

04-0325  
Locally Assessed Property  
Signed 10/02/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	
	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW, AND FINAL ORDER</b>
Petitioner,	)	
v.	)	Appeal No.    04-0325
	)	Parcel No      #####
BOARD OF EQUALIZATION OF	)	Tax Type:      Property Tax/Locally Assessed
SALT LAKE COUNTY,	)	Tax Year:      2003
STATE OF UTAH,	)	
	)	Judge:        Robinson
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:  
    Marc B. Johnson, Commissioner  
    R. Spencer Robinson, Administrative Law Judge

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

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on October 24, 2005. Because of an issue that arose during the hearing, Respondent was permitted to supplement the record. On October 26, 2005, Respondent submitted additional evidence on Petitioner’s land sale #3.

The record was then closed. 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 CITY, Utah.
4. The subject property is three acres of land, of which approximately 1.12 acres is unimproved.

A one-story, 14,014 square foot Class “C” brick office building built in 1977 is located on the property. There is paved parking available. The gross building area is divided into 11,094 square feet of office space, 2,520 square feet of auditorium space, and 400 square feet of storage space. Some of the office space is being used for storage. The building is owner-occupied, with approximately 700 square feet leased to the COMPANY A. As of January 1, 2005, it leased at \$\$\$\$ per square foot on a full service lease. The parties did not supply data from an earlier lease. PETITIONER REPRESENTATIVE said it was a new lease signed at the end of 2004. ( X ) members may join the ( X ).

5. The Salt Lake County Assessor’s Office assessed the subject property as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization (hereinafter “Board”) sustained that value. The Board noted the Assessor valued the subject at \$\$\$\$ per square foot, for 13,756 square feet, or a potential gross income of \$\$\$\$\$. A 10% vacancy rate produced an effective gross income of \$\$\$\$\$. A market expense rate of 3% yielded a net operating income of \$\$\$\$\$. The Assessor applied a capitalization rate of %%%%, yielding a value of \$\$\$\$\$. Additionally, the Assessor valued one acre of excess land at \$\$\$\$\$. The total value was \$\$\$\$.

6. For the Petitioner, PETITIONER REPRESENTATIVE submitted valuation information in this matter. She is not a licensed appraiser. She prepared both an income approach and a market sales approach. For her income approach, in contrast to the Assessor, PETITIONER REPRESENTATIVE

relied on an estimated rent of \$\$\$\$\$ per square foot (\$\$\$\$\$), a 10% vacancy rate (\$\$\$\$\$), operating expenses of \$\$\$\$\$<sup>1</sup> per square foot (\$\$\$\$\$), a 3% reserves expense rate (\$\$\$\$\$), and a %%%% capitalization rate, with which she derived an estimated value of \$\$\$\$\$ for the subject. She added \$\$\$\$\$ for excess land, yielding a rounded value of \$\$\$\$\$. In her sales approach, she submitted four comparables that sold at prices ranging from \$\$\$\$\$ to \$\$\$\$\$ per square foot. She adjusted these comparables to prices ranging from \$\$\$\$\$ to \$\$\$\$\$ per square foot and estimated a value of \$\$\$\$\$ per square foot for the subject, which equates to \$\$\$\$\$. She added \$\$\$\$\$ for the excess land, yielding a rounded value of \$\$\$\$\$.

8. The County submitted an appraisal prepared by RESPONDENT REPRESENTATIVE, a certified appraiser, in which he concluded that the value of the subject property was \$\$\$\$\$. RESPONDENT REPRESENTATIVE inspected the subject property. He measured the square footage differently than PETITIONER REPRESENTATIVE, finding the total square footage was 14,014. RESPONDENT REPRESENTATIVE'S income approach used four leases. He converted rents as needed for his adjustment grid. Adjusted lease rates ranged from \$\$\$\$\$ to \$\$\$\$\$ per square foot. He used a price per square foot of \$\$\$\$\$, producing a potential gross income of \$\$\$\$\$, a 10% vacancy rate (\$\$\$\$\$), for an effective gross income of \$\$\$\$\$, 6% operating expenses (\$\$\$\$\$), yielding a net operating income of \$\$\$\$\$, and a capitalization rate of %%%%. This produced a rounded value of \$\$\$\$\$. He added \$\$\$\$\$ for the excess land, producing a total value of \$\$\$\$\$.

9. In the sales comparison approach for the Petitioner, PETITIONER REPRESENTATIVE adjusted the prices at which her four comparables sold from \$\$\$\$\$ to \$\$\$\$\$ per square foot and estimated

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<sup>1</sup> This rate appears to have been taken from data for Class "A" space submitted by PETITIONER REPRESENTATIVE. The parties agree the subject is Class "C" space. PETITIONER REPRESENTATIVE made

a value of \$\$\$\$ per square foot for the subject. She also adjusted the value of the parcel based on the excess land. As PETITIONER REPRESENTATIVE is not an appraiser, the Commission does not give her adjusted values the weight it would give an appraisal submitted by a licensed appraiser.

10. Both parties valued the excess land. PETITIONER REPRESENTATIVE used three post lien date sales, one from June 2003, one from November 2003, and one from December 2003. She did not make adjustments for the time of the sales. Based on the values of the three sales (\$\$\$\$, \$\$\$\$, and \$\$\$) she used \$\$\$\$ as the price per square foot. This yielded a value of \$\$\$\$\$. Included in her calculations was a parcel 2.4 acres in size that sold for \$\$\$\$ per square foot on June 11, 2003. RESPONDENT REPRESENTATIVE'S post hearing materials assert the property did not sell for \$\$\$\$, as PETITIONER REPRESENTATIVE stated, but for \$\$\$\$\$. If this were so, the price would be \$\$\$\$ per square foot. RESPONDENT REPRESENTATIVE stated a Salt Lake County appraiser affirmed the sales price. PETITIONER REPRESENTATIVE said the buyer demolished a 4,200 square foot building and erected a COMPANY B on the property.

11. RESPONDENT REPRESENTATIVE'S value for the excess land is based on three comparables. The first is a .98 acre parcel selling on June 16, 2003 for \$\$\$\$\$, or \$\$\$\$\$ per square foot. The second is a .81 acre parcel selling on March 10, 2001, for \$\$\$\$\$, or \$\$\$\$\$ per square foot. The third is a 3.17 acre parcel selling on June 12, 2002 for \$\$\$\$\$, or \$\$\$\$\$ per square foot. RESPONDENT REPRESENTATIVE did not make any adjustments for shape, time of sale, or zoning. The subject is a 1.12-acre parcel zoned for manufacturing. It is rectangular, has good accessibility and good corner influence. Comparable one is a post lien date sale zoned commercial, without corner influence.

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no adjustment based on the difference in class.

Comparable two is an irregular backage lot without corner influence that sold nearly two years prior to the lien date. Comparable three is a rectangular lot with good accessibility and good corner influence. Using his comparables, RESPONDENT REPRESENTATIVE derived a value per square foot for the unimproved parcel of \$\$\$\$\$, yielding a value of \$\$\$\$\$.

12. RESPONDENT REPRESENTATIVE'S sale comparable number three has two buildings on it. RESPONDENT REPRESENTATIVE did not consider the second building relevant to his comparison. The second building is leased. In response to PETITIONER REPRESENTATIVE'S assertion, RESPONDENT REPRESENTATIVE said he did not have information that two of his lease comparables included periods of free rent. PETITIONER REPRESENTATIVE'S assertion of free rent regarding this property is un rebutted. However, she did not provide an analysis as to how this would affect value. On comparable number four, RESPONDENT REPRESENTATIVE did not speak to the realtor.

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. §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 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 Petitioner has submitted sufficient evidence to show error and support a lower value. Respondent's appraisal, while it may contain some errors, is sufficient to sustain the value set by the Board of Equalization in this matter. RESPONDENT REPRESENTATIVE did not seek to raise the value from that set by the Board of Equalization.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the Petitioner's request to lower the fair market value of the subject property. Accordingly, the Commission sustains the County Board Of Equalization's decision that the fair market value of Parcel No. #####, as of January 1, 2003, is \$\$\$\$\$. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
R. Spencer Robinson

Appeal No. 04-0325

Administrative Law Judge

Appeal No. 04-0325

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 \_\_\_\_\_, 2006.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
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.

*RSR/04-0325.fof*