

04-1604  
Locally Assessed Property Tax  
Signed 02/24/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	04-1604
	)	Parcel No.	Multiple-28
v.	)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION	)		
OF UTAH COUNTY,	)	Tax Year:	2004
STATE OF UTAH,	)		
	)	Judge:	Davis
Respondent.	)		

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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:**

G. Blaine Davis, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE 1  
PETITIONER  
PETITIONER REPRESENTATIVE 2

For Respondent: RESPONDENT REPRESENTATIVE 1, Uintah County Assessor  
RESPONDENT REPRESENTATIVE 2, Deputy, Uintah County  
Clerk/Auditor

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 27, 2005.

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The issue in this proceeding is the fair market value of the subject property as of January 1, 2004.

The Uintah County Assessor originally valued all of the subject properties at a total of \$\$\$\$\$. Upon appeal to the Uintah County Board of Equalization, a value of \$\$\$\$\$ was determined for all of the properties.

The subject property consists of three separate apartment complexes which are constructed on 28 separate parcels of land. There are a total of 62 separate apartment units in the three apartment complexes. The COMPLEX 1 contain 24 units, the COMPLEX 2 contain 30 units, and the COMPLEX 3 contains 8 units. The apartments are of differing sizes and configurations, but the units are all in the same neighborhood.

Petitioner was represented by PETITIONER REPRESENTATIVE 1, who is not a licensed appraiser under Utah law. In addition, PETITIONER REPRESENTATIVE 1 is under an order by the Utah Division of Real Estate which prohibits her from testifying or submitting appraisals before this Commission if they are done in exchange for compensation. PETITIONER REPRESENTATIVE 1 testified that her testimony and analysis were not done in exchange for compensation.

PETITIONER REPRESENTATIVE 1 presented an analysis which relied primarily upon the income approach to value. The documentary evidence initially submitted by PETITIONER REPRESENTATIVE 1 showed a total income of \$\$\$\$\$ less 10% for vacancy, 3% for a reserve for

replacements, and expenses of \$\$\$\$\$ per unit. The resulting net income of \$\$\$\$\$ was capitalized at %%% to produce an indicated value of \$\$\$\$\$.

At the hearing, PETITIONER REPRESENTATIVE 1 acknowledged that the apartment complexes should have each been valued independently. She then verbally acknowledged the income would increase and the expenses would decrease from her initial \$\$\$\$\$ per unit to \$\$\$\$\$ per unit. Based upon those modifications, PETITIONER REPRESENTATIVE 1 estimated the fair market value of all of the properties would be \$\$\$\$\$.

Petitioner also presented a list of sales of multiple unit apartments in CITY, Utah. Some of those sales were as old as 1995, and the most recent sale was April of 2001. The sales sold for prices as high as \$\$\$\$\$ per unit, but that was for a sale in June of 1999. Petitioner did not present adjustments for those sales, so they do not present a reliable indicator of value.

Respondent also presented an analysis of the subject, and valued them as individual apartment complexes. That analysis was not labeled as an appraisal, and did not meet the standards required by USPAP to be an appraisal. Nevertheless, the appraisal was prepared by RESPONDENT REPRESENTATIVE 1, the Uintah County Assessor, who is a licensed appraiser in the State of Utah.

In the analysis presented by Respondent, a presentation was made on the cost approach, sales comparison approach, and the income approach. Respondent did not rely to any degree on the cost approach.

The analysis presented by Respondent determined the following proposed fair market values:

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COMPLEX 1	\$\$\$\$\$
COMPLEX 2 (22 units)	\$\$\$\$\$
COMPLEX 2 (8 units)	\$\$\$\$\$
COMPLEX 2 (vacant excess land)	\$\$\$\$\$
COMPLEX 3	<u>\$\$\$\$\$</u>
Total	<u>\$\$\$\$\$</u>

Respondent represented that it did not request that the value be increased above the value determined by the Board of Equalization, but instead testified the analysis supported the BOE value.

Respondent also presented pages from a March 31, 2000 appraisal on the COMPLEX 1 indicating the value of those apartments as of March 14, 2000 was \$\$\$\$\$. The appraisal was made to "assist COMPANY in making loan decisions regarding the subject property."

#### 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).

#### DISCUSSION AND ANALYSIS

Based upon the limited evidence presented by Petitioner, and the changes that were made at the last minute during the hearing with what appeared to be limited analysis, and also based upon the independent appraisal document dated March 31, 2000 for one of the properties, which found a value similar to the value determined by Respondent, and far above the value recommended by Petitioner, the Commission determines that Petitioner has not presented convincing evidence that there was an error in the value determined by the Board of Equalization. Petitioner has also not presented convincing evidence that the value is other than that determined by the Board.

#### DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of all of the subject properties as of January 1, 2004 is a total of \$\$\$\$\$, with each individual property to have the value determined by the Board of Equalization. It is so ordered.

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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.

\_\_\_\_\_  
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

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Palmer DePaulis  
Commissioner

Marc B. Johnson  
Commissioner

*GBD/ssw/04-1604.int*

ADDENDUM

These are the parcels included in this appeal:

- #####-1
- #####-2
- #####-3
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