

04-0443
Locally Assessed Property Tax
Signed 07/26/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
)	Appeal No. 04-0443
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, 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 April 19, 2005.

At issue is the fair market value of the subject property as of January 1, 2003. The subject property is an 18-unit apartment complex located at ADDRESS in CITY, Utah. The

complex was built in 1970. All apartments are one-bedroom units that are approximately 590 square feet in size. Units rented at approximately \$\$\$\$ per month near the lien date. The County assessed the property at \$\$\$\$\$, or approximately \$\$\$\$ per unit, which the County BOE sustained. The Petitioner argues that the subject property is overassessed under two different theories, first an equalization argument, and second a fair market value argument.

Equalization. The Petitioner representative, PETITIONER REPRESENTATIVE, proffers evidence concerning three properties to show that the subject property's assessed value is inequitable. First, she proffers evidence that a 127-unit apartment complex is assessed at \$\$\$\$ per unit, approximately \$\$\$\$ less per unit than the subject. The Commission finds no credibility in the argument that a 127-unit complex is comparable to an 18-unit complex. Second, the Petitioner proffers a Commission Order of Approval from an appeal on a different property where the parties stipulated to a value of \$\$\$\$ per unit for a 30-unit complex. Third, the Petitioner proffers a Commission Order in regards to an appeal concerning a different 21-unit apartment complex on which the Commission placed a value of \$\$\$\$ per unit, based on the evidence submitted in that hearing. The values determined in the appeals process for these latter properties were not assessed values and, as a result, do not show that the subject property was inequitably assessed. Furthermore, the Petitioner has failed to show that the properties were comparable to the subject.

Fair Market Value. The County submits four comparable sales to justify the County BOE value of \$\$\$\$\$, or \$\$\$\$ per unit. The four comparables sold at prices ranging from \$\$\$\$ to \$\$\$\$ per unit. The subject's assessed value falls within this range. Furthermore, these comparables

show GRMs that range between 6.61 and 7.49. The Petitioner submits rental roll information that shows the subject's monthly rents to be \$\$\$\$\$. Even the lowest of these GRMs, the 6.61 GRM, would result in a value for the subject of \$\$\$\$\$, significantly higher than its assessed value of \$\$\$\$\$.

In addition, the Petitioner's two income approaches (one using 8% vacancy and one using 10% vacancy) do not incorporate actual expenses. Instead, PETITIONER REPRESENTATIVE has estimated expenses at \$\$\$\$\$ per unit based on Equimark information she supplied. For 18 units, she calculated and used a total operating expense of \$\$\$\$\$ in her income approaches. However, the Equimark information she supplied also includes an estimate that expenses per square foot is \$\$\$\$\$ per square foot, which, for the 10,620 square foot subject, would equate to an expense total of \$\$\$\$\$. Using this lesser expense amount in her income approaches would result in a value for the subject ranging between \$\$\$\$\$ and \$\$\$\$\$. Because the subject's assessed value of \$\$\$\$\$ is in this range, the Commission does not believe that the Petitioner has called the assessed value of the subject into question. Finally, PETITIONER REPRESENTATIVE'S own sales comparison study concludes that the subject has a value of \$\$\$\$\$, which is slightly higher than the assessed value at issue.

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).

5. UCA §59-2-1006(4) provides that “. . . the commission shall adjust property 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.”

DISCUSSION

The Petitioner has not shown that the subject property's assessment is inequitable to the assessment of other assessed properties. Nor has the Petitioner sufficiently called into question

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the \$\$\$\$ value set by the County BOE. In fact, PETITIONER REPRESENTATIVE'S own information supports the value placed on the property by the County. Based on the foregoing, the Commission denies the Petitioner's appeal.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the Petitioners' appeal and sustains the fair market value of \$\$\$\$ that the County BOE set 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:

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

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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

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