

04-0629
Locally Assessed Property Tax
Signed 01/10/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
)	Appeal No. 04-0629
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 October 26, 2005.

At issue is the fair market value of the subject property as of January 1, 2003. The subject property is a five-unit apartment complex located at ADDRESS in CITY, Utah. For the 2003 tax year, the property was assessed at \$\$\$\$\$. The County BOE sustained this value.

The subject property was built in 1901 and has one apartment on an upper floor, two apartments on the main floor, and two apartments in the basement. Although the building is more than 6,000 square feet in total size, the rentable square footage is significantly less. For the Petitioner, PETITIONER REPRESENTATIVE estimated the rentable area at 3,900 square feet, while RESPONDENT REPRESENTATIVE estimated the rentable area at 4,100 square feet in her appraisal. At the Initial Hearing, RESPONDENT REPRESENTATIVE stated that she would concede that the rentable area was 3,900 square feet and that her appraisal could be adjusted accordingly.

PETITIONER REPRESENTATIVE proffers four comparable sales as evidence. The comparables are all located within four blocks of the subject, all have five and six units, and sold at prices ranging between \$\$\$\$\$ and \$\$\$\$\$. PETITIONER REPRESENTATIVE adjusted the comparables and concluded that the subject's value would be \$\$\$\$\$. First, the adjusted value for the subject is not supported by the sales price of any of her comparables. Second, the difference between a property's "total" square footage and rentable square footages may be significant, as in the case of the subject itself. However, for her adjustments, PETITIONER REPRESENTATIVE has compared the rentable square footage of the subject to the total square footage of her comparables. RESPONDENT REPRESENTATIVE provided evidence that the rentable square footage of these

comparables is significantly less than the total square footages used by PETITIONER REPRESENTATIVE. As a result, PETITIONER REPRESENTATIVE'S mistake in making adjustments is, at best, grossly negligent and her adjusted value for the subject property is incorrect. PETITIONER REPRESENTATIVE has provided no information to show that the subject property's value, as set by the County BOE, is incorrect.

For the County, RESPONDENT REPRESENTATIVE submitted an appraisal in which she estimated the value of the subject property to be \$\$\$\$\$, on the basis of an income approach. RESPONDENT REPRESENTATIVE prepared two estimates of total annual rents, only one of which is dependent upon rentable square footage (which would require adjustment, as discussed earlier). The income approach estimate of value using market rents per apartment would remain at \$\$\$\$\$, while the estimate of value per square foot would be reduced to approximately \$\$\$\$\$. Such information would suggest that the current County BOE value of \$\$\$\$\$ is reasonable.

Nor do RESPONDENT REPRESENTATIVE'S comparables show the County BOE value to be incorrect. They sold for prices ranging from \$\$\$\$\$ to \$\$\$\$\$, a range similar to those provided by PETITIONER REPRESENTATIVE. Based on the information provided by the parties at the Initial Hearing, it appears that the \$\$\$\$\$ value established by the County BOE is reasonable.

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

Neither party has submitted sufficient evidence to show that the fair market value established by the County BOE is incorrect. Based on the evidence proffered at the Initial Hearing, the Commission finds that the fair market value of the subject property is \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject property should be sustained at \$\$\$\$\$ for the 2003 tax year. 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 _____, 2006.

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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

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Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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