

04-0914  
Locally Assessed Property Tax  
Signed 03/27/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>INITIAL HEARING ORDER</b>
	)	
Petitioner,	)	Appeal No.    04-0914
	)	
v.	)	Parcel Nos.    #####-1, #####-2
	)	#####-3, #####-4
BOARD OF EQUALIZATION	)	
OF SALT LAKE COUNTY,	)	Tax Year:      2003
STATE OF UTAH,	)	Tax Type:      PropertyTax / Locally Assessed
	)	
Respondent.	)	Judge:         Robinson

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**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:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE  
                    PETITIONER

For Respondent:    RESPONDENT REPRESENTATIVE, 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 June 14, 2005. Petitioner is appealing the assessed value as established by the Respondent for the subject properties for the lien date January 1, 2003. The subject properties are parcel #####-1, located at ADDRESS 1 and parcels #####-2, #####-3, and #####-4, located at ADDRESS 2 and ADDRESS 3.

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).)

Petitioner has the burden of proof. To meet that burden, the Petitioner must do two things. First, Petitioner must demonstrate that the County's original assessment is inaccurate. Second, Petitioner must provide reliable evidence supporting the value proposed by Petitioner. See 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 on January 1, 2003. The Salt Lake County Assessor had

originally set the values and the Salt Lake County Board of Equalization sustained the values for each parcel as follows:

	<u>Assessed Value</u>	<u>BOE Value</u>	<u>Final County Value</u>
#####-1	\$\$\$\$	\$\$\$\$	\$\$\$\$
#####-2	\$\$\$\$	\$\$\$\$	\$\$\$\$
#####-3	\$\$\$\$	\$\$\$\$	\$\$\$\$
#####-4	\$\$\$\$	\$\$\$\$	\$\$\$\$ <sup>1</sup>
Totals	\$\$\$\$	\$\$\$\$	\$\$\$\$

**#####-1**

#####-1 is located at ADDRESS 1. The lot is 1.03 acres in size. Located on the parcel is an ( X ), with frontage on STREET, and an office and a storage warehouse in the back. These buildings were constructed in 1926, 1991, and 1995. They have concrete block exterior walls. They are Class “C” buildings. They would lease or sell together. The total square footage is 13,082 square feet.

The site is improved with asphalt parking, two storage sheds and a chain link fence. In the rear of the parcel is an old, boarded-up house resting on blocks. Petitioner’s evidence values it at \$\$\$\$\$. Respondent provided no evidence to the contrary.

As noted above, the Board of Equalization valued this parcel at \$\$\$\$\$. This is less than the assessed value of \$\$\$\$\$. Petitioner did not provide a separate value for this parcel.

**#####-2**

This parcel consists of a 5,460 square foot Class S ( X ), with 12-foot high walls, built in 1977. The address is ADDRESS 4. It has been vacant for years. The owner has been asking \$\$\$\$\$ per month for a twelve-month lease. No one has accepted those terms. Neither party provided information on the lot size.

As noted above, the Board of Equalization valued this parcel at \$\$\$\$\$. This is less than the assessed value of \$\$\$\$\$. Petitioner did not provide a separate value for this parcel.

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<sup>1</sup> The County asked the Board of Equalization to leave this property at the originally assessed value.

Respondent calculated the value of this parcel using \$\$\$\$ per square foot. The Respondent's price per square foot ignores the fact that Petitioner has attempted for several years to lease the space at \$\$\$\$ per square foot (\$\$\$\$ per month for 12 months). A better rate would be \$\$\$\$ per square foot (\$\$\$\$ per month for 12 months). Using this price per square foot, for 5,460 square feet of rentable space, and using Respondent's vacancy and loss rate, expense rate, and capitalization rate, yields a value of \$\$\$\$.

**####-3**

This class C block building has a rentable area of 4,397 square feet, with 1,357 square feet of office space, and 3,040 square feet of storage warehouse space. It was built in 2000. The address is ADDRESS 2. Both parties also noted 3,306 square feet of storage mezzanine. Petitioner stated it was not there on the lien date. Petitioner said it cost \$\$\$\$ per square foot to build.

Respondent's evidence shows it verified the presence of the mezzanine on December 17, 2003. Respondent offered no evidence contrary to Petitioner's assertion the mezzanine was not part of the property on January 1, 2003.

The County Board of Equalization information shows the Assessor initially valued the property at \$\$\$\$\$. There is no indication whether the Assessor included the storage mezzanine in arriving at this value. However, during the Board of Equalization process, the Assessor valued this property at \$\$\$\$\$. The evidence shows this amount included \$\$\$\$ for the mezzanine space.

Respondent noted this parcel was purchased on June 22, 2001 for \$\$\$\$\$. Respondent said this information had been verified by the buyer.

As noted above, the Board of Equalization sustained the assessed value of \$\$\$\$\$. Petitioner did not provide a separate value for this parcel.

Using the recalculation done by the Assessor before the Board of Equalization (\$\$\$\$), and subtracting the Assessor's \$\$\$ value of the mezzanine that was not present on the lien date, the value of this parcel is \$\$\$\$.

**####-4**

This property is a 3,576 square foot storage warehouse. It is a class C ( X ) building constructed in 1953. The address is ADDRESS 3. The Assessor originally valued this property at \$\$\$\$\$. The Board of Equalization found the value was \$\$\$\$\$. However, the Assessor's Office recommended the appeal be denied at the original assessed value, \$\$\$\$.

Respondent did not provide an appraisal of any of the properties, nor did it seek to increase the values of the properties above that found by the Board of Equalization. It did provide information about what it considered to be comparable properties that, in its view, supported the Board of Equalization values.

**DECISION AND ORDER**

Based upon the evidence presented, the Tax Commission finds that the value of the subject properties as of January 1, 2003, as follows:

\$\$\$ for parcel ####-1;

\$\$\$ for parcel ####-2;

\$\$\$ for parcel ####-3; and,

\$\$\$ for parcel ####-4.

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 \_\_\_\_\_, 2006.

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R. Spencer Robinson  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commissioners have reviewed this case and the undersigned concur in this decision.

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

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner

Marc B. Johnson  
Commissioner