

09-2343
LOCALLY ASSESSED PROPERTY
SIGNED 04-22-2010

BEFORE THE UTAH STATE TAX COMMISSION

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| PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent. | INITIAL HEARING ORDER Appeal No. 09-2343 Parcel No. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2008 Judge: Chapman |
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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 regulation pursuant to 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 notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:
 Kerry R. Chapman, Administrative Law Judge

Appearances:
 For Petitioner: PETITIONER REP., Representative
 For Respondent: RESPONDENT REP., from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on April 12, 2010.

At issue is the fair market value of the subject property as of January 1, 2008. The subject is an office building located at ADDRESS 1 (STREET) in CITY 1, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was assessed for the 2008 tax

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year. The taxpayer asks the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to sustain the subject's current value of \$\$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103(1) provides that “[a]ll 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 provided by law.”

UCA §59-2-1006(1) provides that “[a]ny 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”

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must: 1) demonstrate that the value established by the County BOE contains error; and 2) provide the Commission with a sound evidentiary basis for reducing or increasing the valuation to the amount proposed by the party. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm’n*, 590 P.2d 332, (Utah 1979); *Beaver County v. Utah State Tax Comm’n*, 916 P.2d 344 (Utah 1996); and *Utah Railway Co. v. Utah State Tax Comm’n*, 5 P.3d 652 (Utah 2000).

DISCUSSION

The subject property is an office building that was built in 1984. As of the lien date, the subject had been leased as a COMPANY 1 call center for many years. The subject property is one story in height and has 127,421 square feet of rentable space.

The taxpayer submitted purchase information to contest the subject's current value, as well as a market approach and an income approach. The County submitted a market approach and an income approach to support the subject's current value. Even though the County's approaches show a value that is

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higher than the subject's current value, the County does not ask the Commission to increase the subject's value. The County offers its information to support the subject's current value of \$\$\$\$\$.

Purchase Price. The taxpayer proffered evidence to show that it purchased the subject property in July 2006 for \$\$\$\$\$. However, the taxpayer also indicates in its market approach that prices increased 10% between mid-2006 and the January 1, 2008 lien date. Increasing the \$\$\$\$\$ purchase price by 10% results in an adjusted sales price of \$\$\$\$\$ as of the lien date, which supports the subject's current value of \$\$\$\$\$.

Income Approach. Both parties have submitted income approaches to value the subject property. The taxpayer derived an income approach value of \$\$\$\$\$, while the County derived a value of \$\$\$\$\$. Both parties agree that a 10% vacancy rate, a 3% reserves expense rate, a 3% management expense rate, and an %%% capitalization rate should be used in the income approach. The only difference in the parties' income approaches is the lease rate.

Using a lease rate of \$\$\$\$\$ per square foot and the other variables agreed upon by the parties, results in an income approach value of \$\$\$\$\$, the subject's current value. The taxpayer uses a \$\$\$\$\$ per square foot lease rate to derive its income approach value of \$\$\$\$\$. The taxpayer stated that it obtained the \$\$\$\$\$ rate from market guides for the Salt Lake area. However, the taxpayer did not provide the guides or identify them.

The County uses an \$\$\$\$\$ per square foot lease rate to derive its income approach value of \$\$\$\$\$. To support this rate, the County provides eight lease comparables for properties between 40,162 and 105,000 square feet in size. Five of the comparables leased at triple net lease rates ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot. The County adjusted these five comparables to adjusted lease rates ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot.

The two properties most similar to the subject in size and location leased in 2007 for prices of \$\$\$\$\$ and \$\$\$\$\$ per square foot and adjusted to rates of \$\$\$\$\$ and \$\$\$\$\$ per square foot. Even if these rates were adjusted down by 10% to account for the subject's slightly larger size, as the taxpayer suggests, the revised rates for these two comparables would be \$\$\$\$\$ and \$\$\$\$\$. In addition, the lowest provided rate at which any office building leased was \$\$\$\$\$ per square foot. All of this information supports the \$\$\$\$\$ rate needed to derive an income approach value equal to the subject's current value of \$\$\$\$\$. None of it supports a lease rate of \$\$\$\$\$ per square foot, as the taxpayer suggests. For these reasons, the income approach does not result in a value that shows that the subject's current value is too high.

Market Approach. Both parties have submitted market approaches to value the subject property. The taxpayer derived a market approach value of \$\$\$\$\$, while the County derived a value of \$\$\$\$\$. With 127,421 square feet of rentable space, the subject's current value of \$\$\$\$\$ equates to \$\$\$\$\$ per square foot.

The taxpayer provided four comparable sales to derive its proposed value of \$\$\$\$\$ per square foot for the subject property. However, three of the taxpayer's comparables are sales of industrial-type properties with a combination of office space and warehouse space. The subject is superior to these comparables because it is comprised entirely of office space. One of the taxpayer's comparables is also comprised entirely of office space, specifically taxpayer's comparable #3. This comparable sold for \$\$\$\$\$ per square foot, and the taxpayer adjusted it to an adjusted sales price of \$\$\$\$\$ per square foot. This comparable supports the subject's current value of \$\$\$\$\$ per square foot.

The County provided three comparable sales to derive its proposed value of \$\$\$\$\$ per square foot for the subject property. One of the County's comparables is, like the subject, a call center. This 93,315 square-foot property sold for \$\$\$\$\$ per square foot in August 2007. The County did not make any adjustments to this comparable. The taxpayer suggested that this comparable's sales price should be adjusted

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downward by 20% to account for its smaller size and superior finish. However, these adjustments would still show an adjusted sales price of \$\$\$\$ per square foot for the subject, which is close to the \$\$\$\$ rate at which the subject is currently valued. The market approach information provided at the Initial Hearing does not show that the subject's current value is too high.

In conclusion, the taxpayer has not met its burden to show that the subject's current value of \$\$\$\$ is too high. The subject's current value should be sustained.

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's current value of \$\$\$\$ should be sustained for the 2008 tax year. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the taxpayer'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.

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DATED this _____ day of _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

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