

03-1636
Locally Assessed Property
Signed 06/07/2004

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND FINAL DECISION
)	
Petitioner,)	Appeal No. 03-1636
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION)	
OF SUMMIT COUNTY,)	Tax Year: 2003
STATE OF UTAH,)	
)	Judge: Davis
Respondent.)	

Presiding:

G. Blaine Davis, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, Deputy, Summit County Assessor

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on April 29, 2004. 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 Summit County Assessor initially valued the subject property at \$\$\$\$ as of the lien date in question. Upon appeal to the Summit County Board of Equalization, a value of \$\$\$\$ was determined.
4. The subject property is a Hotel Condominium of approximately 2,244 square feet containing three bedrooms. Petitioner also owns an additional three-bedroom unit of approximately 1,886

square feet which has been valued by Summit County at \$\$\$\$\$. The subject property is in BUILDING 1, and the other condominium owned by Petitioner is in BUILDING 2. Both properties are in a rental pool and are rented to other individuals by the developer. Petitioner receives a portion of the rental income.

5. Petitioner purchased the subject property in December 2001 for a price of \$\$\$\$\$. At that time, he looked at other units which were asking approximately \$\$\$\$\$, but based upon the lease arrangements with the developer, he was able to get lease payments which convinced him to purchase the more expensive unit.

6. Petitioner did not present any evidence of the fair market value of the subject property, either by way of an appraisal, or comparable sales of other units. Instead, Petitioner's main argument is that all three-bedroom units are leased to the developer, and they equalize the bookings, i.e., they see that each three-bedroom unit generates the same revenues to the owner. The subject property, which is a larger unit with a substantially higher purchase price in BUILDING 1, receives approximately the same rental income from the developer as does his smaller three-bedroom unit in BUILDING 2. Therefore, Petitioner says the value should be lowered to the value of the smaller units which are generating the same amount of income.

7. Petitioner acknowledges that the units in BUILDING 1 sell for a higher price than the units in BUILDING 2, BUILDING 3 or BUILDING 4. He maintained the average sales price of a three-bedroom unit in the total complex was \$\$\$\$\$, but the average sales price of a three-bedroom unit in BUILDING 1 is \$\$\$\$\$.

8. Respondent represented that BUILDING 1, in which the subject property exists, is the newest building and has the best views in the complex. He testified that units in BUILDING 3 were valued by the County at \$\$\$\$\$, but sold for \$\$\$\$\$. Units in BUILDING 4 have sold for \$\$\$\$\$ for a larger unit, and \$\$\$\$\$ for a smaller unit. Smaller units in BUILDING 1 have sold for between \$\$\$\$\$ and \$\$\$\$\$ depending

upon the views. The subject unit is the second largest unit in the entire complex, and the largest unit is listed for sale at \$\$\$\$\$.

9. The subject unit is on top of the building and has 180° views. Those views are substantially better than are the views from Petitioner's other unit in BUILDING 2.

10. Respondent testified that these condominium units are not bought and sold based upon the income which they produce, but are bought and sold based upon how luxurious they are and the views which are available from the unit.

11. Petitioner testified that last year the developer discounted several of the remaining units by 20% from the listing price to try to clear out the inventory, and that reduced the value of his unit.

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*

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& Light Co. v. Utah State Tax Commission, 530 P.2d. 332 (Utah 1979).

DISCUSSION

In this matter, Petitioner has the burden of proof to establish that there is an error in the assessment of the county, and to establish the correct fair market value of the property. Petitioner has not presented any evidence to show that there is an error, nor has he presented evidence which would support a different market value for the property.

Petitioner originally purchased the property for an amount greater than the value at which it has been assessed by Respondent. Although the sale of units in the complex at a discounted price may have a negative impact upon the market values of other units in the complex, there was no evidence of the amount, if any, of such a negative affect.

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 \$\$\$\$\$. It is so ordered.

DATED this _____ day of _____, 2004.

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 _____, 2004.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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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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