

04-0714
Locally Assessed Property Tax
Signed 03/07/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	04-0714
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION)		
OF SALT LAKE COUNTY,	)	Tax Year:	2003
STATE OF UTAH,)		
	)	Judge:	Davis
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:

G. Blaine Davis, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1, Attorney at Law
PETITIONER REPRESENTATIVE 2
PETITIONER REPRESENTATIVE 3
PETITIONER REPRESENTATIVE 4
PETITIONER REPRESENTATIVE 5

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 January 24, 2005.

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The issue in this proceeding is the fair market value of the subject property as of January 1, 2003.

The Salt Lake County Assessor's Office originally valued the subject property at \$\$\$\$\$. Upon appeal to the Salt Lake County Board of Equalization, a value of \$\$\$\$\$ was determined.

The subject property is a historic office building located at ADDRESS, on the corner of STREET 1 and STREET 2, in CITY, Utah. The property contains approximately 72,193 square feet of rentable area. In the income approach information submitted by both parties, they used an estimated rentable area of 68,313 square feet. However, both parties acknowledge that there was approximately 3,000 more square feet that were rented for executive suites which were not included in their original income approaches because the income from those portions of the building included income for other matters, such as parking in outside properties.

Petitioner submitted a direct capitalization approach, which it prepared by using the direct capitalization approach prepared by the county, but modifying some of the information. Petitioner took 68,313 square feet x \$\$\$\$\$ per square foot, which Petitioner represented was the average actual rent per square foot. Petitioner then took a vacancy and collection loss of 17%, which represented 16% for vacancy and 1% for collection loss. Petitioner then added other income of \$\$\$\$\$, and took expenses of \$\$\$\$\$ per square foot, and reserves of 5%. Petitioner then used a capitalization rate of %%% plus an effective tax rate of %%%, for a total capitalization rate

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of %%%%. Based upon that information, Petitioner estimated the value to be \$\$\$\$\$. Petitioner requested that the value be set at \$\$\$\$\$.

Respondent did a very similar direct capitalization income approach using almost identical figures. However, Respondent used a rental rate of \$\$\$\$\$ per square foot and a vacancy and collection loss of 10%. Respondent also deducted an amount of rent loss, commissions, and tenant improvements from the capitalized value. Petitioner had not taken such a deduction. Therefore, the primary differences between the parties were the rental rate to be used and the vacancy and collection loss percentage to be used.

Petitioner presented evidence demonstrating that its average actual lease rate is \$\$\$\$\$ per square foot. In addition, Petitioner also presented a market survey of all of the other Class B and C office buildings located in the CITY area, which demonstrated that the rents for those buildings were between \$\$\$\$\$-\$\$\$\$\$ per square foot, with most of them being in the \$\$\$\$\$-\$\$\$\$\$ per square foot range. Therefore, the Commission determines that \$\$\$\$\$ used by Petitioner is better supported than is the rate per square foot used by Respondent.

Petitioner also presented a study by (X) which demonstrated that for the year end 2003, the vacancy rates in the central business district for Class C office buildings was 29.22%. Petitioner also presented evidence indicating that the actual vacancy rates for the subject property for the last five years had averaged 17%, and the rates had steadily increased from 1993 through 2003. Therefore, although Respondent argued that it was the stabilized vacancy rate which should be used, the evidence indicates that the vacancy rate is continuing to increase every year for Class C office

buildings in the central business district. The evidence also supports the position of Petitioner that as of the year end of 2002, the vacancy rate was 17.2% for all buildings, and the actual vacancy rate for the subject property was between 16%-18%. The Commission therefore concludes that 16% vacancy loss and 1% collection loss is reasonable.

Based upon the above determinations, it is hereby concluded that the value of the subject property should be determined as follows:

Rentable Area	72,193 Square feet
Average Rent per square foot	\$\$\$\$\$
Potential Gross Income	\$\$\$\$\$
Vacancy and Collection Loss 17%	
Total Vacancy and Collection Loss	\$\$\$\$\$
Other Income	\$\$\$\$\$
Effective Gross Income	\$\$\$\$\$
Expense Per Square Foot (\$\$\$\$\$)	\$\$\$\$\$
Reserves 5%	\$\$\$\$\$
Total Expenses	\$\$\$\$\$
Net Operating Income	\$\$\$\$\$
Cap Rate %%%%	
Effective Tax Rate %%%%	
Final Cap Rate %%%%	
Capitalized Value	\$\$\$\$\$

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).

DECISION AND ORDER

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

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

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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.

G. Blaine Davis
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 _____, 2005.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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