

04-0448  
Locally Assessed Property Tax  
Signed 04/13/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>INITIAL HEARING ORDER</b>
	)	
Petitioner,	)	Appeal No.    04-0448
	)	Parcel No.    #####
v.	)	
	)	Tax Type:    Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF	)	
SALT LAKE COUNTY,	)	Tax Year:    2003
UTAH,	)	
	)	Judge:        Phan
Respondent.	)	

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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 order, 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:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE

For Respondent:    RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing on November 1, 2004. Subsequent to the hearing, Respondent filed a Motion to Dismiss on November 30, 2004 and a Hearing on Motion was held on March 1, 2005. The Commission issued the Order Denying Motion to Dismiss on March 24, 2005, and now issues its Initial Hearing decision in this matter.

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(11).)

(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 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).)

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

Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes. The lien date at issue in this matter is January 1, 2003. The subject property is parcel no.#####, located at ADDRESS, CITY, Utah. The Salt Lake

County Board of Equalization had originally set the value of the subject property, as of the lien date at \$\$\$\$ and the County Board of Equalization sustained the value. This represents a price per unit of \$\$\$\$\$. On the Appeal form, Petitioner requested that the value be reduced to \$\$\$\$\$. At the hearing Petitioner's representative submitted an income and sales approach in which her value conclusion was \$\$\$\$\$ or a price per unit of \$\$\$\$\$. Respondent requested that the value remain as set by the County Board of Equalization.

The subject property consists of a .31-acre lot improved with a sixteen-unit apartment complex. The units are one-bedroom, one-bath units and average in size approximately 536 square feet. The building was constructed in 1963.

Petitioner's representative submitted four comparable sales, which ranged from six-unit to 37-unit apartment complexes. None of these sales were in the same location as the subject. They had sold for prices per unit of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. Although, PETITIONER REPRESENTATIVE made appraisal like adjustments to reach the conclusion that these sales indicated a value of only \$\$\$\$\$ per unit for the subject property, the evidence presented was insufficient to indicate that the subject property was so inferior that it would have sold for substantially less than any of the comparables.

For the income approach, Petitioner relied on a monthly rent of \$\$\$\$\$ per square foot, which equates to approximately \$\$\$\$\$ per unit. This is near the actual rents for this property. PETITIONER REPRESENTATIVE presented a page from an EquiMark report that supported this rent. Other factors in her income approach were a 10% vacancy, which was unsupported, expenses of \$\$\$\$\$ per unit plus a 3% reserve and a capitalization rate of %%%%. Respondent argued that the vacancy rate, capitalization rate and expenses were all too high.

Respondent argued that the value set by the County should be sustained. Respondent supported the value with a gross rent multiplier analyses. Using actual rents of \$\$\$\$\$ per unit and a GRM of 8, Respondent's representative had calculated a value of \$\$\$\$\$, and

argued that it more than supported the County's value for this property. Four GRM comparables were presented to support the rate of 8. The Commission notes that the GRM of 8 is conservative as the comparables would indicate a rate slightly higher.

Petitioner argues that a GRM analysis should not be used as a main approach to valuation and in the appraisal context would be used only as a back up or as support for another valuation approach. She also indicates that for the GRM to be accurate the sales used to determine the rate must be comparable in all aspects. She points out that the comparables used by Respondent to determine the GRM were different as to number of units per apartment complex, size of units and location.

As the value set by the County Board of Equalization enjoys a presumption of correctness, and is the value supported by the County at the hearing, Petitioner has the burden of proving that there was an error in the County's value and supporting a lower value. The evidence that she presented does not indicate the subject property should be valued at \$\$\$\$ per unit. The County's GRM, although not as conclusive as a full income approach, sufficiently supports the County's value considering all the evidence.

#### DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2003 is \$\$\$\$\$. The County Auditor is ordered to adjust its records in accordance with this decision.

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, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Jane Phan  
Administrative Law Judge

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