

APPEAL # 25-268
 TAX TYPE: PROPERTY TAX
 TAX YEAR: 2024
 DATE SIGNED: 03/10/2026
 COMMISSIONERS: J. VALENTINE, R. ROCKWELL, J. FRESQUES AND J. DEEDS

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="padding-left: 40px;">Petitioners,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1 COUNTY, STATE OF UTAH,</p> <p style="padding-left: 40px;">Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 25-268</p> <p>Parcel Nos: #####, #####, #####</p> <p>Tax Type: Property Tax Tax Year: 2024</p> <p>Judge: Phan</p>
---	---

Presiding:
Jane Phan, Administrative Law Judge

Appearances:
 For Petitioners: TAXPAYER, Property Owner
 For Respondent: RESPONDENT’S REP-1, Deputy County Attorney, COUNTY-1 County
 RESPONDENT’S REP-2, Certified Residential Appraiser, COUNTY-1 County

STATEMENT OF THE CASE

Petitioners ("Property Owners") bring 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 decision of the County Board of Equalization reduced the value of the three parcels at issue from the original assessed values set by the COUNTY-1 County Assessor's Office for the MONTH DATE, YEAR lien date. At the Initial Hearing, the Property Owners requested a further reduction for the subject parcels and the Respondent (“County”) requested that the values remain as set by the County Board of Equalization. The values for each parcel are as follows:

Parcel	Original Assessed Value	BOE Value	Property Owner Request	County’s Request
--------	-------------------------	-----------	------------------------	------------------

##### (“Parcel #####”)	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
##### (“Parcel #####”)	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
##### (“Parcel #####”)	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

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 the taxpayer is the only party in this appeal that is requesting a value different than the value established by the county board of equalization, Utah Code Ann. §59-2-109(2) provides that the taxpayer 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 Owners' appeal of the decision issued by the County Board of Equalization in regards to the assessed value of the subject properties for property tax assessment purposes. The lien date at issue in this appeal is MONTH DATE, YEAR. The value of the subject properties had not been appealed for any of the three years prior to the tax year at issue. General information about each specific parcel is as follows:

A. Parcel #####:

Parcel ##### is located at the northeast corner of Section ##### in COUNTY-1 County, or approximately STREET-1, CITY-1, Utah. It is ##### acres in size and is improved with a

cabin. The cabin originally had been constructed as an A-frame in YEAR with no basement, but in YEAR the Property Owners raised the original A-frame cabin off of the ground by constructing a mostly above ground concrete basement under the A-frame. The square footage of the basement is ##### and it is unfinished. The square footage of the main floor of the cabin is ##### and there is a second story loft of ##### feet. There is a ##### square foot deck off the main level of the cabin and a ##### square foot concrete covered patio below the deck. The property does not have its own water or electricity. The Property Owners haul in water and use a generator for electricity. The cabin has a small bathroom with a septic system. The cabin is not insulated.

The land in Parcel ##### is used for grazing and other than the homesite area, is assessed as greenbelt under the Farmland Assessment Act. The ##### acre parcel is a long, narrow rectangular parcel and borders federal land on one of the long sides of the rectangle. It borders Parcels ##### and ##### on the short sides of the rectangle. It is located in a remote 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.

Parcel ##### 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.

For the lien date at issue in this appeal, the County Assessor's original assessed value for Parcel ##### had been \$\$\$\$\$, which included a value for the improvements of \$\$\$\$\$, a lot value for the homesite land of \$\$\$\$\$, and a value for the secondary acreage of \$\$\$\$\$. When the value was reduced by the County Board of Equalization to \$\$\$\$\$, the improvement value was reduced to \$\$\$\$\$, the homesite lot value to \$\$\$\$\$, and the secondary acreage to \$\$\$\$\$.

B. Parcel #####

Parcel ##### is ##### acres in size and is also a long, narrow rectangular parcel, which borders federal land on one of the long sides of the rectangle and borders Parcel ##### on one of the short sides of the rectangle. There are no improvements on this parcel and the parcel was originally valued by the County Assessor as secondary acreage at a rate of \$\$\$\$\$ per acre. The County Board of Equalization reduced the value for this parcel to \$\$\$\$\$ per acre. This parcel is also used as grazeland and is assessed as greenbelt under the Farmland Assessment Act. This parcel is subject to the same deed restriction as Parcel #####.

C. Parcel #####

Parcel ##### is ##### acres in size and was originally valued by the County Assessor as secondary acreage at a rate of \$\$\$\$ per acre. The County Board of Equalization reduced the value of this parcel to approximately \$\$\$\$ per acre. This parcel was created in MONTH YEAR, when COUNTY-1 County readjusted the boundary lines of land that bordered the east side of Parcel #####. Parcel ##### is not deed restricted. Parcel ##### is sloped range land, but it is not assessed as greenbelt under the Farmland Assessment Act.

II. Property Owners' Evidence

The Property Owners requested that the land be reduced to a value of \$\$\$\$ per acre for all three parcels and the value of the cabin on Parcel ##### be reduced based on the cost to build. The Property Owners did not submit any land sales in support of the requested land value. Instead, the Property Owners argued that the land could not be sold on the open market because of the deed restriction. The Property Owners provided a copy of the Warranty Deed for the subject parcel filed 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 Owners then cited four purported court cases from other states for the position that the cases had held that deed restrictions similar to the one on the subject property were enforceable.¹ The Property Owners also stated the concern at the Initial Hearing that the County's values for the subject parcels had increased significantly from tax year YEAR to YEAR.

The Property Owners provided satellite images that showed the location of the subject parcels, which are in a remote area surrounded by LAND-1 land and land owned by COUNTY-1 County. The Property Owners explained that the subject property is accessible only by traveling ##### miles on a dirt trail from STREET-2. He provided photographs of this access trail and stated that the subject parcel is only accessible by this trail for ##### months of the year and only by 4-wheel drive vehicles. He also stated that he and the other owners in Section ##### have to maintain this roadway themselves. The Property Owners 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 Owners also pointed out at the Initial Hearing that even though property taxes fund services

¹ See Petitioner's Exhibit 1, PDF# 26. The Property Owners listed the purported case citations in their exhibit as follows: "SUBJUST-1 (YEAR) ##### N.E.#####d ##### (Ind. Ct. App.)"; "SUBJECT-2 (YEAR) ##### S.W.#####d ##### (Tex. App.)"; "SUBJECT-3 (YEAR) ##### Cal.App. #####th #####"; "SUBJECT-4 (YEAR) ##### S.E.#####d ##### (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.

and infrastructure such as roads, sewer, water, and trash services, there are no services or infrastructure where the subject parcels are located.

With regard to the cabin on Parcel #####, the Property Owners provided interior photographs of the cabin, which showed that the basement is unfinished and the A-frame has very steep sides with no insulation and open ceiling rafters. The photos also show a small kitchen with a sink and some kitchen cabinets, as well as a small bathroom with a sink and toilet. The photographs show some ceiling light fixtures and a door and windows in the basement section. At the Initial Hearing, the Property Owner explained that due to the lack of insulation, it gets very hot inside the cabin in the summer. He explained that they haul in water in ##### gallon jugs and use that to flush the toilet in the small bathroom into a septic system. He stated that they had propane gas lights, and used a generator for electricity.

He also explained that the snow in the area got so high it could cover the original A-frame in the winter. He stated that in YEAR they had decided to raise the structure by putting in the mostly above grade basement under the cabin to protect it from the snow.

The Property Owners argued that the improvements on the subject property should be valued based on a cost approach. They explained at the Initial Hearing that the A-frame cabin was similar to a shed and would be inexpensive to replace. At the Initial Hearing the Property Owner stated that the current materials cost to rebuild the cabin structure would be \$\$\$\$\$. He stated that would be \$\$\$\$\$ to put in the basement/foundation and \$\$\$\$\$ for the other material costs, plus \$\$\$\$\$ for a framing crew to put the building up. The Property Owners provided a list of material costs, which included items such as lumber, windows, metal roofing, and an interior door, but did not include costs for sinks, kitchen cabinets, showers, toilets, delivery charges, or any other labor or installation costs, or other similar costs. The Property Owners also provided in their exhibit a statement that COMPANY-1 sold a kit 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 Owners also included an offering on COMPANY-2 for a “prefab tiny home” that was described as a “foldable modular house with ##### bedrooms, 1 full equipped 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-2 was a “DIY Tiny House Kit” for \$\$\$\$\$ that stated that the kit “comes with all necessary components for quick and efficient assembly.”

The Property Owner explained at the hearing that Parcel ##### was so steep in slope that his horse would not even go to the top of this parcel. He provided a photograph of this parcel and explained that the County had sold some land to owners of properties in the area so that the County could relocate

the corners and boundary lines for Sections #####, ##### and #####. He stated that the County had offered this parcel to them for a price of \$\$\$\$ per acre and that is what they had paid for this property. Regarding Parcel #####, the Property Owner explained that this parcel is steep mountain land, which can only be accessed by hiking or horseback.

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 on Westlaw the cases that the Property Owner had cited as support for the position that deed restrictions similar to the one on the subject property were enforceable, 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 profitableness 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.

The County provided an appraisal for Parcel #####. The appraisal was prepared by RESPONDENT’S REP-2, Licensed Residential Appraiser and employee of COUNTY-1 County. The appraisal provided only a sales comparison approach based on only two comparable sales. A summary of the County’s comparable sales and appraisal adjustments are as follows:

	Subject	Comp. 1	Comp. 2
	#####	STREET-3	STREET-4
	CITY-1, UT	CITY-2, UT	CITY-2, UT
Sale Price		\$\$\$\$	\$\$\$\$
Location	LOCATION-1	LOCATION-1	LOCATION-2
Location Adjustment		#####	\$\$\$\$
Site/Acres	##### ⁶	#####	#####
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	##### ⁷	#####	#####
Bathroom Adjustment		-\$\$\$\$\$	#####
GLA	#####	#####	#####
GLA Adjustment		-\$\$\$\$\$	-\$\$\$\$\$
Basement	#####	#####	#####
Basement Adjustment		\$\$\$\$	\$\$\$\$
Finished 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.

⁶ Parcel 24 has only 39 acres.

⁷ As the subject property did not have running water, the County did not consider it to have a bathroom.

Net Adjustments	\$\$\$\$\$	\$\$\$\$\$
Adjusted Sales Price	\$\$\$\$\$	\$\$\$\$\$

Regarding the appraisal, the County's representative explained that comparable ##### had no electricity, no water source, and no septic system and was the most comparable to the subject property.

The County's representative explained that the County had not reappraised the land values in the area of the subject parcel for many years due to a classification that had been placed on these parcels from their location near the federal and county land. He explained that when the County was reviewing the land for tax year YEAR, they realized the values had not changed for more than ##### years and reassessed the land values to \$\$\$\$\$ per acre based on land sales. The County's representative stated that there had been three large tracts of land in the mountainous areas of CITY-3 Valley 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 MONTH DATE, YEAR lien date. For land parcels, fair market value is generally determined from comparable sales. For property tax assessment purposes in Utah, cabin properties are often also valued based on comparable sales, but the improvement portion could be valued based on a cost approach or by other methods.

The subject property was not the subject of a "valuation reduction" resulting from an appeal for the preceding three tax years. Thus, the "valuation reduction" provisions described in Utah Code Ann.

§59-2-301.4 are not applicable in this matter.

The burden of proof for this proceeding is set out at Utah Code Ann. §59-2-109(4). For tax year YEAR appeals, Utah Code Ann. §59-2-109(4) provides: (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 the Property Owners are the only party in this appeal requesting a value different from the value established by the County Board of Equalization, Utah Code Ann. §59-2-109(2) provides that the Property Owners 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.⁸

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),⁹ the Commission explained¹⁰:

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,¹¹ 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 Owners have shown substantial error in the value set by the County Board of Equalization based on their fair market value information. The Property Owners criticized the County's comparable sales of cabin properties and land sales, but did not provide any of their own comparables. The only land sales submitted support the County's original assessed land value of

⁸ The Commission declines to opine on whether a legally enforceable deed restriction would have an impact on value.

⁹ 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/>.

¹⁰ 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.

¹¹ 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.

\$\$\$\$ per acre, not the value of \$\$\$\$ per acre that the Property Owners requested. The Property Owners, 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 approximately \$\$\$\$ per acre, which is a reasonable adjustment.

The Property Owner also provided some information on the quality of construction grade of the A-frame cabin on Parcel #####, 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 cabin on Parcel ##### that determined the cost value based on a recognized cost valuation service which includes all labor, shipping, and material costs, such as COMPANY-3, but that was not presented in this matter and the Property Owners' cost information was incomplete. The Property Owners have shown that the cabin on Parcel ##### had very minimal interior finish and only a fair grade of construction and the County Board of Equalization had reduced the value for the cabin improvement on Parcel #####. The Property Owner has not shown substantial error in the County Board of Equalization's values, but the County also has not shown error. Therefore, the values 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 properties as of the MONTH DATE, YEAR, lien date to be as follows:

##### ("Parcel #####")	\$\$\$\$
##### ("Parcel #####")	\$\$\$\$
##### ("Parcel #####")	\$\$\$\$

The COUNTY-1 County 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 _____, 2026.

John L. Valentine
Commission Chair

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

John T. Deeds
Commissioner