

12-1892
TAX TYPE: PROPERTY TAX
TAX YEAR: 2011
DATE SIGNED: 10-21-2014
COMMISSIONERS: J. VALENTINE, D. DIXON, R. PERO
EXCUSED: M. CRAGUN
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 12-1892</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2011</p> <p>Judge: Phan</p>
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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. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. Pursuant to Utah Admin. Rule R861-1A-37(7), 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:

D'arcy Dixon, Commissioner
Jane Phan, Administrative Judge

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT, Certified General Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on May 19, 2014, in accordance with Utah Code Ann. §59-2-1006 and §63G-4-201 et seq. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner (“Property Owner”) filed an appeal of the decision of the Salt Lake County Board of Equalization regarding the fair market value of the subject property as set for property tax purposes. The appeal proceeded to this Formal Hearing before the Utah State Tax Commission.

2. The lien date at issue in this appeal is January 1, 2011.

3. The County Assessor had originally valued the subject property at \$\$\$\$ as of the lien date and the County Board of Equalization (“County”) upheld that value. At the hearing the Property Owner requests a reduction to \$\$\$\$\$. The representative for the County submitted an appraisal which concluded a value for the subject as of the lien date at \$\$\$\$\$. However, he requested that the value remain as set by the County Board at \$\$\$\$\$.

4. The property that is the subject of this appeal is parcel no. ##### and the parties have listed the address for this property at ADDRESS, CITY, Utah. However, this property is not located on NAME OF STREET, as it is behind another parcel on NAME OF STREET. The subject parcel is located on ##### South, at approximately ##### East.

5. The subject property is a ##### acre parcel of land which is zoned commercial. There are no structures on this parcel and it is currently being used as part of the residential yard for the parcel in front. This property is contiguous with ##### other parcels also owned by the Property Owner, which are commercially zoned and front onto NAME OF STREET. These ##### other properties are improved with residences and are rented to tenants. In total the ##### parcels combined are ##### acres of land on the corner of NAME OF STREET and ##### South and they are all zoned commercial. However, the other ##### parcels are not subject to this appeal.

6. Across the street from the NAME OF STREET parcels owned by the Property Owner is the NAME OF CENTER. To the South is BUSINESS-1 and to the North a restaurant that is no longer in business. At this point NAME OF STREET is a divided highway, so only vehicles traveling south can get to the subject property.

7. The Property Owner argues that the subject should be valued at \$\$\$\$ per square foot, which he calculated to be the \$\$\$\$ that he was requesting for this property. In support of this requested value he submitted the following comparables:

Address	Sale Price	Size Acre/SqFt	Sale Date	Price Per Square Ft
Subject ADDRESS		#####		
PROPERTY-1	\$\$\$\$\$	#####	7/10	\$\$\$\$\$
PROPERTY-2	\$\$\$\$\$	#####	3/10	\$\$\$\$\$

PROPERTY-3	\$\$\$\$\$	#####	8/11	\$\$\$\$\$ ¹
PROPERTY-4	\$\$\$\$\$	#####	1/10	\$\$\$\$\$

8. Although the comparable at PROPERTY-1 was ##### acres in size, it was an extremely narrow strip of land with only ##### feet of frontage. The County argued that this shape considerably limited how this property could be developed.

9. The Property Owner’s comparables at PROPERTY-2 had an older residence on it at the time of sale but, like the subject, it was zoned commercial. This was a bank owned sale. The County testified that this parcel of land actually had no frontage on NAME OF ROAD and was located down a 600 foot right of way behind other property that had frontage.

10. The comparable located at PROPERTY-4 was improved with an older residence and zoned residential. This comparable is located near the new BUSINESS-2 in an area becoming more commercial. This property had been purchased by the Property Owner, who states that he has been talking with CITY and they would likely rezone this property commercial.

11. The County’s representative submitted an appraisal as evidence of value. In the appraisal his conclusion was a value for the subject lot of \$\$\$\$\$, or a value of \$\$\$\$\$ per square foot. The County Board’s value of \$\$\$\$\$ was \$\$\$\$\$ per square foot. The County’s valuation methodology was based on all ##### contiguous parcels as one economic unit or assemblage. Since all ##### parcels were contiguous and had the same owner, it was the County’s position that they would be sold or developed together as one piece of commercial land. In this valuation methodology the County did not consider the current residential buildings to add value. Therefore, the County looked for land parcels more comparable to the ##### acre combined size than the size of the subject that was ##### acre.

12. In his appraisal the representative for the County considered the following seven comparable sales and came to the conclusion of value per square foot of \$\$\$\$\$ which he applied to the subject parcel. The County’s sales comparables are as follows:

Address	Sale Price	Size Acre/SqFt	Sale Date	Price Per Square Ft	Adjusted Price Per Square Ft
Subject ADDRESS		#####/#####			(But part of the ##### acre Parcel)
PROPERTY-5	\$\$\$\$\$	#####/#####	2/09	\$\$\$\$\$	\$\$\$\$\$
PROPERTY-6	\$\$\$\$\$	#####/#####	9/09	\$\$\$\$\$	\$\$\$\$\$
PROPERTY-7	\$\$\$\$\$	#####/#####	1/10	\$\$\$\$\$	\$\$\$\$\$
PROPERTY-8	\$\$\$\$\$	#####/#####	4/11	\$\$\$\$\$	\$\$\$\$\$
PROPERTY-9	\$\$\$\$\$	#####/#####	9/11	\$\$\$\$\$	\$\$\$\$\$

¹ This is based on the Property Owner’s calculation.

PROPERTY-10	\$\$\$\$	#####/#####	12/09	\$\$\$\$	\$\$\$\$
PROPERTY-11	\$\$\$\$	#####/#####	5/10	\$\$\$\$	\$\$\$\$

13. The County’s Appraiser testified regarding his comparables. He stated that the property at PROPERTY-9 was very irregular in shape, which would negatively impact development potential. He also testified that he thought the subject’s NAME OF STREET location was better than the PROPERTY-9 location of this property. The Property Owner offered his opinion to the contrary, arguing that this comparable was the best comparable offered by the County as far as location and noting it had sold for \$\$\$\$ per square foot.

14. The property at PROPERTY-10 had no access from the south and to get to this property you had to come from the north. The access to the subject is similarly restricted as you can only get to it from one direction. The Property Owner opined that this property was near a BUSINESS-3 and that this was in a better neighborhood.

15. The Property Owner pointed out that the property at PROPERTY-11 was a used (X) lot that had sold. He stated that CITY would not allow the subject and ##### contiguous parcels to be developed into a (X) lot.

16. The County’s comparable at PROPERTY-5, CITY was near in location to the subject, but both parties testified that this had been purchased as part of an assemblage transaction. The Property Owner pointed out that this sale was part of a large, corner sale with good development potential.

17. After reviewing the parties’ evidence, there are a number of land sales in a range that do support at least the County Board’s value of \$\$\$\$ per square foot. The Property Owner has the burden of proof to show error and has not done so.

18. Additionally, the County has chosen to value the subject parcel as part of an economic unit or part of an assemblage because the subject parcel would likely be sold or developed with the ##### contiguous parcels also owned by the Property Owner.

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 provided by law. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (Utah Code Sec. 59-2-103.)

“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. 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. (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 Petitioner must (1) demonstrate that the assessment contained error, and (2) provide the Commission with a sound evidentiary basis upon which the Commission could adopt a lower valuation. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

CONCLUSION OF LAW

1. Property tax is based on its "fair market value" pursuant to Utah Code Sec. 59-2-103. "Fair market value" is defined by statute as the amount for which property would exchange hands between a willing buyer and seller. See Utah Code Sec. 59-2-102. Evidence of fair market value supported the value set by the County Board.

2. The County valued the subject ##### acre lot, which would have limited development potential due to its size, as part of an economic unit or assemblage of other parcels. The ##### contiguous parcels were all owned by the Property Owner and combined would have more development potential due to size and frontage on NAME OF STREET than they would separately. The County's valuation methodology is consistent with the Tax Commission's decision in *Findings of Fact, Conclusions of Law and Final Decision, Appeal No. 11-1977 (7/22/2013)*. In that case the Commission noted, "Finally, because this property is part of an assemblage, it has plottage value. "Sometimes highest and best use results from assembling two or more parcels of land under one ownership. If the combined parcels have a greater unit value than they did separately, plottage value is created. (Citing *The Appraisal of Real Estate*, pp. 211-212 (10th Ed. 1992)."

Considering the evidence and the applicable law in this matter, the value should remain at \$\$\$\$\$.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2011, is \$\$\$\$\$. It is so ordered.

DATED this _____ day of _____, 2014.

John L. Valentine
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.