

01-0280
LOCALLY ASSESSED PROPERTY
TAX YEAR: 2000

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND FINAL DECISION
)	
Petitioner,)	Appeal No. 01-0280
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION)	
OF SALT LAKE COUNTY,)	Tax Year: 2000
STATE OF UTAH,)	
)	Judge: Davis
Respondent.)	

Presiding:

G. Blaine Davis, Administrative Law Judge
Palmer DePaulis, Commissioner

Appearances:

For Petitioner: PETITIONER REP. 1
PETITIONER REP. 2, from COMPANY 1
PETITIONER REP. 3
For Respondent: RESPONDENT REP. 1, from the Salt Lake County Assessor's Office
RESPONDENT REP. 2, from the Salt Lake County Assessor's Office
RESPONDENT REP. 3, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on October 30, 2001. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The tax in question is property tax.
2. The year in question is 2000, with a lien date of January 1, 2000.

3. The subject property is a big box warehouse which has some finished area on the main floor, some finished area on the second floor, and storage space on the mezzanine which is unfinished. In addition, there is a single-family residence located on the property, which is the caretaker's residence. The buildings were constructed in different phases commencing in 1965 and going through 1988.

4. The Salt Lake County Assessor initially valued the subject property at \$\$\$\$ as of the lien date in question.

5. The Salt Lake County Board of Equalization sustained a value of \$\$\$\$.

6. The parties are not in agreement regarding the amount of floor space in the property. Petitioner represented the primary buildings contain 21,203 square feet of finished space on the main floor, 16,128 square feet of finished space on the second floor, 79,996 square feet of warehouse space, and a mezzanine storage area of 20,415 square feet. Based upon the floor plans of the structure submitted by Petitioner, it appears that a small area of 900 square feet may have been erroneously included twice in that amount of square footage. In addition, Petitioner represented the single-family residence had 2,210 square feet.

7. Respondent represented there was a total of 135,305 square feet, with 9,135 square feet of storage on the mezzanine, 22,620 square feet of office space, 10,000 square feet of storage warehouse, and 3,000 square foot single-family residence. The exterior walls are 20 feet high.

8. Petitioner presented an opinion which had been prepared by PETITIONER REP. 2, MAI, who had been retained to give testimony regarding the measurements of the building.

PETITIONER REP. 3, as part of that opinion in his letter and testimony stated as follows:

"It should be noted that there is 20,415 square feet of mezzanine space on the second floor that is in fair to poor condition. In view of its overall condition, coupled with the fact that some occupants would remove the structure in order to maximize the warehouse area, this area has not been included in the overall building area calculation. After conversing with brokers from COMPANY 1, COMPANY 2, COMPANY 3, COMPANY 4, and COMPANY 5, all brokers concurred that second floor mezzanine storage area is never included in their calculations of overall building area, unless it is finished office space. This portion of the subject is not finished.

Respondent did not rebut the testimony of PETITIONER REP. 3 that most brokers do not include any value for mezzanine storage area in their calculations of overall business area unless it is finished office space. Accordingly, the Commission finds that brokers do not include mezzanine storage area in their calculations of overall building area unless it is finished office space.

9. Petitioner presented an appraisal prepared by PETITIONER REP. 2, who at the time of the appraisal was a registered appraiser in the State of Utah. PETITIONER REP. 2 prepared her summary appraisal report on two basis, the market income approach, and the sales comparison approach.

10. In making her estimate of value based upon the income approach, PETITIONER REP. 2 estimated that the 117,327 square feet would generate an income of \$\$\$\$\$ per square foot per month, or \$\$\$\$\$ per year. That estimate was based upon five comparable sales which showed income ranging between \$\$\$\$\$ per square foot and \$\$\$\$\$ per square foot. Three of the comparable leases indicated lease rates of \$\$\$\$\$ and \$\$\$\$\$ per square foot.

11. PETITIONER REP. 2 then estimated a 10% vacancy factor, operating expenses

of 5%, and a reserve for replacements of 3%. Based upon those calculations, PETITIONER REP. 2 determined a net operating income of \$\$\$\$\$, which she capitalized at a rate of %%% to arrive at an indicated value for the warehouse property of \$\$\$\$\$. PETITIONER REP. 2 then estimated the house had a value of \$\$\$\$\$ which should be added to the warehouse value, to indicate a total value for the subject property of \$\$\$\$\$.

12. PETITIONER REP. 2 then estimated the value of the property based upon a comparable sales approach by looking at nine separate comparable sales. Those comparable sales ranged in size from just over 20,000 square feet, to more than 461,000 square feet. The sales for those properties were in a range between \$\$\$\$\$ per square foot and \$\$\$\$\$ per square foot. The buildings also had ranges of wall heights from 14 feet to 30 feet. After reviewing that information, PETITIONER REP. 2 estimated those comparable sales would indicate a value for the subject property of \$\$\$\$\$ per square foot. That would calculate to a value of \$\$\$\$\$. She added her estimated value of the house of \$\$\$\$\$ to that amount to arrive at a total estimated value based upon the comparable sales approach of \$\$\$\$\$.

13. After considering her estimates of value based upon the income approach and the comparable sales approach, PETITIONER REP. 2 placed the greatest weight on the comparable sales approach and her final estimate of value for the subject property was \$\$\$\$\$.

14. Respondent submitted an appraisal report prepared by RESPONDENT REP. 1, a certified general appraiser in the Salt Lake County Assessor's Office.

15. RESPONDENT REP. 1 prepared his appraisal using three separate approaches to

value, i.e., the cost approach, sales comparison approach, and income capitalization approach.

16. In his cost approach, RESPONDENT REP. 1 estimated the value had an economic life of 20-25 years, and using Marshall and Swift, determined the improvements had a value of \$\$\$\$\$ plus the land value of \$\$\$\$\$, for a total rounded value of \$\$\$\$\$. RESPONDENT REP. 1 did not rely to any substantial degree upon the cost approach.

17. In his sales comparison approach, RESPONDENT REP. 1 used four comparable sales to calculate a value. Those sales indicated values between \$\$\$\$\$ and \$\$\$\$\$. RESPONDENT REP. 1 selected as his comparable the \$\$\$\$\$ per square foot, which indicated a value of \$\$\$\$\$. In rebuttal testimony, Petitioner indicated the comparable sale selected by RESPONDENT REP. 1 had approximately 30,000 square feet of cooler or refrigerated space, and RESPONDENT REP. 1 did say if that was factual, then the sale which he had selected would not be the best sale to use.

18. RESPONDENT REP. 1 calculated his income capitalization approach using the base rates of three separate properties. Those monthly lease rates were between \$\$\$\$\$ per month and \$\$\$\$\$ per month, or \$\$\$\$\$ per year to \$\$\$\$\$ per year. RESPONDENT REP. 1 then estimated a 5% vacancy and collection loss, 4% operating expenses, and 3% reserves. That generated a net operating income of \$\$\$\$\$, which RESPONDENT REP. 1 capitalized at %%% to indicate a value on the income property of \$\$\$\$\$. RESPONDENT REP. 1 then estimated the value of the residence to be \$\$\$\$\$, to indicate a total value for the property of \$\$\$\$\$.

19. RESPONDENT REP. 1 reviewed his cost approach, sales comparison approach, and income capitalization approach, and reconciled those values to estimate the fair market value of

the subject property at \$\$\$\$\$. That was the value shown by his sales comparison approach.

APPLICABLE LAW

1. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. 59-1-210(7).

2. A party seeking to increase or decrease the value determined by the Board of Equalization 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 Petitioner. *Nelson V. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

DISCUSSION

Petitioner's appraiser did not use a cost approach, and substantial questions were raised regarding the cost approach used by Respondent, particularly with respect to the remaining economic life, life expectancy of the property, and appropriate depreciation. Therefore, the Commission determines that there was not sufficient information presented to determine that the cost approach used by Respondent was a reliable indicator of value.

With respect to the comparable sales approach, Petitioner presented nine separate comparable sales, with sales prices ranging between \$\$\$\$\$ per square foot, and \$\$\$\$\$ per square foot. Six of the nine comparable sales had prices of less than \$\$\$\$\$ per square foot, and all of those sales were at a price per square foot less than the lowest comparable sale presented by Respondent.

Respondent presented four comparable sales with prices per square foot ranging between \$\$\$\$\$ to \$\$\$\$\$ per square foot. RESPONDENT REP. 1 selected the second highest sale which was \$\$\$\$\$ per square foot, but Petitioner challenged that sale as having 30,000 square feet of cooler space as part of the sale. There was no testimony or evidence rebutting the testimony of Petitioner's appraiser that the comparable sale did have 30,000 square feet of cooler space. RESPONDENT REP. 1 acknowledged that if the building did contain such cooler space, it would not be the sale to use as the most reliable indicator of value.

When analyzing the comparable sales information presented by the parties, the range of values goes from just over \$\$\$\$\$ per square foot to more than \$\$\$\$\$ per square foot. That is a very wide range of values. Based upon the information presented by the parties, it is impossible to evaluate and determine which of the numerous sales would best represent the fair market value of the subject property. Therefore, the Commission determines there is inadequate information to determine the correct value of the subject property based upon the sales comparison approach.

On the income approach, Petitioner prepared its estimate of value based upon a lease rate of \$\$\$\$\$ per square foot per month for the subject property, excluding the storage space on the mezzanine pursuant to the testimony of PETITIONER REP. 3. To support that estimate of income, Petitioner presented five comparable leases ranging in prices from \$\$\$\$\$ to \$\$\$\$\$ per square foot.

Respondent made its estimate of value pursuant to the income approach by using \$\$\$\$\$ per square foot per month as the market income. To support that amount, Respondent presented three comparable leases showing lease rates between \$\$\$\$\$ and \$\$\$\$\$ per square foot per

month.

Reviewing the information presented by the parties, five of the eight leases presented by the parties are in a range between \$\$\$\$ and \$\$\$\$ per square foot per month. The Commission therefore determines that \$\$\$\$ per square foot per month is a reasonable market lease rate for the subject property, and that the lease rate should apply to 117,327 square feet, which is the amount of the property excluding the mezzanine storage space.

For vacancy and collection loss, Petitioner estimated an amount of 10%. In support of that estimate, Petitioner presented documents from a 2000 Commercial Real Estate Symposium showing vacancy rates for flex service centers in Salt Lake County as of the end of 1999 at 12.2%. Respondent estimated 5% for vacancy and collection loss, but did not present any studies or any basis for using that amount. Accordingly, the Commission determines that a vacancy rate of 10% is the only rate supported by reasonable evidence, and therefore determines a vacancy rate of 10% is appropriate.

For operating expenses, Petitioner presented an amount of 5%, whereas Respondent used an amount of 4%. Neither party presented any support for the amount used, and the Commission finds operating expenses of 4% to be appropriate.

Both parties estimated reserves for replacement of 3%, and the Commission therefore determines a 3% reserve is reasonable.

For a capitalization rate, Petitioner used a rate of %%%%, and Respondent used a rate of %%%%. In support of the %%%% rate, Petitioner presented a chart showing numerous

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sales of property. The sales produced a capitalization rate between 10.00% and 12.00%. Respondent presented three separate sales, which would indicate capitalization rates between 10.00% and 12.00%. However, the study presented by Petitioner would support a capitalization rate in the range of 10.00% to 12.00%. Accordingly, the Commission determines a capitalization rate of 10.00% is appropriate. It was determined that the lowest one would not be a good comparable, which would leave a rate between 10.00% and 12.00%. Respondent selected 10.00%. 10.00% is supported by the information presented by both parties.

The value of the single-family residence on the property must be added to this value. It was determined that the estimate of value on the house made by Respondent was made on a house larger than the actual house, and the value made by Petitioner was based upon a property smaller than the actual house. It is determined the appropriate value for the house is \$\$\$\$\$.

The information above would result in a value for the warehouse property of \$\$\$\$\$, determined as follows:

Projected Gross Income	\$\$\$\$\$
Vacancy & Collection Loss	<u>\$\$\$\$\$</u>
	\$\$\$\$\$
Expenses 4%	\$\$\$\$\$
Reserves 3%	<u>\$\$\$\$\$</u>
Net Operating Income	<u>\$\$\$\$\$</u>
Capitalization Rate 10.00%	
Value	\$\$\$\$\$
Add Residence	<u>\$\$\$\$\$</u>
	\$\$\$\$\$
Rounded	\$\$\$\$\$

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DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2000, is \$\$\$\$\$. The Salt Lake County Auditor is hereby ordered to adjust its records in accordance with this decision. It is so ordered.

DATED this _____ day of _____, 2002.

G. Blaine Davis
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION:

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

DATED this _____ day of _____, 2002.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
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. §63-46b-13. 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 and 63-46b-13 et. seq.