

05-0008
Locally Assessed Property Tax
Signed 05/17/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	05-0008
	)	Parcel No.	#####
v.)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION)		
OF DAVIS COUNTY,	)	Tax Year:	2004
STATE OF UTAH,)		
	)	Judge:	Robinson
Respondent.)		

Presiding:
R. Spencer Robinson, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE, Licensed Mortgage Broker
PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE 1, Davis County Assessor's Office
RESPONDENT REPRESENTATIVE 2, Davis County Assessor's Office
RESPONDENT REPRESENTATIVE 3, Davis 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 11, 2005. The issue in this proceeding is the fair market value of the subject property as of January 1, 2004.

The Davis County Assessor assessed the value of the subject property as \$\$\$\$\$. The Davis County Board of Equalization sustained that value. Petitioner appealed.

STATEMENT OF THE FACTS

The property is a cinderblock, single-family dwelling used as a rental property for more than twenty years. Above grade living space is 1,071 square feet. It has a one-car garage. It does not have interior sheetrock. It has no air conditioning or fireplace. It is in fair condition.

Petitioner used the income approach to value the property. The property rents for \$\$\$\$ per month. The tenant pays for utilities. Petitioner makes repairs and pays property taxes and insurance. Petitioner used a capitalization rate of %%% to %%% to arrive at a value of \$\$\$\$.

Petitioner did not compare the property to other rental properties. Petitioner did not use the gross rent multiplier to establish a value. When asked why not, the reply was the result was about the same.

Respondent used the sales comparison approach. It chose the three lowest sales of similar properties.

The first is a brick rambler located three blocks from the subject. It sold on August 9, 2004, for \$\$\$\$. Its value, adjusted to the subject, is \$\$\$\$.

The second is a brick rambler located six blocks from the subject. It sold on April 21, 2004, for \$\$\$\$. Its value, adjusted to the subject, is \$\$\$\$.

The third is a brick rambler located eleven blocks from the subject. It sold on October 22, 2004, for \$\$\$\$. Its value, adjusted to the subject, is \$\$\$\$.

Based on the three sales, adjusted to the subject, Respondent argued its value of \$\$\$\$ should be sustained.

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. In Nelson v. Board of Equalization, 943 P.2d 1354 (Utah 1997), the Utah Supreme Court said,

"In challenging the Board's valuation, petitioner has a significant burden of proof that he must meet. As this court said in *Beaver County v. Utah State Tax Commission*, 916 P.2d 344 (Utah 1996), to defeat an assessment made for purposes of ad valorem taxation, a petitioner must "marshal all of the evidence supporting the findings and show that despite the supporting facts and in light of the conflicting evidence, the findings are not supported by substantial evidence." *Id.* at 355-56 (citations omitted). Furthermore, petitioner must not only show that the Commission's finding lacks support, but also provide an adequate basis for adopting a lower assessment: "Where the taxpayer claims error, it has an obligation, not only to show substantial error or impropriety in the assessment, but also to provide a sound evidentiary basis upon which the Commission could adopt a lower valuation." *Id.* at 357 (alteration in original) (quoting *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332, 335 (Utah 1979))."

DISCUSSION

In the instant case, Petitioner's income approach is not sufficient to establish a market value other than that determined by the Respondent. Petitioner offered no data other than that relating to the subject. Petitioner did not establish substantial error, nor did he provide a sound evidentiary basis for adopting a lower value. Respondent's sales comparison approach supports the value it determined was appropriate.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2004 is \$\$\$\$\$. 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.

R. Spencer Robinson
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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