

04-1015  
Locally Assessed Property Tax  
Signed 08/02/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	04-1015
	)		
v.	)	Parcel No.	#####
	)		
BOARD OF EQUALIZATION	)		
OF SALT LAKE COUNTY,	)	Tax Type:	Property Tax/Locally Assessed
STATE OF UTAH,	)	Tax Year:	2003
	)		
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 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:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE

For Respondent: RESPONDENT REPRESENTATIVE, 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 April 6, 2005. Petitioner is challenging the Respondent's assessed value of the above noted property.

The Salt Lake County Board of Equalization heard the matter and determined a value of \$\$\$\$\$. Petitioner appealed that decision to the Utah State Tax Commission.

The property in question is located at ADDRESS in CITY, Utah. It is an apartment complex built in 1973 containing two studio apartments, as well as one and two bedroom apartments. It features interior halls and has a total of 101,382 square feet of rentable space.

Petitioner offered two income approaches to establish value. First, Petitioner used what it said was actual income information. With full occupancy, Petitioner stated the actual income was \$\$\$\$\$. Petitioner did not deduct vacancy and collection loss or include other income from the property. The effective gross income was also \$\$\$\$\$. Petitioner used \$\$\$\$\$ per square foot as the operating expense, for a total of \$\$\$\$\$. Petitioner calculated three percent for reserves, or \$\$\$\$\$. This resulted in a net income of \$\$\$\$\$. Petitioner used a capitalization rate of %%% percent. The rounded value derived from this was \$\$\$\$\$.

Petitioner also submitted an income approach using what is said was market data. Petitioner stated there were 122,382 square feet available for rent. Petitioner used \$\$\$\$\$ per square foot, multiplied by 12, to derive an annual income of \$\$\$\$\$. Petitioner used a ten percent vacancy and collection loss rate (\$\$\$\$\$) and showed no other income from the property. This produced an effective gross income of \$\$\$\$\$. Again, Petitioner used \$\$\$\$\$ per square foot as an operating expense, for a total of \$\$\$\$\$. Petitioner again listed three percent (3%) for reserves, or \$\$\$\$\$. However, three percent of \$\$\$\$\$ is \$\$\$\$\$.

Using the latter figure for reserves, the net income is \$\$\$\$\$. Again, using a capitalization rate of %%% percent, the value is \$\$\$\$\$, rounded to \$\$\$\$\$. The difference between this value, and the value sustained by the Board of Equalization is \$\$\$\$\$.

Respondent disagreed with some of the data used by Petitioner. In particular, Respondent used a vacancy and collection rate of five percent (5%), pointed out that Petitioner included taxes in operating expenses, and disagreed with Petitioner's capitalization rate.

Petitioner's evidence shows \$\$\$\$ as taxes in the 2002 figures used to arrive at an overall expense of \$\$\$\$\$. If the taxes are removed from the calculation, the overall expense rate would be \$\$\$\$\$. Respondent also pointed out that Petitioner's evidence showed a mid-year capitalization rate for 2003 of %%% percent. It seems Petitioner included taxes in both its operating expenses, and its %%% percent capitalization rate.

Using Petitioner's figures, including operating expenses of \$\$\$\$\$, reserves of three percent (3%), or \$\$\$\$\$, and a capitalization rate of %%% percent, yields a value of \$\$\$\$\$. This is \$\$\$\$\$ less than the value sustained by the Board of Equalization.

Using the same figures, but not including taxes in the operating expenses, and employing a capitalization rate of %%% percent, yields a value of \$\$\$\$\$. This is \$\$\$\$\$ less than the value sustained by the Board of Equalization.

It appears Petitioner has not properly calculated the value of the property using market data. When recalculated in an appropriate manner, neither figure casts doubt on the value sustained by the Board of Equalization.

Respondent relied on evidence submitted to the Board of Equalization. The assessor valued the subject based on a lease rate of \$\$\$\$ per square foot, with 101,382 square feet available for lease. This yielded a potential gross income of \$\$\$\$\$. The assessor used a 5% vacancy rate and noted additional income of \$\$\$\$\$. This produced an effective gross income of \$\$\$\$\$. Market operating expenses were calculated at 37%, yielding a net operating income of \$\$\$\$\$. Using a capitalization rate of %%% percent yielded a value of \$\$\$\$\$.

The Assessor also submitted three comparables sales at the Board of Equalization. The average per unit value was \$\$\$\$\$. The subject property is valued at \$\$\$\$\$ per unit.

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 adopting a lower valuation. *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

Petitioner's evidence is not sufficient to demonstrate an error in the Board of Equalization's value. When appropriate corrections are made to Petitioner's income approach using market rents, Petitioner's income approach supports Respondent's value. Respondent's Board of Equalization evidence supports the current value.

DECISION AND ORDER

Appeal No. 04-1015

Based upon the foregoing, the Tax Commission finds that the total value of the subject property to be \$\$\$\$\$. 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 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.

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R. Spencer Robinson  
Administrative Law Judge

Appeal No. 04-1015

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

*RSR/04-0891.int*