

04-0388
Locally Assessed Property
Signed 02/07/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	04-0388
	)	Parcel Nos.	#####-1
v.	)		#####-2
)		
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,)		
STATE OF UTAH,	)	Tax Year:	2003
)		
Respondent.	)	Judge:	Davis

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:

G. Blaine Davis, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE, COMPANY

For Respondent: RESPONDENT REPRESENTATIVE, 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 December 14, 2004.

The issue in this proceeding is the fair market value of the subject property as of January 1, 2003.

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The Salt Lake County Assessor originally valued the subject property at \$\$\$\$\$. Upon appeal to the Salt Lake County Board of Equalization, a value of \$\$\$\$\$ was determined.

The properties under appeal contain two separate parcels. Parcel No. #####-1 contains ten separate one-bedroom, one-bath residential units. The building was built in 1963 and is two stories high. Each floor contains 3,007 square feet with a total of 6,014 square feet. Each unit is approximately 600 square feet, and there is covered parking and a storage shed.

Parcel No. #####-2 consists of four separate two-bedroom, one-bath residential units built in 1963. This building is also two stories high with 1,645 square feet on each floor, for a total of 3,290 square feet. Each unit in this building is approximately 800 square feet, and it also has covered parking and a storage shed. The properties have been classified as Class D by Salt Lake County.

Petitioner's representative presented two separate basis for possibly reducing the value of the property, an income approach and several comparable sales.

In Petitioner's proposed income approach, the representative estimated the rents for the one-bedroom units at \$\$\$\$\$ per month and the rents for the two-bedroom units at \$\$\$\$\$ per month. She therefore arrived at an estimated potential income of \$\$\$\$\$ per year. She then estimated a vacancy and collection loss of 10%, operating expenses of \$\$\$\$\$ per unit, or a total of \$\$\$\$\$, and 3% for reserves, or \$\$\$\$\$. Based upon those numbers, she arrived at net operating income of \$\$\$\$\$, which she capitalized at %%%%. Those amounts would produce a value of \$\$\$\$\$, which she rounded to \$\$\$\$\$ as the estimated value.

The operating expenses which she estimated were taken from an Equi-Mark Expense Summary for 10 - 49 units, which showed average expenses of \$\$\$\$\$, from which she deducted the property taxes of \$\$\$\$\$ to arrive at the \$\$\$\$\$ per unit which she used as the expenses for her income approach. The Equi-Mark Study did not present the size of the units, and Respondent has argued that the units in the subject property are smaller than the average, and therefore the expenses would be excessive.

Petitioner's representative also presented five separate comparable sales which she represented would indicate a lower value for the subject property. The first sale was located at ADDRESS 1, and sold for a price of \$\$\$\$\$. Petitioner's representative stated that sale indicated a price per unit of \$\$\$\$\$, for an average size of the unit of 430 square feet. This sale would indicate a capitalization rate of %%%%.

Comparable no. 2 submitted by Petitioner's representative was located at ADDRESS 2, and was 24 units which sold for \$\$\$\$\$, for a price per unit of \$\$\$\$\$. The average unit size was approximately 700 square feet, which equaled a price per square foot of \$\$\$\$\$. Respondent challenged this sale as comparable to the subject, and represented that at the time of sale, the property needed substantial repairs and was undergoing a total renovation.

The third comparable sale presented by Petitioner's representative was located at ADDRESS 3. This was formerly a single-family dwelling which had been remodeled into eight separate units. The property sold for an average of \$\$\$\$\$ per unit for the eight units, or \$\$\$\$\$ per square foot. The average size per unit was 530 square feet.

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The fourth comparable sale presented by Petitioner's representative was located at ADDRESS 4 and was a former single family dwelling converted into nine separate units. The original house was built in 1938, and the units were an average of 386 square feet. The property sold for \$\$\$\$\$ per unit or \$\$\$\$\$ per square foot.

The final comparable sale presented by Petitioner's representative was located at ADDRESS 5, and consisted of 30 units which sold for a total price of \$\$\$\$\$. The price per unit was \$\$\$\$\$, or \$\$\$\$\$ per square foot. The average size per unit was 842 square feet. Respondent testified that at the time of this sale, which was in October of 2001, the property was in terrible condition and there had been a meth lab in one of the units, so all of the tenants were evicted to permit remodeling of the property. Respondent further represented that in September 2002, there was an appraisal for \$\$\$\$\$, and in May 2003, the property sold for \$\$\$\$\$ after completion of the renovations.

Petitioner's representative did not present adjustments for those property sales, so it is difficult to know what value might be indicated by those comparable sales. Petitioner's representative argued for a value in the range of \$\$\$\$\$ - \$\$\$\$\$ per unit, but it is difficult to say that any of those comparable sales really represent a good comparable for the subject property.

Respondent submitted a complete appraisal Summary Appraisal Report prepared by RESPONDENT REPRESENTATIVE, a licensed appraiser in the Office of the Salt Lake County Assessor. In her Summary Appraisal Report, RESPONDENT REPRESENTATIVE included a cost approach, income approach, and a sales comparison approach. In her cost approach, she represented

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that it would show a total value of \$\$\$\$\$, but she did not give any weight to that approach because of the age of the improvements.

In her sales comparison approach, she presented a list of four separate comparable sales which sold for prices between \$\$\$\$\$ per unit and \$\$\$\$\$ per unit. Each of those sales represented a price per square foot between \$\$\$\$\$ and \$\$\$\$\$. The sale which she represented was closest to the subject was her sale no. 3 which sold for \$\$\$\$\$ per unit, \$\$\$\$\$ per square foot, or a gross rental multiplier of 8.30. The other three comparable sales had gross rent multipliers of 8.33, 7.26, and 7.6. She also used those gross rent multipliers in determining an income approach to value. Based upon her sales comparison approach, she estimated the value was \$\$\$\$\$ per unit, or \$\$\$\$\$ per square foot to produce a total value of \$\$\$\$\$.

In her income approach, she used lower rents than did Petitioner's representative determining rent for the one-bedroom units of \$\$\$\$\$ per month, and for the two-bedroom units of \$\$\$\$\$ per month. She presented comparable sales to support those rents. Based upon those rents, she did not use a direct capitalization approach, but used a gross rent multiplier of 7.8 times. That would be approximately in the middle of the four comparable sales which she presented. Based upon the rents which she determined, she determined total monthly potential gross income of \$\$\$\$\$, or \$\$\$\$\$ per year. Using a gross rent multiplier of 7.8, it would indicate a value of \$\$\$\$\$. She rounded that amount to \$\$\$\$\$. In correlating those three approaches, she relied primarily upon the income approach based upon a gross rent multiplier value of \$\$\$\$\$, and indicated that was strongly supported by the sales comparison approach which she determined indicated a value of \$\$\$\$\$.

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

In this matter, Petitioner's representative has requested a lower value of \$\$\$\$\$, and she has presented evidence which could support that value. Respondent has presented evidence which would indicate a slightly higher value than was determined by the Board of Equalization, but indicated they were not asking for an increase in value. Respondent believes its evidence supported the value was at least the amount determined by the Board of Equalization.

While there are some reservations about whether a gross rent multiplier is appropriate to be used for a property with 14 total units, there was no substantial evidence presented by Petitioner that a gross rent multiplier is not a reasonable method of valuation, or to determine its appropriate limitations. On the other hand, Respondent has presented evidence, which places in doubt the reliability of the comparable sales presented by Petitioner's representative, and also places in doubt the expenses used by Petitioner's representative for units of this size. It is therefore determined that neither party presented sufficient evidence to meet its burden of proof to either increase or decrease the fair market value of the subject property as determined by the Board of Equalization.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2003 is \$\$\$\$\$. 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

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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.

G. Blaine Davis
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