

04-0626  
Locally Assessed Property  
Signed 10/24/2006

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW, AND FINAL DECISION</b>
	)	
Petitioner,	)	
	)	Appeal No.    04-0626
v.	)	
	)	Tax Type:    Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF	)	Parcel No:    #####
DAVIS COUNTY,	)	
STATE OF UTAH,	)	Tax Year:    2003
	)	Judge:    Phan
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 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.**

**Presiding:**

D’Arcy Dixon Pignanelli  
Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE 1  
                  PETITIONER REPRESENTATIVE 2  
For Respondent: RESPONDENT REPRESENTATIVE 1, Appraisal Manager, Davis County  
                  RESPONDENT REPRESENTATIVE 2, Davis County Assessor  
                  RESPONDENT REPRESENTATIVE 3, Appraiser, Davis County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on August 3, 2006. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing the assessed value of the subject properties for the lien date January 1, 2003.

2. The subject property at issue is Parcel No. #####, and is ( X ) in ( X ), CITY Utah.

3. For the January 1, 2003 lien date the County Assessor had valued the subject property at \$\$\$\$\$. The County Board of Equalization reduced the value to \$\$\$\$\$.

4. ( X ) is part of the ( X ), which had originated as a government owned industrial, manufacturing and warehouse complex. The subject property consists of 5.28 acres and is improved with a building used for manufacturing and as a warehouse. The building has 90,008 square feet of manufacturing area and 32,000 square feet of warehouse area. Over the past several years the government has been selling off some of buildings in the ( X ) to the private businesses. When sold, the buildings are generally sold at auction. As of the lien date and period relevant to the lien date, all sales of buildings in the ( X ) had been government sales and there had yet to be sales from private owners to other private owners.

5. Petitioner's representative felt that the subject property should be valued based on the sale price of another building that had been sold by the government. They state that ( X ) had sold for \$\$\$\$\$ and ( X ) had sold for \$\$\$\$\$. These sales had occurred in 2003. They did not provide a real estate printout or any other of evidence regarding these sales. Petitioner's representatives testified that ( X ) was identical to the subject building and Respondent's representative agreed that it was very similar.

6. Additionally Petitioner's representatives indicate there had been a third sale of a building in the ( X ), which had occurred in 2005. They stated that they did not know what the price had been. They argued that the County should provide the price. The County representatives indicated that they did not know the price either because under Utah law parties to a real estate transaction are not required to report the sale

price. Certainly, the law in this matter is clear that if Petitioner wanted this sale to be considered as evidence in this matter, Petitioner had the burden of finding the evidence and submitting it for the hearing.

7. Respondent submitted an appraisal that had been prepared by RESPONDENT REPRESENTATIVE 3. It was RESPONDENT REPRESENTATIVE 3's conclusion that the value of the property was \$\$\$\$\$. This valuation was based primarily on an income approach, but a cost approach value was also determined. It was RESPONDENT REPRESENTATIVE 3's position that there were no sales in the ( X ) that could be relied on for appraisal purposes. He argued that sales of properties sold by the government at auction could not be used in an appraisal. On the other hand there was a significant amount of reliable lease information, from other buildings in the ( X ). The income approach did support RESPONDENT REPRESENTATIVE 3's appraisal value, which was higher, but in a reasonable range of the County Board of Equalization's value. Petitioner's representatives did not provide evidence to call into question the factors used by RESPONDENT REPRESENTATIVE 3 in his income approach.

8. The fact that there have been no sales in the ( X ) between nongovernmental owners and purchases is a fairly unique situation. Neither party was able to provide exact information on how many more government owned buildings remained at the center, that might be sold in the future, although, Petitioner's representatives thought that most or all had been sold off to private individuals. If most were still owned by the government and it was expected that the government would continue to sell the properties at auction then the auction prices may be the market and need to be considered. Again this would be a factor of evidence that Petitioner would need to provide to support its case, but did not do so. Obviously, one would not pay more for one of the buildings from a private seller, condition and size being equal, than they would pay to acquire it from the government if that process was just as easy. However, with most or all of these buildings owned by private sector companies, what they sold for in the past at government auction becomes less relevant. When

private sector sales occur they will likely be based at least to some extent on an income approach. But until such sales occur the valuation must be determined based on information available which indicated a strong rental market. Respondent submitted an appraisal in this matter that presents a reasonable estimate of value and is supportive of the County Board of Equalization value. Petitioner did not submit an appraisal.

9. Notes from the County Board of Equalization hearing indicate that the Board had reduced the value of the subject property at that level to equalize the value with other buildings in the ( X ).

10. Respondent also pointed out that Petitioner has listed the property for sale and is asking \$\$\$\$\$. Petitioner sates the property has been on the market for three and one-half years and has not sold

APPLICABLE LAW

1. 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. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution. (Utah Code Ann. Sec. 59-2-103.)

2. “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. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value. (Utah Code Ann. 59-2-102(12).)

3. (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).)

CONCLUSIONS OF LAW

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). In this matter Petitioner has not provided sufficient evidence of a lower value.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject

Appeal No. 04-0626

property as of January 1, 2003, is \$\$\$\$\$. The County Auditor is ordered to adjust the assessment records as appropriate in compliance with this order.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Jane Phan  
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 \_\_\_\_\_, 2006.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

**Notice of Appeal Rights:** You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. Sec. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Sec. 59-1-601 et seq. and 63-46b-13 et seq.

*JKP/04-0626 .fof.doc*