

04-0453  
Locally Assessed Property  
Signed 02/25/2005

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,	)		
	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	04-0453
	)		
v.	)	Parcel Nos.	#####
	)	Tax Type:	Property Tax /
BOARD OF EQUALIZATION OF	)		Locally Assessed
SALT LAKE COUNTY, UTAH,	)	Tax Year:	2003
	)		
Respondent.	)	Judge:	Chapman

---

**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  
Petitioner

For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake  
County Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued at an Initial Hearing on August 31, 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. §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).

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. §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 fair market value of the subject property as set by Respondent for 2003 property tax purposes. The lien date at issue is January 1, 2003. The subject property is an eight-unit apartment complex, comprised of two buildings with four apartments each. The property is identified as Parcel No. ##### and is located at ADDRESS in Salt Lake County, Utah. The apartments were built in 1962 and sit upon a parcel of land 0.33 acres in size. Each apartment is a one-bedroom, one-bath unit with an average size of approximately 608 square feet. Each unit is leased at approximately \$\$\$\$ per month.

The County Assessor set the value for the subject property as of the lien date at \$\$\$\$\$, which is approximately \$\$\$\$ per unit. The County Board of Equalization sustained the value. The value set by the County Board of Equalization has a presumption of correctness in this matter and Petitioner has the burden of proof to show it is in error as well as support a lower value.

On the appeal form, the Petitioner requested that the value be reduced to \$\$\$\$\$, which is approximately \$\$\$\$ per unit. At the hearing Petitioner's representative argued that the value should be reduced to \$\$\$\$\$, based on an income approach to value. Respondent requested the value set by the County Board of Equalization be sustained.

Petitioner proffers three apartment sales and an income approach to value as evidence of a lower value. The sales comparables sold for a price per unit of \$\$\$\$\$ to \$\$\$\$\$. However, these properties consisted of complexes with 14, 24, and 30 units. The 14-unit complex sold at \$\$\$\$\$ per unit, the 24-unit complex at \$\$\$\$\$ per unit, and the 30-unit complex at \$\$\$\$\$ per unit. From these three sales, it appears that the price per

unit increases as the total number of units in the complex decreases. Because the subject is smaller than any of these complexes, the information provided would suggest that the subject should have a fair market value greater than \$\$\$\$ per unit. The current assessed value is greater than \$\$\$\$ per unit. Furthermore, when the Petitioner attempts to adjust the comparable sales on a per unit basis, the adjustments inconsistently reflect unit adjustments as well as total complex adjustments, thereby any derived adjusted price per unit.

Nor is there sufficiently credible income approach information to challenge the assessment. The Petitioner has not provided any actual information for the subject property other than actual rents. In addition, the market information provided appears to relate to apartment complexes with 10 or more units. As a result, it is not known if the information provided is relevant to apartment complexes as small as the subject. Accordingly, the income approach is suspect and insufficient to challenge the assessment.

The County asks that the assessed value be sustained. The County, however, provides no information that indicates whether the value is correct or incorrect. Its three comparable sales sold from \$\$\$\$ to \$\$\$\$ per unit. However, all of these comparable sales appear to be superior to the subject because of their newer age and because each unit is significantly larger than those of the subject. In addition, the County explains that it derived the assessed value by applying a gross rent multiplier (“GRM”) of 8.5 to an estimate of rental income. However, the County could not provide any information to support an 8.5 GRM. Without such information, the 8.5 GRM is not a credible factor to use in establishing the fair market value for the subject. As a result, the

County has provided no information that reasonably establishes a value for the subject. Nevertheless, in this appeal, the County does not have the burden to support its value. The Petitioner has a burden to call into question the assessed value and to establish a credible value for the subject property. The Petitioner has met neither of these criteria. Accordingly, the Petitioner's appeal is denied.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the value set by the Salt Lake County Board of Equalization for the subject property for the 2003 tax year. 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, 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 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

KRC/04-0453.int.doc