

04-0435  
Locally Assessed Property Tax  
Signed 03/28/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	04-0435
	)		
v.	)	Parcel No.	#####
	)	Tax Type:	Property Tax/Locally
BOARD OF EQUALIZATION OF	)		Assessed
SALT LAKE COUNTY, UTAH,	)	Tax Year:	2003
	)		
Respondent.	)	Judge:	Chapman

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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 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

For Respondent: RESPONDENT REPRESENTATIVE, Salt Lake County  
Appraiser

STATEMENT OF THE CASE

The Petitioner brings this appeal from the decision of the Salt Lake County Board of Equalization ("BOE"). This matter was argued in an Initial Hearing on July 8, 2004.

APPLICABLE LAW

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 (1).

“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. Utah Code Ann. 59-2-102(12).

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).

DISCUSSION

The Petitioner is appealing the fair market value of Parcel No. #####, as set by the County Respondent for 2003 property tax purposes. The subject property is a bank building located at ADDRESS 1 in CITY and is currently occupied by COMPANY. The building, located on 0.31 acres of land, was built in 1956 and has 5,564 square feet of space on the main floor. The basement also has 5,564 square feet of space of additional space. While the Petitioner claims that the space is used as storage space only, the County believes that the space is used as office space, but not banking space.

The County assessed the subject property at \$\$\$\$\$, a value upheld by the County BOE. Petitioner requests that the value be reduced to \$\$\$\$\$ based on comparable sales. The County requests that the original assessed value be sustained.

The Petitioner proffered documentation from the a Commercial Real Estate Symposium indicating that vacancy rates in 2002 for commercial multi-tenant properties was 17.2% in the CITY area for and 19.73% in the metropolitan areas and 16.7% for Class C properties. However, it was never explained how this information would affect the value of the subject property or if the subject property is a “multi-tenant” property to which the information relates.

The Petitioner also presented six comparable sales of commercial properties located in the vicinity of the subject property. These properties sold at values ranging from \$\$\$\$\$ to \$\$\$\$\$ per square foot and are used for a variety of office purposes, although none are used as banks. If the subject property’s basement is disregarded, the bank is assessed at \$\$\$\$\$ per square foot of main floor space. If the basement is included, the assessment represents a value of \$\$\$\$\$ per square foot.

The Petitioner argues that the subject property is most similar to its Comparable Sale #1, a two-story office building located at ADDRESS 2, which sold for \$\$\$\$\$, or \$\$\$\$\$ per square foot. The Petitioner requests the Commission reduce the subject property to a fair market value of \$\$\$\$\$, which is approximately \$\$\$\$\$ per square foot (for both floors). Unfortunately, none of the buildings submitted by the Petitioner were bank buildings and the Petitioner did not adequately convince the Commission that the subject, if sold, would sell as an office building and not as a bank

building. In addition, several of the comparables sold at rates that support the subject property's assessed value if its basement is rented as office space, as the County submits.

The County proffers offers both income and market information to support its assessed value. The County derived its assessed value through an income approach using a triple net ("NNN") lease rate of \$\$\$\$\$ per square foot. The County believed that the basement area was rented as office space, it did not attribute any income to it. To support its lease rate, the County submitted lease rates for banks of \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$ per square foot respectively. These properties, however, all appeared superior to the subject because they were newer buildings. This information would show that the subject property's lease rate should probably be lower than these comparables' lease rates. Whether the \$\$\$\$\$ lease rate the County used is correct, however, is unknown because there were no other bank leases to bracket the rate at which the subject would rent. The Petitioner did not provide any lease information for the subject property to either confirm or challenge the lease rate used by the County.

The County also offered three comparable bank sales that sold for \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$ per square foot, respectively. These values indicate that bank buildings sell at a premium compared to other office buildings and sold at prices higher than the subject property's assessed value per square foot. However, all these buildings are newer than subject and may be superior. Without additional bank sales within which the selling price of the subject could be bracketed, it is unknown whether the subject's assessed value is correct.

The Petitioner has not shown that the subject's value is incorrect. The County has demonstrated that bank properties sell and rent for a premium. Although the

subject is an older property, it is used as a bank. The information provided by both parties is insufficient to show whether the County's assessed value is low, correct, or high. Without more convincing evidence of the subject's highest and best use and its likely lease or selling price, the Commission is required to sustain the current assessed value of \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the County BOE value of \$\$\$\$\$ for Parcel No. ##### for the 2003 tax year. The Petitioner's appeal is denied. It is so ordered.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file 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, UT 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

Appeal No. 04-0435

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The agency 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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