

04-0323  
Locally Assessed Property Tax  
Signed 07/05/2005

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. 04-0323
v.	)	
	)	Parcel No #####
BOARD OF EQUALIZATION OF	)	Tax Type: Property Tax/Locally Assessed
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 order, 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:  
    Palmer DePaulis, Commissioner  
    Kerry R. Chapman, Administrative Law Judge

Appearances:  
    For Petitioner: PETITIONER REPRESENTATIVE, Representative  
    For Respondent: RESPONDENT REPRESENTATIVE, Salt Lake County Appraiser

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 30, 2005. Because the County had not provided the Petitioner the BOE decision issued in this matter and the information relating to it, such evidence was excluded from the Formal Hearing

and not considered in this decision. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes.

2. The lien date at issue is January 1, 2003.

3. The subject property is parcel number ##### and is located at ADDRESS in Salt Lake County, Utah.

4. The subject property is 1.40 acres of land improved with a 26,970 square foot commercial building that was built in 1993. The building is owner-occupied and houses a business named "COMPANY," which manufactures and sells ( X ). The building is comprised of storage/warehouse, light manufacturing, office, and showroom space.

5. The Salt Lake County's Assessor's Office originally assessed the subject property, as of the lien date at issue, at \$\$\$\$\$, or \$\$\$\$\$ per square foot, which the County Board of Equalization ("County BOE") sustained.

6. For the Petitioner, PETITIONER REPRESENTATIVE submitted valuation information in this matter (Exhibit P-1). She is not a licensed appraiser. She prepared both an income approach and a market sales approach to value. In her sales approach, she submitted six comparables that sold at prices ranging from \$\$\$\$\$ to \$\$\$\$\$ per square foot. She adjusted these comparables and concluded that the subject has a value of \$\$\$\$\$ per square foot, which equates to

\$\$\$\$\$. For her income approach, PETITIONER REPRESENTATIVE submitted nine comparable leases that leased at prices ranging from \$\$\$\$\$ to \$\$\$\$\$ per square foot and concluded that the subject would lease at \$\$\$\$\$ per square foot. Using this rental rate, an 11.25% vacancy rate, a 6% operating expense rate, and a %%% capitalization rate, she concluded that the subject has a value of \$\$\$\$\$, which equates to \$\$\$\$\$ per square foot.

7. The County submitted an appraisal prepared by RESPONDENT REPRESENTATIVE (Exhibit R-2). RESPONDENT REPRESENTATIVE states that he did not prepare or consider any other valuation methodologies in his appraisal other than an income approach. For his income approach, RESPONDENT REPRESENTATIVE submitted three comparable leases that leased at prices ranging from \$\$\$\$\$ to \$\$\$\$\$ per square foot, from which he concluded that the subject would lease at \$\$\$\$\$ per square foot. Using this rental rate, an 11.25% vacancy rate, a 6% operating expense rate, and a %%% capitalization rate, he concluded that the subject has a value of \$\$\$\$\$, or \$\$\$\$\$ per square foot. The only difference between PETITIONER REPRESENTATIVE and RESPONDENT REPRESENTATIVE'S income approaches is the respective rental rates they used. Otherwise, their approaches are identical.

8. RESPONDENT REPRESENTATIVE stated that a commercial property with light manufacturing and storage space has a different market than commercial property with just storage space because the light manufacturing space is more expensive to build (e.g., more electrical outlets are required). Although the parties agree that the subject's office and showroom space occupies between 3,200 and 3,600 square feet, they disagree on how the remaining 23,000 square feet is

divided between light manufacturing space and storage/warehouse space. RESPONDENT REPRESENTATIVE estimates that the remaining space is equally divided between the two purposes (approximately 11,500 square feet for each purpose), while PETITIONER REPRESENTATIVE estimates that 3,000 square feet are used for light manufacturing and 20,000 square feet are used for storage/warehouse space. Both PETITIONER REPRESENTATIVE and RESPONDENT REPRESENTATIVE stated that they had visited the property, and both have submitted drawings that show how the subject is divided into its various functions. Unfortunately, neither party has submitted pictures of the space so that the Commission could see how the space is used. Nevertheless, based on the testimony and evidence submitted, the Commission is more convinced that RESPONDENT REPRESENTATIVE'S measurements are more correct. Accordingly, the Commission finds that 26,970 square foot subject building has approximately 3,500 square feet of office and showroom space, approximately 11,500 square feet of manufacturing space, and 11,500 square feet of storage/warehouse space.

9. RESPONDENT REPRESENTATIVE stated that he had not been inside any of the lease comparables, either his own comparables or those that PETITIONER REPRESENTATIVE submitted. As a result, he did not know how the any of the comparables' space was divided between light manufacturing space and storage/warehouse space. PETITIONER REPRESENTATIVE, on the other hand, stated that she had been in a number of comparables that she submitted and found that several of them had a "lay-out" that is similar to the subject and that their breakout of storage/warehouse versus light manufacturing space is similar to the subject. Moreover,

PETITIONER REPRESENTATIVE provided four comparables between two and 18 blocks away from the subject and none of these leased for more than \$\$\$\$ per square feet. PETITIONER REPRESENTATIVE testified that several were used for light manufacturing purposes and one even served a similar business purpose; i.e., the manufacture and sale of ( X ). None of RESPONDENT REPRESENTATIVE'S comparables was within 25 blocks of the subject property and all appear to have significantly more land than the subject (as shown of the lease comparable data sheets included in Exhibit R-1). For these reasons, the Commission does not believe that RESPONDENT REPRESENTATIVE'S rental comparables or his estimated rental rate is better than those submitted by PETITIONER REPRESENTATIVE. Furthermore, PETITIONER REPRESENTATIVE submits evidence that another appraiser in the Salt Lake County appraiser's Office has recently estimated that the subject would lease for \$\$\$\$ per square foot for the 2004 tax year. This information further convinces the Commission that PETITIONER REPRESENTATIVE'S income approach is better than RESPONDENT REPRESENTATIVE'S in estimating the fair market value of the subject property for the 2003 tax year. Using the Petitioner's rental rate of \$\$\$\$ per square foot rental rate results in a value of \$\$\$\$ for the subject, which equates to \$\$\$\$ per square foot.

10. The \$\$\$\$ per square foot value determined by PETITIONER REPRESENTATIVE'S income approach is further supported by the comparables sales she submitted. Although RESPONDENT REPRESENTATIVE included, in Exhibit R-1, ( X ) information obtained from NAI Utah Commercial Real Estate showing that industrial property between 20,000 and 50,000 square feet sold for \$\$\$\$ per square foot in 2003, he admitted that he

did not know what these averages meant. Furthermore, he did not adjust or include the comparable sales found at the back of his appraisal in his recommendations. Based on the totality of evidence and testimony submitted by both parties, the Commission finds that the best estimate of value submitted for the 2003 tax year is PETITIONER REPRESENTATIVE'S income approach estimate of value. Accordingly, the Commission finds that the fair market value of the subject property for the 2003 tax year is \$\$\$\$\$.

APPLICABLE LAW

1. 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 provide by law. (Utah Code Ann. Sec. 59-2-103.)

2. "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).)

3. (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

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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. . . (Utah Code Ann. Sec. 59-2-1006(1).)

CONCLUSIONS OF LAW

To prevail in a real property tax dispute, 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). The Commission does not find that the Respondent has submitted sufficient evidence to show error or support a higher value. However, the Commission finds that the Petitioner has submitted sufficient evidence not only to call the County BOE's value into question, but also to show that the value should be reduced from \$\$\$\$\$ to \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the County's request to increase the fair market value of the subject property. However, the Commission grants the Petitioner's request to decrease its value and finds that the fair market value of Parcel No. #####, as of January 1, 2003, should be reduced from \$\$\$\$\$ to \$\$\$\$\$ for property tax purposes. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision.

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

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Kerry R. Chapman  
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 \_\_\_\_\_, 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



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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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