

04-0383,84,85,86
Locally Assessed Property Tax
Signed 12/30/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND FINAL DECISION
)	
Petitioner,)	
)	
v.)	Appeal Nos. 04-0383, 04-0384
)	04-0385, 04-0386
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	Parcel Nos: #####-1, #####-2
SALT LAKE COUNTY,)	#####-3, #####-4
STATE OF UTAH,)	Tax Year: 2003
)	Judge: Phan
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 order, specifying the commercial information that the taxpayer wants protected.

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1
 PETITIONER REPRESENTATIVE 2

For Respondent: RESPONDENT REPRESENTATIVE 1, Appeals Manager
 RESPONDENT REPRESENTATIVE 2, Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on October 11, 2005. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the assessed value of the subject property for the lien date January 1,

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2003.

2. The subject property consists of four adjacent parcels, parcel nos. #####-1 (“Parcel 001”), #####-2 (“Parcel 002”), #####-3 (“Parcel 005”) and #####-4 (“Parcel 006”). The property is located at ADDRESS 1, CITY, Utah. The parcels combined are 18.55 acres. The total assessed value for all four parcels was \$\$\$\$\$. The County Board of Equalization sustained the value. The individual parcels are described more fully as follows:

a. Parcel 001 consists of 5.67 acres and is improved with out buildings designed for storage. The buildings, however, are dated, small and suffer from deferred maintenance. They do not contribute any value to the property. Parcel 001 is located behind Parcels 005 and 006. There is no independent access to Parcel 001 except across the adjacent parcels. Petitioner also testified that there were some drainage issues with this parcel. The County Assessor had originally valued this parcel at \$\$\$\$\$ and the County Board of Equalization sustained the assessment.

b. Parcel 002 consists of .50 acres. There are no improvements. It is located behind Parcel 006 and has no independent access. The County Assessor had originally valued this parcel at \$\$\$\$\$ and the value for this parcel was sustained by the County Board of Equalization. Some type of drainage culvert runs along the edge of this property limiting the use.

c. Parcel 005 consists of 4.08 acres of land. It is improved with a 4000 square foot (X) and office area. Additionally there is a 4000 square foot warehouse as well as asphalt paving. These improvements add value to this parcel. There is an additional shed and garage on this parcel but it is severely obsolesced. There is excess land with the building on this property and currently 30% of the land of this parcel is used with Parcel 001. This parcel is a flagpole-type lot. There is only a small amount of frontage on STREET 1 and that is were the new buildings had been constructed. The County Assessor had valued this parcel at \$\$\$\$\$. The County Board of Equalization sustained the value.

d. Parcel 006 consists of 8.3 acres of land. This parcel is improved with an 8804 square foot office building that is occupied in part by the owner of this property. However, the building needs significant renovation and repair that may be too great to be economically feasible. For that reason this structure as well as the other buildings on this parcel, which are also in poor repair, are deemed to contribute no value to the land. This property does have frontage along STREET 1. The County Assessor had valued this parcel at \$\$\$\$\$. The County Board of Equalization sustained the value.

3. The highest and best use of Parcels 001, 002 and 006 would be as vacant land. The Commission notes that 001 and 002, however, could not be sold independently from 006, or some combination with 005 and 006 because of the access issues. This means if sold all three parcels would likely be sold together. If sold together, this would be a large land sale consisting of 14.47 total acres. If the three parcels were sold with the back portion of 005, the acreage would be 17.3 acres.

4. Parcel 005's highest and best use may be as improved, although it has excess land for its current use with limited access to that land. This highest and best use of the building and .75 acres used with the building would as be improved, with the remaining land combined and used with the other parcels.

5. Petitioner submitted some valuation information that had been compiled by PETITIONER REPRESENTATIVE 1. PETITIONER REPRESENTATIVE 1 is not an appraiser and indicated that she did not receive compensation for preparing the information or representing the Petitioner at the hearing. Seven land sales were submitted. They ranged in size from .85 of an acre to 18.24 acres, but most were large acreage parcels. The unit of comparison used for these parcels was the price per square foot, which ranged from \$\$\$\$\$ to \$\$\$\$\$. It was PETITIONER REPRESENTATIVE 1's opinion that the value of the property would be based on the \$\$\$\$\$ per square foot. The Commission notes that of the comparables the \$\$\$\$\$ per square foot is an outlier, with the next lowest sale price at \$\$\$\$\$ per square foot. Additionally the property that sold for \$\$\$\$\$ per square foot, although the largest is size, was also far distance from the subject at ADDRESS 2, in a

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less developed area where there appeared to be a lot of vacant land. The ADDRESS 2 parcel was also dissected by a surplus canal and utility easements that would limit development. Clearly the value for the subject parcels 006, 001 & 002 would be higher than the \$\$\$\$ per square foot, or on a per acre basis, \$\$\$\$ per acre.

6. In addition to land sales Petitioner submitted an income approach. However, the income approach was based on all the buildings on all the parcels of property. PETITIONER REPRESENTATIVE 1 had determined that there were 31,737 square feet of buildings and she used comparables on that basis to come up with an income approach of \$\$\$\$ to which she added \$\$\$\$ for excess land, for a total of \$\$\$\$\$. As the Commission has concluded that the highest and best use of Parcels 1,2 & 6 is sold as vacant land, this approach is not appropriate for these parcels. An income approach for Parcel 5 would be appropriate, but the leases would need to be comparable to the newer office and (X) building that is located on this parcel.

7. Petitioner also submitted sales comparables. Again PETITIONER REPRESENTATIVE 1 was trying to find comparables that were similar as far as number of buildings with all the buildings on all four parcels, rather comparables that were similar to the buildings on Parcel 5.

8. Respondent submitted an appraisal in this matter that had been prepared by RESPONDENT REPRESENTATIVE 2. It was RESPONDENT REPRESENTATIVE 2 appraisal conclusion that the value of the subject property's four parcels combined was \$\$\$\$\$, which is higher than the combined value set by the County Board of Equalization. It was RESPONDENT REPRESENTATIVE 2 conclusion that the highest and best use of Parcels 1,2, & 6 and the back portion of Parcel 5 would be to demolish the bindings and sell as vacant land. He considered land sales and concluded that the price per acre for the subject property would be \$\$\$\$\$, which resulted in a land value for all four parcels of \$\$\$\$\$. However, the Commission would note that all his comparables were significantly smaller parcels from the subject, as well as older sales. The sales in size were .26-acres, .81-acres, 11.68-acres, 2-acres and 1.65-acres in size. The small acreage parcels are not very

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comparable to the subject. RESPONDENT REPRESENTATIVE 2 made a size adjustment only for the two smallest parcels, making no size adjustment for the 2-acre and 1.65-acre parcels. The 11.68-acre parcel is located considerably further west from the subject and had sold in September 2001 for a price per square foot of \$\$\$\$\$. Additionally the Commission does not think adequate consideration was given to the access issues of the back portion of the subject property.

9. RESPONDENT REPRESENTATIVE 2 developed a cost approach, market sales and income approach for office/warehouse and .75 acres of the land on Parcel 5. It was his conclusions that the remaining portion of Parcel 5 and all land on Parcels 1, 2 & 6 would be sold as developable excess land. From the cost approach he concluded that the cost value of the improvement would be \$\$\$\$\$. In the sales approach the value of the improvement and the .75 acres was \$\$\$\$\$ to which he added the \$\$\$\$\$ for the excess land. In the income approach he also considered only the rental from the new building on Parcel 5 and the .75-acres as the unit and concluded that the value for the unit was \$\$\$\$\$, then added the value for the excess acres of \$\$\$\$\$.

10. From the evidence it is clear that the major portion of the value for the properties is for the value of the land. Although Respondent, criticized comparables submitted by Petitioner regarding the land value, most of Respondent's comparables were too small to be very probative of value. The Commission, therefore considers the best sales comparable from each party. Respondent's comparable 3 was 11.68 acres in size and sold for \$\$\$\$\$ per square foot, which is \$\$\$\$\$ per acre. This was located considerably west of the subject. Petitioner's comparable 1 was closer in location to the subject and arguably in a superior area for development. It was 13.5 acres in size and sold for \$\$\$\$\$ per square foot, which is \$\$\$\$\$per acre. This comparable was significantly irregular in shape and backed the canal. However, it was in a superior location for development, along STREET 2, near STREET 3, and there was no reason presented that would indicate the subject properties would sell for more than this property, as the irregular shape maybe offset by the location. Additionally the development of the subject property would also be a type of a flagpole lot with some backage

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issues because of the land and building currently on Parcel 005. The Commission concludes that the best evidence of value for the subject property would be the \$\$\$\$\$ per acre indicated by this sale for the undeveloped acreage of 17.3 acres. This results in a value for the land of \$\$\$\$\$. To this the Commission would add the value for the improvement and .75-acres on Parcel 5 of \$\$\$\$\$, which would equal \$\$\$\$\$ and be somewhat higher than, but in a range that was supportive of the value set by the County Board of Equalization.

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. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (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 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. . . (4) In reviewing the county board’s decision, the commission shall adjust property

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valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. (Utah Code Ann. Sec. 59-2-1006(1)&(4).)

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). In this matter the best evidence of value submitted supports the value set by the County Board of Equalization.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject parcels as of January 1, 2003, is as set by the County Board of Equalization. It is so ordered.

DATED this _____ day of _____, 2005.

Jane Phan
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 _____, 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 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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