

04-0437
Locally Assessed Property Tax
Signed 07/26/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
v.)	Appeal No. 04-0437
)	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 1, Representative
 PETITIONER REPRESENTATIVE 2, Representative
For Respondent: RESPONDENT REPRESENTATIVE, 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 May 4, 2005. Because the County had not provided

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the Petitioner the BOE decision issued in this matter and the information relating to it, such evidence was excluded from the Initial Hearing and not considered in this decision.

At issue is the fair market value of the subject property as of January 1, 2003. The subject is a seven-unit apartment complex located at ADDRESS in CITY, Utah. The subject's six one-bedroom apartments (each 575 square feet in size) and one two-bedroom apartment (750 square feet) are located in a two-story building that was built in 1962. For the 2003 tax year, the property was assessed at \$\$\$\$\$, or approximately \$\$\$\$\$ per unit, which was sustained by the County BOE.

PETITIONER REPRESENTATIVE 1, the Petitioner's representative, has submitted both an income approach and a sales comparison approach to estimate the value of the subject property. Using her income approach, PETITIONER REPRESENTATIVE 1 derived a value of \$\$\$\$\$, or \$\$\$\$\$ per unit, for the subject property. However, no actual rents or expenses were used in her analysis. Instead, she used "EquiMark" information relating to apartment complexes between 10 and 49 units in size to estimate the rents and expenses that the subject would experience. The Commission is not convinced that any of the information she used in her analysis necessarily relates to a seven-unit apartment building. The EquiMark literature provided does not indicate such a relationship. Nor does her estimated value of \$\$\$\$\$, or \$\$\$\$\$ per unit, appear reasonable, as none of either parties' comparable sales sold for such a low price per unit. For these reasons, the Commission does not find PETITIONER REPRESENTATIVE 1's income analysis convincing.

PETITIONER REPRESENTATIVE 1 also proffered sales comparison information to argue that the County BOE value is too high. She submitted a number of comparables that sold

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between \$\$\$\$\$ and \$\$\$\$\$ per unit. After comparing the comparables to the subject and adjusting their respective prices, she derived values for the subject ranging from \$\$\$\$\$ to \$\$\$\$\$. From this, she concluded that the subject has a value of \$\$\$\$\$, or \$\$\$\$\$ per unit. However, most of PETITIONER REPRESENTATIVE 1's comparables are located in the inner city, which the County argues is a less desirable neighborhood than that in which the subject is located. The Commission agrees that the subject's neighborhood is superior and would require an upward adjustment in value when compared to most of PETITIONER REPRESENTATIVE 1's comparables. Furthermore, the Commission notes that PETITIONER REPRESENTATIVE 1 is not an appraiser, yet has made a number of significant adjustments to her comparables for "quality of construction," "condition-interior," "condition-exterior," "kitchen quality," and "bathroom quality." The Commission is not convinced that all portions of these adjustments are valid. In addition, the one comparable most similar to the subject in location, age, and condition (ADDRESS 2) sold for \$\$\$\$\$ per unit, which is higher than the subject's assessed value. For these reasons, the Commission is not convinced that PETITIONER REPRESENTATIVE 1's sales comparison approach shows the County BOE value to be incorrect.

For the County, RESPONDENT REPRESENTATIVE, a certified general appraiser, submitted an appraisal in which he estimated the subject's value at \$\$\$\$\$, or \$\$\$\$\$ per unit, as of the lien date. RESPONDENT REPRESENTATIVE developed both a sales comparison approach to value, which showed a \$\$\$\$\$ value, and an income approach to value using GRMs, which showed a \$\$\$\$\$ value. He reconciled these two values to reach his final estimate of value of \$\$\$\$\$.

However, the Commission is not convinced that RESPONDENT REPRESENTATIVE'S income approach is correct. First, RESPONDENT REPRESENTATIVE estimated the rental rate he used in the approach using EquiMark information applicable to apartment complexes between 10 and 49 units in size. As discussed earlier, the Commission is not convinced that such information is relevant to a seven-unit complex. Second, there is a multiplication error in his analysis concerning the monthly rental rate of the two-bedroom unit. This mistake erroneously inflates the \$\$\$\$ value that he derived.

However, the Commission finds RESPONDENT REPRESENTATIVE'S sales comparison approach, from which he derived a \$\$\$\$ value, convincing. RESPONDENT REPRESENTATIVE used comparables sales that appear more similar to the subject than those PETITIONER REPRESENTATIVE 1 used in her approach. RESPONDENT REPRESENTATIVE adjusted his comparables sales using three separate analyses, the first based on a number of units comparison, the second on a room per unit comparison, and the last on a total room per complex comparison. These three comparisons resulted in values of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$, respectively. He reconciled these values and concluded that the sales comparison approach showed a \$\$\$\$ value for the subject. Although PETITIONER REPRESENTATIVE 1 argued that RESPONDENT REPRESENTATIVE'S square footage adjustment per unit was too low, the Commission notes that PETITIONER REPRESENTATIVE 1 provided no evidence to show that a higher adjustment is appropriate in an appraisal. Without such information and because RESPONDENT REPRESENTATIVE is a licensed appraiser while PETITIONER REPRESENTATIVE 1 is not, the

Commission finds RESPONDENT REPRESENTATIVE'S testimony concerning the proper adjustment more convincing than PETITIONER REPRESENTATIVE 1's. The Commission also notes that the \$\$\$\$ value derived using RESPONDENT REPRESENTATIVE'S sales comparison approach equates to \$\$\$\$ per unit, which appears reasonable when compared to the prices per unit of RESPONDENT REPRESENTATIVE'S comparable sales. For these reasons, the Commission finds \$\$\$\$ to be the best estimate of value for the subject property based on the evidence and testimony proffered at the hearing

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

Based on the evidence proffered at the Initial Hearing, the Commission finds that PETITIONER REPRESENTATIVE 1, on behalf of the Petitioner, did not sufficiently call the County BOE value into question. However, the Commission finds the sales comparison approach in RESPONDENT REPRESENTATIVE'S appraisal to be persuasive evidence that the value of the subject property should be higher than the value set by the County BOE. Based on the value RESPONDENT REPRESENTATIVE derived using the sales comparison approach, the Commission finds that the fair market value of the subject property should be increased to \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that PETITIONER REPRESENTATIVE 1 did not sufficiently call into question the \$\$\$\$\$ value set by the County BOE. The Commission finds, however, that not only has the County proffered sufficient evidence to call the County BOE value into question, it has provided sufficient evidence to show that the fair market value should be increased from \$\$\$\$\$ to \$\$\$\$\$ for the 2003 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

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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:

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

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Palmer DePaulis
Commissioner

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Marc B. Johnson
Commissioner