

03-1502  
Locally Assessed Property Tax  
Signed 09/02/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW, AND FINAL DECISION</b>
	)	
Petitioner,	)	Appeal No.    03-1502
	)	Parcel No.    Multiple-4
v.	)	
	)	Tax Type:    Property Tax/Locally Assessed
BOARD OF EQUALIZATION	)	
OF IRON COUNTY,	)	Tax Years:    2001, 2002
STATE OF UTAH,	)	
	)	Judge:        Davis
Respondent.	)	

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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:**

G. Blaine Davis, Administrative Law Judge

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE

For Respondent:    RESPONDENT REPRESENTATIVE 1, Deputy Iron County Attorney  
                    RESPONDENT REPRESENTATIVE 2, Iron County Assessor  
                    RESPONDENT REPRESENTATIVE 3, Deputy Iron County Assessor

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on January 6, 2005. 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 2003, with a lien date of January 1, 2003.
3. The subject property consists of five separate parcels of property, which have all been valued by the parties as a single economic unit.
4. The Iron County Assessor initially valued the subject properties as follows:

<u>Parcel Numbers</u>	<u>Assessed Value</u>
#####-1	\$\$\$\$\$
#####-2	\$\$\$\$\$
#####-3	\$\$\$\$\$
#####-4	\$\$\$\$\$
#####-5	\$\$\$\$\$
Total	<u>\$\$\$\$\$</u>

5. The Iron County Board of Equalization sustained the value determined by the Iron County Assessor for each of the parcels.
6. Petitioner requested that the value of the subject properties be determined to be \$\$\$\$\$.
7. In support of the request for a determination of value of \$\$\$\$\$, Petitioner made an effort to prepare and present an income approach, sales comparison approach, and cost approach to value.
8. In trying to prepare an income approach, Petitioner took the actual income shown from the financial statements, added back an item entitled "Lease Expense", deducted out the

property taxes on the property, added back the management expenses, but deducted out a management fee of %%% and capitalized the income at %%% to arrive at an estimated value based upon his income approach of \$\$\$\$.

9. For a sales comparison approach, Petitioner utilized two separate sales. The first sale was dated June 15, 1994, and the second sale was dated April 30, 1997. Based upon those two sales, Petitioner arrived at an estimated value of \$\$\$\$ per square foot for the storage area, plus some old shops at their original cost less depreciation, for a total sales comparison approach of \$\$\$\$.

10. Petitioner made an estimated cost approach using the estimate to construct a new storage unit of \$\$\$\$ per square foot based upon an affidavit of WITNESS 1 of COMPANY A. Petitioner then deducted accumulated depreciation, and arrived at an estimated value, based upon the cost approach, of \$\$\$\$.

Petitioner then reconciled all three values and arrived at a value of \$\$\$\$.

11. In support of his calculations, Petitioner submitted three affidavits from other individuals. One affidavit was from WITNESS 1 of COMPANY A who represented that he could build new storage units for \$\$\$\$ per square foot. The second affidavit was from WITNESS 2 from COMPANY B who estimated the cost of upgrading the storage units and bringing them up to code would be a total of \$\$\$\$.

The third affidavit was from WITNESS 3 who estimated that the electrical upgrade costs would be a total of \$\$\$\$.

12. Petitioner also presented an appraisal report prepared by APPRAISER 1 dated March 20, 1997, determining the value of the subject property as of January 1, 1996. The value

determined for January 1996 was \$\$\$\$\$, which did not include some newer units which were constructed and acquired after the effective date of that appraisal.

13. Petitioner also introduced pictures of some of the improvements indicating that the storage units are in need of some repairs and upgrades, which related to the affidavits presented by Petitioner.

14. Respondent relied primarily upon an appraisal prepared by APPRAISER 2, MAI, from COMPANY C, with an effective date of January 1, 2003. In that appraisal, APPRAISER 2 determined that the estimated fair market value of the subject property as of January 1, 2003, was \$\$\$\$\$. In arriving at that conclusion, APPRAISER 2 utilized a cost approach, sales comparison approach, and income capitalization approach.

15. In making his estimated value determination using the cost approach to value, APPRAISER 2 estimated that the total costs new would be \$\$\$\$\$, which would be subject to total depreciation of \$\$\$\$\$, leaving a depreciated value of the improvements of \$\$\$\$\$. The value of the land on which the improvements are located was estimated at \$\$\$\$\$, which indicated a total value based upon the cost approach of \$\$\$\$\$. APPRAISER 2 rounded his estimate of value based upon the cost approach to \$\$\$\$\$.

16. APPRAISER 2 also prepared a sales comparison approach using sales of two storage facilities in CITY 1, Utah, plus one storage facility in CITY 2, Utah. Sale no. 1 had an adjusted sales price per foot of \$\$\$\$\$; sale no. 2 had an adjusted price per square foot of \$\$\$\$\$, and sale no. 3 had an adjusted price per square foot of \$\$\$\$\$. APPRAISER 2 concluded that a price per

square foot of \$\$\$\$\$ was a reasonable value. That value was supported by the comparable sales. Based upon that amount, APPRAISER 2 determined that the value of the subject property, based upon comparable sales in the area, would be \$\$\$\$\$.

17. APPRAISER 2 also utilized a potential gross income multiplier by analyzing the comparable sales, and determined that they showed a potential gross income multiplier of #####. Based upon a gross income multiplier of #####, the value would be \$\$\$\$\$. APPRAISER 2 correlated the price per square foot based upon the three sales, and the gross income multiplier based upon the same three sales, and determined a total value based upon the sales comparison approach of \$\$\$\$\$.

18. In his income approach, APPRAISER 2 determined that the subject property had a potential gross annual income of \$\$\$\$\$, and he made a vacancy and collection allowance loss of 10%. He also allowed for other expenses, including a management fee of %%%%, to arrive at a projected net operating income of \$\$\$\$\$. He analyzed other sales and determined that an overall capitalization rate of %%%% was indicated, plus an additional %%%% for capitalization of the property taxes. He therefore used a capitalization rate of %%%%. He determined a value of \$\$\$\$\$, which he rounded and then added \$\$\$\$\$ for the additional land in the area which is available for further development to arrive at a total value based upon the income approach of \$\$\$\$\$.

19. Following the preparation of APPRAISER 2's appraisal, there were some discovery issues between the parties. Following the disclosure of the actual income, APPRAISER 2 determined that the profit and loss statement indicated that actual income was \$\$\$\$\$, which was

1.7% higher than he had utilized in his appraisal. However, he indicated that it was sufficiently close to his appraisal that he would not feel compelled to increase the value shown in his appraisal beyond the \$\$\$\$ estimated in that appraisal.

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. 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 Tax Commission. In reviewing the county board's decision, the Commission may admit additional evidence, issue orders that it considers to be just and proper, and make any correction or change in the assessment or order of the county board of equalization. Utah Code Ann. §59-2-1006(3)(c).

3. Petitioner has the burden to establish that the market value of the subject property is other than the value determined by Respondent.

4. To prevail, the Petitioner 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), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

DISCUSSION

In this matter, Petitioner made an effort to attempt to present the value of the property based upon his understanding of the matter. However, as well intentioned as those efforts were, they were made without a complete understanding of the economic principles applicable to the appraisal and valuation of real property.

With respect to the income approach, Petitioner clearly used an excessive capitalization rate and deducted expenses and items which would not normally be deducted by an appraiser in making an estimate of value. In making his sales comparison approach, Petitioner used sales which were approximately six years and nine years prior to the lien date, and therefore would not be reflective of the market as of the time of the valuation. With respect to his cost approach, Petitioner deducted the full amount of costs estimated by WITNESS 1 to bring the units up to code. However, if that was done, then the depreciation which was otherwise taken based upon the cost approach would need to be added back to the value, and additional land costs would need to be included.

In using the appraisal report prepared by APPRAISER 1 with an effective date of January 1, 1996, that is a valid appraisal which show the value as of January 1996, but the value presented therein is seven years old. During that seven year time period, there have likely been substantial increases in real property values.

On the other hand, the current appraisal prepared by APPRAISER 2, MAI, appears to be well done and based upon sound financial and appraisal methodology. Further, although the

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appraisal of APPRAISER 2 indicated that the value was approximately \$\$\$\$\$, Respondent indicated that it was not asking for an increase in the value determined by the Board of Equalization.

Respondent represented that the value originally placed upon the property by the appraisal was conservative, but the appraisal was presented to support the original valuation by the county assessor. The Commission therefore finds that the value of \$\$\$\$\$ is well supported by the evidence, and may in fact be less than the actual fair market value of the subject property.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2003, is \$\$\$\$\$. Neither party presented any evidence showing that those values should be allocated between the five parcels of property on any basis other than as determined by the Board of Equalization, and therefore the value determined by the Board of Equalization for each of the parcels is hereby sustained. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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G. Blaine Davis  
Administrative Law Judge



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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 \_\_\_\_\_, 2005.

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.

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