Garage/Carport	#####	#####	#####

⁴ The Memo cited to Page v. Page, 15 Utah 2d 432, 434, 394 P.2d 612, 613 (1964) and Kamas State Bank v. Bourgeois, 14 Utah 2d 188, 191, 380 P.2d 931, 933 (1963).

⁵ Memo, pg. 5.

Additional Cabins	#####	#####	#####
Additional Cabin Adjustments		\$\$\$\$\$	\$\$\$\$\$
Net Adjustments		\$\$\$\$\$	\$\$\$\$\$
Adjusted Sales Price		\$\$\$\$\$	\$\$\$\$\$

In addition to the appraisal, the County’s representative explained that there had been three large tracts of land in the mountainous areas of CITY-2 that had sold and supported a value of \$\$\$\$\$ per acre. The County’s information indicated a ##### acre tract of land had sold for \$\$\$\$\$ per acre, a ##### acre tract of land had sold for \$\$\$\$\$ per acre, and a ##### acre tract of land had sold for \$\$\$\$\$ per acre. The County provided the Multiple Listing Service number for these sales but no other information, so the location, date of sale, or any information about access or utilities is unknown for these comparables.

IV. Value Conclusion

Utah Constitution, Article XIII, Sec. 2 provides, "So 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 by statute as 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." See Utah Code Ann. §59-2-102. Therefore, the Tax Commission must determine the fair market value of the subject property as of the January 1, 2024 lien date.

The subject property was the subject of a "valuation reduction" resulting from an appeal for tax year YEAR. Thus, the "valuation reduction" provisions described in Utah Code Ann. §59-2-301.4 are applicable in this matter. Utah Code Ann. §59-2-301.4 is applicable in this appeal. If a valuation reduction occurs within three years before the lien date at issue, a county assessor is required to consider the valuation reduction in assessing the fair market value of the property. Utah Code Ann. §59-2-301.4(2) provides factors that the County "shall consider." Subsection (2)(a) indicates these to be "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." Based on the limited information provided, the County had reduced

the value of the improvements for tax year YEAR. The County has not shown that the County Assessor had met the requirements of Utah Code Ann. §59-2-301.4(2).

The burden of proof for this proceeding is set out at Utah Code Ann. §59-2-109(4). Utah Code Ann. §59-2-109(4) provides that the county assessor or the county board of equalization that is a party to the appeal has the burden of proof to demonstrate a sound evidentiary basis to support the value the county assessor or the county board of equalization requests and the property owner has the burden of proof to demonstrate a sound evidentiary basis to support the value the property owner requests. Further, because both parties in this appeal are requesting a value different than the value established by the county board of equalization, Utah Code Ann. §59-2-109(2) provides that each party must also demonstrate substantial error in the value set by the county board of equalization. In accordance with Utah Code Ann. §59-2-109(5), a preponderance of the evidence suffices to sustain the burden for all parties.

Considering these burden of proof requirements as well as the applicable law, the Tax Commission reviews the facts and arguments presented by the parties. On the issue of the deed restriction, although the parties did not submit and the Commission is unaware of any Utah case law involving the assessment of property taxes for a property with a self-imposed deed restriction that limits the ability to sell the property, the Commission agrees with the County that there is a distinction between deed restrictions that affect the use of the property and are granted to the benefit of another person or entity and those that are self-imposed ownership issues. For example, it is not uncommon for one parcel to be encumbered by a deeded easement across some portion of the land that provides access to a second parcel. The easement restricts the use of the first parcel and, therefore, affects the value of the first parcel, but increases the value of the second parcel because it provides access to the second parcel. When valuing these properties for property tax purposes, the Tax Commission considers any impact the deed restriction may have on the value of the property.

However, the restriction on the warranty deed in the subject appeal is factually distinct. In the subject case, in YEAR the grandparents, who were the grantors, deeded the subject property to a grantee, but attempted to withhold some of their ownership rights in the subject property, by withholding the right for the grantee to openly market the subject property and sell it at market value. The grantors could have unilaterally transferred the right to market and sell the property to the grantee at a later time by executing another deed. This is distinct from cases involving a recorded deeded restriction that affects the use of a property and are granted to the benefit of another person or entity. The owner of the parcel encumbered by an access easement, for example, could not unilaterally cancel the easement by executing another deed. In the facts before the Commission in this appeal, once the grantors died, whether the ownership right in the subject property retained by the grantors was a right that could have been inherited by the

grantors' descendants would have to be determined by probate or other court action. Further, as the County has noted, it is not clear that the deed restriction's restraint on alienation would be enforceable against the property in Utah.⁶

The Tax Commission has considered analogous situations where property owners had encumbered their properties with long term, below market leases and then argued in those cases that the market value of the property was reduced because of the leases. In those situations, the Commission has concluded that the lease is not to be taken into consideration because the fair market value requirement means that property is to be valued based on fee simple ownership. In *Initial Hearing Order, Appeal No. 12-2733*, Utah State Tax Commission (July 5, 2013),⁷ the Commission explained⁸:

The evidence indicates that the lease is essentially a "below market" lease. A below-market lease, however, does not reduce the value of the overall property. The value of the lessor's interest is diminished, but the value of the lessee's interest is increased. See *The Appraisal of Real Estate* (10th Ed. 1992), p. 126. The Utah Constitution and the property tax statutes require us to value the entire property, that is, the fee simple interest. Thus, we must value both the lessor's and the lessee's interest.

The Commission agrees with the County in this matter that allowing a reduction in the assessed value based on a self-imposed deed restriction limiting the saleability of the property,⁹ which could later be undone by the grantor, would circumvent the fundamental principles of valuing property based on fair market value. Therefore, the Commission should not reduce the value solely based on the deed restriction limiting the sale of the property by both dollar amount and purchaser.

The Commission next considers whether the Property Owner has shown substantial error in the value set by the County Board of Equalization based on their fair market value information. The Property Owner criticized the County's comparable sales of cabin properties, but did not provide any of their own comparables.

⁶ The Commission declines to opine on whether a legally enforceable deed restriction would have an impact on value.

⁷ Redacted copies of this and other selected decisions issued by the Commission can be reviewed on the Commission's website at <https://tax.utah.gov/commission/decisions/>.

⁸ See also *Findings of Fact, Conclusions of Law, and Final Decision, Appeal 20-641*, Utah State Tax Commission, pg. 29 (March 30, 2021). In that case the Tax Commission explained:

Utah Code Ann. §59-2-102(13) defines fair market value as 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. Thus, fair market value under Utah law is a value in exchange concept. The fair market value of the economic property interest may or may not be divided between a leased fee interest and a leasehold interest, but both are subject to property tax.

⁹ See also *Kennecott Copper Corp. v. Salt Lake County*, 122 Utah 431, 436. The Utah Supreme Court considered how to value a property that would not likely have any willing buyers if offered for sale on the open market and concluded:

Under these circumstances, the use plaintiff is making of this tract is its highest and best use. The Commission properly considered these elements in determining the assessed valuation. To some extent this valuation must be arrived at by using opinion and sound judgment as to what these lands would probably sell for on the open market if there were others who could use [***9] them for their highest and best use.

The only land sales submitted support the County's original assessed land value of \$\$\$\$ per acre, not the value of \$\$\$\$ per acre that the Property Owner was requesting. The Property Owner, however, supported the fact that the subject was remote and difficult to access, which supports a somewhat lower land value and the County Board of Equalization had reduced the land value for all the secondary acres to \$\$\$\$ per acre, which is a reasonable adjustment.

The Property Owner also provided some information on the quality of construction grade of the subject A-frame cabin, which was a minimal construction cost, as well as costs of the materials to construct a new cabin. However, the Property Owner did not provide the costs of the labor needed to complete the construction, the costs to ship the materials to the remote location of the subject property, or even all of the material costs. The Commission would have considered a cost approach for the subject property's cabins that determined the cost value based on a recognized cost valuation service which includes all labor, shipping, and material costs, such as COMPANY-1, but that was not presented in this matter and the Property Owner's cost information was incomplete. The Property Owner has shown that that subject property had very minimal interior finish and only a fair grade of construction and the County Board of Equalization had reduced the value for all four of the cabin improvements to a total value of \$\$\$\$\$. The Property Owner has not shown substantial error in the County Board of Equalization's value, but the County also has not shown error. The County's requested value of \$\$\$\$\$ is high considering the quality of the improvements and the remoteness of the location of the subject property. Therefore, the value should remain as set by the County Board of Equalization.

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, 2024 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 ____, 2026.

John L. Valentine
Commission Chair

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

John T. Deeds
Commissioner