

04-0143  
Locally Assessed Property Tax  
Signed 05/11/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioners,	)		
v.	)	Appeal No.	04-0143
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,	)	Tax Year:	2003
STATE OF UTAH,	)		
	)	Judge:	Chapman
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:**

Kerry R. Chapman, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE (by telephone)

For Respondent: RESPONDENT REPRESENTATIVE, 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 August 3, 2004.

At issue is the fair market value of the subject property as of January 1, 2003. The subject property is a commercial property located at ADDRESS in CITY, Utah. The property

Appeal No. 04-0143

consists of .99 acres of land and two buildings, one built in 1947 and another one built in 1992. The property is currently, and for at least the last 20 years, has been used as a mini-storage warehouse with approximately ##### units ranging in size from 4' x 4' to 19' x 69'. The storage units are located on three separate floors, one of which is the basement, in the structure built in 1947. The 1992 building has only one floor.

The County has valued the property at \$\$\$\$ as a mini-storage warehouse using an income approach. The County BOE sustained the assessed value. The income approach was derived by applying a \$\$\$\$ per square foot rental rate to the 45,916 of rentable square footage. The remainder of the approach employed a 10% vacancy rate, a 10% expense rate, and a %%% capitalization rate.

The Petitioners provided an income approach based on the rental rates of warehouses where the space is all used or rented by one client, not the rental rates of mini-storage warehouses. The County repudiates this approach, claiming that mini-storage warehouses rent for a higher rate than single-user warehouses due to individual lighting, walls and floors found at a mini-storage warehouse. The Petitioners do not dispute this claim, but instead argue that should the subject property sell, it would most likely be converted into a warehouse and not be sold as a mini-storage warehouse. The Petitioners state that the walls in the buildings are plywood and may be easily removed, as well as the flooring in the 1947 building so that two stories currently with 11-foot ceiling heights could be easily converted into a single space with the 20 or 22-foot ceiling height that a warehouse would require.

The Commission is not convinced of the Petitioners' arguments for several reasons. First, in its income approach, the Petitioners have applied the rental rate derived from single-tenant warehouses to the current square footage of the mini-storage warehouse, a square footage that the Petitioners claim would not exist if the structure were converted to a single-tenant warehouse. Such an approach is illogical and inconsistent. Given the current use of the subject property, the lack of evidence provided by the Petitioners to convince the Commission that the highest and best use of the property is as a warehouse and not as a mini-storage warehouse, and the Petitioners' lack of evidence concerning the actual or market rents or selling prices of mini-storage warehouses, the Commission finds that the Petitioners have not called the County's assessment sufficiently into question to show that it contains error.

Furthermore, the County has provided three sales of mini-storage warehouses that sold at prices ranging from \$\$\$\$\$ to \$\$\$\$\$ per square foot. The subject property is assessed at \$\$\$\$\$ per square foot, a value lower than that at which any of these comparables sold. The comparables appear to be newer properties than the subject and may have better amenities, which may result in the subject selling at a lower value per square foot. However, the subject property's assessment at \$\$\$\$\$ per square foot value is lower than that at which the comparables sold. Accordingly, the County's comparables show that mini-storage warehouses sell at values that will support the County's assessment, but do not, on their own, show the assessment to be incorrect.

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

As discussed above, the Petitioners have not shown that the assessment of \$\$\$\$\$ for the subject property is incorrect. Nor does the County's own information show the value to be incorrect. For these reasons, the Petitioners have not met its burden to show the value of the subject property to be in error and to show what its value should be instead.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the Petitioners' appeal and sustains the market value of \$\$\$\$ as established by the County BOE for 2003. 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 Petitioner'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.

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

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Kerry R. Chapman  
Administrative Law Judge

Appeal No. 04-0143

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

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