

04-0888
Locally Assessed Property Tax
Signed 03/21/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 04-0888
)	Parcel Nos. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	
SALT LAKE COUNTY,)	Tax Year: 2003
UTAH,)	
)	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 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 order, 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:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE

For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake County

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was argued in an Initial Hearing on February 9, 2005.

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. 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 Ann. 59-2-102(11).)

(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).)

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 market value of the subject property as set by Respondent for property tax purposes. The lien date at issue in this matter is January 1, 2003. The subject property is parcel no. #####, located at ADDRESS 1, CITY, Utah. The County

Board of Equalization had originally set the value of the subject property, as of the lien date at \$\$\$\$\$ and the County Board of Equalization sustained the value. At the hearing Petitioner requested that the value be reduced to \$\$\$\$\$. Respondent requested that the value be raised to \$\$\$\$\$.

The subject property consists of a .19-acre lot improved with a nine-unit apartment building. The apartments are all one bedroom, one-bath units with approximately 700 square feet. There are also nine carport spaces for off-street parking. The building was constructed in 1970 and it was Petitioner's position that the interiors and exterior of the building were in only fair condition. Petitioner's representative indicated that there had been no substantial renovations or improvements since the building was constructed. She provided pictures of the metal and cement exterior stairs and decking. The pictures indicated significant rust damage and that the cement needed to be replaced. The subject property is located in the (X) area, which has a significant number of rental units and has easy access to (X) and the (X).

Petitioner's value request was based on an income approach prepared by PETITIONER REPRESENTATIVE. PETITIONER REPRESENTATIVE is not an appraiser and indicates that she did not receive any form of compensation to represent Petitioner in this matter. In her income approach, PETITIONER REPRESENTATIVE relied on rental, vacancy and expense factors from an article published by EquiMark. The EquiMark article considered average Salt Lake County wide statistics. From this PETITIONER REPRESENTATIVE concluded that an appropriate rent rate would be \$\$\$\$\$ per square foot for the subject units. She indicated that the actual rents charged for the subject property was lower than market rent and that is why she went with market rent. In addition she applied a 9% vacancy factor and operating expenses of \$\$\$\$\$ per unit with an additional 3% reserve and a %%%%% capitalization rate. The value indicated from this approach was \$\$\$\$\$.

In addition to the income approach PETITIONER REPRESENTATIVE presented comparable sales. Two of the sales were apartment complexes located very near the subject. One was a 15 unit apartment complex a half block from the subject at ADDRESS 2(X which had sold for \$\$\$\$\$ per unit. The second was a six unit complex, located one block from the subject at ADDRESS 3, which sold for \$\$\$\$\$ per unit. This second sale did occur more than nine months after the lien date. PETITIONER REPRESENTATIVE'S third sale was located in a different neighborhood and not as comparable to the first two because of the location. This third comparable at ADDRESS 4 had six units and sold for a price of \$\$\$\$\$ per unit. Although she is not an appraiser, PETITIONER REPRESENTATIVE made appraisal type adjustments and it was her conclusion that the sales indicated a value for the subject of \$\$\$\$\$ per unit.

The County presented an appraisal and argued that the value for the subject property should be raised to the appraisal conclusion of \$\$\$\$\$. The appraisal was based on sales comparables and did not include an income approach. The appraiser, RESPONDENT REPRESENTATIVE, considered three properties. Only one of his properties was in the same neighborhood as the subject, located at ADDRESS 5. This (X) comparable had 8 units and was very comparable as far as size and type of unit. It was eleven years older than the subject. This (X) comparable had sold for a price of \$\$\$\$\$ per unit. Respondent had considered the quality and condition of this comparable to be inferior to the subject and made a 10% upwards adjustment for these differences. He also indicated that the apartment complex had not been constructed at one time, a portion of the building was older. This was his reason for making a quality adjustment. After making the 10% adjustment, RESPONDENT REPRESENTATIVE'S value indicated from this comparable was \$\$\$\$\$. Petitioner contested the adjustments indicating that RESPONDENT REPRESENTATIVE failed to take into account the condition of the subject property and that the adjustments were not consistent with the County record for the (X) comparable.

Another comparable relied on by RESPONDENT REPRESENTATIVE in his appraisal was at ADDRESS 6. It was located across the street from (X), a location that was at least equal to the subject, if not better according to Petitioner. The (X) comparable was a ten-unit complex that had sold for \$\$\$\$\$ per unit. However, RESPONDENT REPRESENTATIVE had considered the location to be inferior and made an adjustment of 5% for location. He appeared unaware that the property was located within walking distance of the college. RESPONDENT REPRESENTATIVE'S third comparable was at ADDRESS 7 and sold for \$\$\$\$\$ per unit. It was his explanation that in determining which comparables to use, he put more weight on comparables that were more similar as far as the number of units over location near the subject. His appraisal conclusion was that the value for the subject property was \$\$\$\$\$ per unit.

Petitioner argued that two of RESPONDENT REPRESENTATIVE'S comparables had some two-bedroom units and there was no adjustment for this difference. In addition, Petitioner argued that condition was not given adequate consideration and presented photographs and County information to support this position. In weighing the evidence presented the Commission notes that there are six total comparables and their unadjusted prices per unit are all very close. The ranged in actual sale price from \$\$\$\$\$ to \$\$\$\$\$ per unit. In fact, the County's three comparables had a very tight range from \$\$\$\$\$ to \$\$\$\$\$ per unit. The County's original value at \$\$\$\$\$ per unit was at the top of the range. The County's appraisal value of \$\$\$\$\$ was higher than any sale provided. The Petitioner's requested value of \$\$\$\$\$ was lower than any sale and also outside the range. The evidence presented does not support the parties' contentions that the subject property was significantly inferior or, in the alternative, significantly superior to every sale presented. The County's original value that was sustained by the Board of Equalization was, however, supported by the sales.

DECISION AND ORDER

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

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property as of January 1, 2003 is \$\$\$\$\$. The County Auditor is ordered to adjust its records in accordance with this decision.

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.

Jane Phan
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