

04-0327
Locally Assessed Property Tax
Signed 06/22/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)		
	)	ORDER	
Petitioners,)		
	)	Appeal No.	04-0327
v.)		
	)	Parcel No.	#####
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,	)	Tax Year:	2003
STATE OF UTAH,)		
	)	Judge:	Chapman
Respondent.)		

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, Representative

For Respondent: RESPONDENT REPRESENTATIVE 1, from the Salt Lake County Assessor's Office
RESPONDENT REPRESENTATIVE 2, 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 March 29, 2005. Because the County had not provided the Petitioner the BOE decision relating to this appeal and the information relating to it, such

evidence was excluded from the Initial Hearing and not considered in this decision. At the hearing, it was decided that the Initial Hearing decision would be based only upon that evidence which the County provided to the Petitioner on March 14, 2005 (the RESPONDENT REPRESENTATIVE 1 appraisal) and which the Petitioner provided the County on March 17, 2005 (the PETITIONER REPRESENTATIVE seven-page fax).

At issue is the fair market value of the subject property as of January 1, 2003. The subject property is a four-plex apartment building located at ADDRESS in CITY, Utah. Each of the four apartments is 920 square feet in size and has two bedrooms and one bath. Although the property has four parking spaces for its tenants, none of the space is covered. In addition, the subject has single-paned windows. The County BOE has set a value of \$\$\$\$\$, or \$\$\$\$\$ per unit, for the property for the 2003 tax year.

The Petitioner submits a sales comparison approach in support of a value of \$\$\$\$\$, or \$\$\$\$\$ per unit, for the subject property. Four of the Petitioner's five comparables sold at prices ranging from \$\$\$\$\$ to \$\$\$\$\$. The two comparables closest in location to the subject property sold for \$\$\$\$\$ and \$\$\$\$\$, respectively. Both of these comparables have covered parking, but the apartments in these comparables are smaller in size than the subject's apartments.

Although the Petitioner made adjustments to the comparables sales submitted, the adjustments are questionable. For example, the Petitioner explains that the subject property with its uncovered parking and single-paned windows is less desirable than the comparables that have double-paned windows and covered parking. To adjust for these factors, the Petitioner has

estimated the additional rent that these features brings to the comparables sales and capitalized that rent at a %%% cap rate to produce its adjusted value. For the difference in windows, the Petitioner estimates that an apartment with double-paned windows generates an additional \$\$\$\$ in revenue a year. For a four-plex, the additional revenue would be \$\$\$\$ per year, which, if capitalized at %%%, results in an adjustment of \$\$\$\$\$. The County's appraiser states that it is not a common appraisal technique to calculate the amount of an adjustment in a sales comparison approach in this manner. The Commission is also highly suspicious of the technique without evidence of some sort to corroborate it and show, for example, that a four-plex with double-paned window would sell for nearly \$\$\$\$ more than a four-plex without this feature. Based on the Petitioner's first two comparables, without considering the Petitioner's unconvincing adjustments, it would appear that the subject would have a fair market value of at least \$\$\$\$\$.

The County appraiser proffered an appraisal of the subject property in which she estimated its fair market value to be \$\$\$\$\$, or \$\$\$\$\$ per unit, as of the lien date. She did not believe that the subject's value would be affected by the lack of double-paned windows. However, she also stated that her appraisal did not consider the subject's lack of covered parking in comparison to the other comparables and that a negative 5% adjustment for this difference might be an appropriate adjustment. If the County's sales comparison approach value of \$\$\$\$\$ is reduced 5% to account for the subject's lack of covered parking, the resulting value is \$\$\$\$\$, or \$\$\$\$\$ per unit.

The Petitioner's unadjusted comparables show a value of \$\$\$\$\$ to \$\$\$\$\$. The County's appraisal, revised for features the appraiser did not consider, shows a value of \$\$\$\$\$. The Commission finds that the \$\$\$\$\$ and \$\$\$\$\$ values are the most persuasive values from the evidence provided and are very close to the value of \$\$\$\$\$ placed on the property by the County BOE. The BOE's value of \$\$\$\$\$ equates to a GRM of 9.01 using the property's actual rents, which falls within the range of GRM comparables provided in the County's appraisal. Based on the information provided at the Initial Hearing, the Commission declines to change the BOE's value because it is so close to the most convincing values shown by the evidence.

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

Neither party has provided sufficient information to show that the \$\$\$\$ value set by the County BOE is incorrect. Based on the evidence that was proffered at the Initial Hearing, the Commission finds that the BOE value of \$\$\$\$ is a reasonable fair market value for the property. The appeal is denied and the BOE value sustained.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the Petitioners' appeal and finds that the fair market value of Parcel No. ##### should be sustained at \$\$\$\$ for the 2003 tax year. 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:

Appeal No. 04-0327

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.

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

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