

04-0708
Locally Assessed Property
Signed 01/12/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
	)	INITIAL HEARING ORDER	
	)	& PROTECTIVE ORDER	
Petitioner,)		
v.	)	Appeal No.	04-0708
	)	Parcel No.	#####
)		
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally
OF SALT LAKE COUNTY,	)		Assessed
STATE OF UTAH,)		
	)	Tax Year:	2003
)		
Respondent.	)	Judge:	Robinson

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.

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County Assessor's Office

STATEMENT OF THE CASE

Petitioner appealed the decision of the Salt Lake County Board of Equalization valuing the above noted parcel. The parties participated in an Initial Hearing on November 29, 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 provided by law. (Utah Code 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 Sec. 59-2-102(12).)

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. (Utah Code Sec. 59-2-1006(1).)

(a) “Property” means property that is subject to assessment and taxation according to its value. (b) “Property” does not include intangible property as defined in this section. (Utah Code Sec. 59-2-102(25).)

“Intangible property” means: (a) property that is capable of private ownership separate from tangible property, including: (i) moneys; (ii) credits; (iii) bonds; (iv) stocks; (v) representative property; (vi) franchises; (vii) licenses; (viii) trade names; (ix) copyrights; and (x) patents; or (b) low-income housing tax credit. (Utah Code Sec. 59-2-102(17).)

“Real estate” or “real property” includes (a) the possession of, claim to, ownership of, or right to the possession of land; . . . (Utah Code Sec. 59-2-102(28).)

Per the Utah Supreme Court, Petitioner's burden under Utah Power & Light Co. v. Utah State Tax Commission, 590 P.2d 332(Utah 1979), is in two parts. “Where the taxpayer claims error, it has an obligation, not only to show substantial error or impropriety in the assessment, but also to provide a sound evidentiary basis upon which the Commission could adopt a lower valuation.” The Court reaffirmed this standard in Nelson v. Board of Equalization, 943 P.2d 1354 (Utah 1997).

DISCUSSION

The subject property is a three story Class A office building built in 1982. The total square footage is 229,000. It is located at ADDRESS in CITY, Utah. It is owner occupied. It serves as an operations center and call center.

Petitioner argued the property was a call center with a value of \$\$\$\$\$, including land. This was based on the following: a potential gross income of \$\$\$\$\$; a vacancy/collection rate of 20%; an effective gross income of \$\$\$\$\$; a capitalization rate of %%%%; and a net operating income of \$\$\$\$\$.

Petitioner submitted two leases as comparables. One was for \$\$\$\$\$ per square foot. The other was for \$\$\$\$\$ per square foot. The average was \$\$\$\$\$ per square foot. Petitioner also submitted a listing for a nearby office building at \$\$\$\$\$ per square foot. The assessed value of the subject property in 2002 was \$\$\$\$\$. Petitioner also argued there was a glut of call center space because of an economic decline since 1998. According to Petitioner, there was a total of 472,000 square feet of call center space available as of 2002.

Respondent argued the property was an operations center with some call center space, having a value of \$\$\$\$\$, including land. RESPONDENT REPRESENTATIVE visited the subject property. He said the building had a secure area and a computer center, in addition to space used as a call center.

Respondent relied on evidence introduced before the Board of Equalization. Respondent's value was based on the following: a potential gross income of \$\$\$\$\$ (at \$\$\$\$\$ per square foot); a vacancy rate of 15% for an effective gross income of \$\$\$\$\$; a market expense rate of 6%; a capitalization rate of %%%%; and a net operating income of \$\$\$\$\$.

Respondent submitted four leases. Two were triple net leases establishing a range of lease rates from \$\$\$\$\$ per square foot to \$\$\$\$\$ per square foot, with an average of

\$\$\$\$ per square foot. Two full service leases established a range of \$\$\$\$ per square foot to \$\$\$\$ per square foot, with an average of \$\$\$\$ per square foot. Because of the size, age, and location, Respondent used a lease rate of \$\$\$\$ per square foot. Respondent noted that expenses were generally lower on single tenant buildings.

DECISION AND ORDER

Petitioner has not shown a substantial error in Respondent's assessment of the subject property. Respondent's assessment is supported by the evidence it provided. Respondent's assessed value of \$\$\$\$ is sustained. 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.

R. Spencer Robinson
Administrative Law Judge

Appeal No. 04-0708

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

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