

06-1655  
Property Tax/Locally Assessed  
Signed 06/29/2007

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2,	)	<b>INITIAL HEARING ORDER</b>
	)	
Petitioners,	)	Appeal No.    06-1655
	)	Parcel No.    #####
v.	)	
	)	Tax Type:    Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF	)	Commercial
UINTAH COUNTY, UTAH	)	Tax Year:    2006
	)	
Respondent.	)	Judges:    Hendrickson, B. Johnson
	)	

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

**Presiding:**

Pam Hendrickson, Commission Chair  
Bruce Johnson, Commissioner

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE  
                    PETITIONER 1  
For Respondent:  RESPONDENT REPRESENTATIVE 1, Assessor, Uintah County  
                    RESPONDENT REPRESENTATIVE 2, Deputy Auditor, Uintah  
                    County  
                    RESPONDENT REPRESENTATIVE 3, Deputy Uintah County  
                    Assessor  
                    RESPONDENT REPRESENTATIVE 4, Uintah County Contract  
                    Appraiser  
                    RESPONDENT REPRESENTATIVE 5, Deputy Uintah County  
                    Attorney

STATEMENT OF THE CASE

Petitioners bring this appeal from the decision of the Uintah County Board of Equalization. This matter was argued in an Initial Hearing pursuant to the provisions of Utah

Code Ann. Sec. 59-1-502.5, on June 6, 2007. Petitioners are appealing the assessed value as established for the subject property by Uintah County Board of Equalization. The lien date at issue is January 1, 2006.

APPLICABLE LAW

All tangible taxable property 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 provide by law. (Utah Code Ann. Sec. 59-2-103 (1).)

“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. (Utah Code Ann. 59-2-102(12).)

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board. . . . (4) In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1) & (4).)

To prevail in a real property tax dispute, the Petitioners must (1) demonstrate that the County's original assessment contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioners. *Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

DISCUSSION

The subject property is parcel no. ##### and is located at ADDRESS, CITY, Utah. The Uintah County Assessor's Office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$, allocated as follows:

Land	\$\$\$\$\$
Improvements	<u>\$\$\$\$\$</u>
Total	<u>\$\$\$\$\$</u>

The Uintah County Board of Equalization sustained the value. Petitioners argued at the hearing that the value should be reduced to \$\$\$\$\$.

The subject property is comprised of a two-story office building of approximately 10,174 square feet built in 1983. There is also a small cinder block storage shed. The structures are located on 1.68 acres of land. The majority of the building is rented to a CPA firm, in which the Petitioners are members. Petitioners, however, asserted that the ownership of the firm and the ownership of the property are not identical. Accordingly, they asserted that they have a fiduciary obligation to the other members of the firm to negotiate rental rates that represent a fair market rental. The remaining space is leased to unrelated parties at the same rates.

The County's value was based primarily on a cost approach. Based on the land guide, the County determined a value of \$\$\$\$\$ for the land (\$\$\$\$\$ per square foot). Based on Marshall & Swift cost tables, the County's Appraiser determined a cost new less depreciation of \$\$\$\$\$ for the office building, and \$\$\$\$\$ for the storage building.

Petitioners did not refute the cost methodology of the County, other than to argue that the land was overvalued because the access from the back streets was limited by the storage building and the owner of an adjoining property had denied an easement. The County responded by noting that the land was valued at only \$\$\$\$\$ per square foot, whereas the guideline base land value for this property was \$\$\$\$\$ per square foot. Thus, the County felt it had fully accounted for backage and access issues.

The County's Contract Appraiser, RESPONDENT REPRESENTATIVE 4, testified that his cost approach was supported by an income approach. The income approach was based on rents of \$\$\$\$ per square foot per year. Costs included repairs of \$\$\$\$\$, taxes of \$\$\$\$\$, and utilities of \$\$\$\$\$, all as reported on Petitioners 2005 income tax return. In addition, the County would allow a 5% vacancy rate. Using a 9% cap rate, the resulting value would exceed \$\$\$\$\$.

Petitioners charged approximately \$\$\$\$ per square foot to all their tenants, but the County argued that those rates were long-term rates that did not reflect the market as of the lien date. In support of the rental rate, the County cited BUILDING 1 space, primarily open space with cubicles, that was renting for \$\$\$\$ which, in the County's view, set a floor for the rent. The BUILDING 2 was renting for \$\$\$\$ per square foot. The County believed the subject was one of the best rental office buildings in CITY and would command higher rentals. There was some discussion of a BUILDING 3 potentially being rented for \$\$\$\$ per square foot, but there was no definitive evidence on that building. Petitioners, on the other hand, noted that the upper floor of the BUILDING 1 was brand new space. The BUILDING 2, they argued, was not an arm's length lease.

Upon reviewing the information and evidence in this matter, we believe an income approach is the best approach for this type of property. The market approach suffers from a lack of comparable sales in CITY. And, because the building was constructed in 1983, the cost approach is less reliable than it might be for a newer building. We believe the preponderance of the evidence supports the \$\$\$\$ per square foot rental actually charged by the Petitioners. Although this rent may be low, it is better supported than the \$\$\$\$ rate suggested by the County Appraiser. Using the actual rental reported by Petitioners for 2005 (\$\$\$\$), a 5% vacancy rate, and the actual repair, tax and utility expenses reported by Petitioners, results in income of

approximately \$\$\$\$\$. Applying a 9% cap rate, we find a fair market value of approximately \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006, is \$\$\$\$\$. The Uintah County Auditor is hereby ordered to adjust its records in accordance with this decision.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Pam Hendrickson  
Commission Chair

\_\_\_\_\_  
R. Bruce Johnson  
Commissioner

BY ORDER OF THE UTAH STATE TAX COMMISSION.

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Marc B. Johnson  
Commissioner

\_\_\_\_\_  
D'Arcy Dixon Pignanelli  
Commissioner

Appeal No. 06-1655

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