

05-0173
Locally Assessed Property Tax
Signed 01/23/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	ORDER FROM INITIAL HEARING
)	
Petitioner,)	Appeal No. 05-0173
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally
BOARD OF EQUALIZATION OF)	Assessed
DAVIS COUNTY, UTAH,)	Tax Year: 2004
)	
Respondent.)	Judge: Rees

Presiding: Irene Rees, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE, Petitioner's Representative
For Respondent: RESPONDENT REPRESENTATIVE 1, Appeals Supervisor, and
RESPONDENT REPRESENTATIVE 2, Appraiser

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.

STATEMENT OF THE CASE

The subject property is the PARK 1 located at ADDRESS in CITY 1, Utah. The mobile home park site is 14.145 acres with 62 established mobile home pads (4.38 pads / acre), which includes both single and double-wide spaces.

The subject property was purchased in September of 2002 for \$\$\$\$\$. For tax year 2004, the County assessed this property at \$\$\$\$\$. The Board of Equalization reduced the value to \$\$\$\$\$. Petitioner is arguing for a reduction in value to \$\$\$\$\$. The County Assessor presented an appraisal report with an estimated value of \$\$\$\$\$. This matter came before the Commission for an Initial

Hearing on November 7, 2005.

APPLICABLE LAW

With regard to an appeal of the assessed value, Petitioner has the burden to establish that the market value of the subject property is other than that as determined by the Board of Equalization. Utah Admin. R. R861-1A-7(G). To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the Board's assessment is in 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). Where the County Assessor presents evidence of a value that is different from the value set by the Board, the Assessor has the same burden to provide a basis to support an adjustment.

DISCUSSION

Income Approach

Both parties calculated an estimate of value based on the income approach. Petitioner's calculations are based primarily on the actual income and cash flow records for the subject property. Petitioner's representative estimates the income for this property at full occupancy to be \$\$\$\$\$, then applies a 0% vacancy, a 39% expense rate, 3% reserves and %%% cap rate to reach a value of \$\$\$\$\$.

Reviewing the actual rent roll provided by Petitioner, it appears that the average rent is \$\$\$\$\$/pad/month, and the annual income at full occupancy should be about \$\$\$\$\$/ year. During 2003, the actual rental income for this property was \$\$\$\$\$,¹ indicating a loss of about 8% and an effective gross income of \$\$\$\$\$. Using Petitioner's 39% expense rate and %%% capitalization rate, these figures indicate a value of about \$\$\$\$\$.

The Respondent calculated the property's potential gross income at \$\$\$\$\$/pad/month. Using

¹ This property also generates additional income from storage and pet fees. Other fees for late payments and returned checks offset the administrative costs of collections. It appears that the Petitioner's representative included these fees in her calculation of PGI. However, for purposes of this illustration, these fees are not included in these calculations.

a 10% vacancy rate, a 35% expense ratio, and %%% capitalization rate, results in an estimated market value of \$\$\$\$.

The differences in these calculations and estimates are not large. Considered together, they suggest a value of about \$\$\$\$ /pad, or \$\$\$\$\$, which is about what the Petitioner paid for the property in 2002.

Sales Approach

Petitioner's representative presented the following sales:

- #1 PARK 2, CITY 1. This property, which is the subject of a separate appeal, sold in 2002 for about \$\$\$\$ /pad. An income analysis of that property indicates that its value is approximately \$\$\$\$ /pad. This is a strong comparable sale.
- #2 PARK 3, CITY 2. This property sold 1996 for about \$\$\$\$ /pad. Even assuming that this park is similar to the subject, this nearly 10 year old sale sheds little light on the value of the subject.
- #3 PARK 4, CITY 3. This property sold in 1996 for about \$\$\$\$ /pad. Without some reasonable time adjustment, this comparable is not strong evidence of the value of the subject property.
- #4 PARK 5, CITY 4. This property sold in 1994 for \$\$\$\$ /pad, but we have no indication of a reasonable time adjustment.

Except for comparable #1, these sales offer very weak evidence of the value of the subject property. However, they do tend to support Petitioner's assumptions concerning the expense ratio and cap rate that she used in her income approach.

Respondent's appraiser offered four comparables as follows:

- #1 PARK 6, CITY 5. This property sold in 2003 for \$\$\$\$ / pad. The appraiser views this property as somewhat inferior to the subject and adjusted the sales price to \$\$\$\$ /pad.
- #2 PARK 7, CITY 6. This property sold in January of 2002 for \$\$\$\$ /pad. The appraiser considers this property to be superior to the subject and adjusted the price to \$\$\$\$ /pad.
- #3 PARK 8, CITY 1. This property sold in late 2001 for \$\$\$\$ /pad. The appraiser considers this property to be superior to the subject, so he adjusted the sales price to \$\$\$\$ /pad.
- #4 PARK 9, CITY 7. This property sold in 2000 for \$\$\$\$ /pad. The appraiser made no

adjustments to this sale.

Based on these comparables, the County's appraiser estimated the subject property's value at \$\$\$\$\$/pad, or \$\$\$\$\$. The County's appraiser recognized that, for the most part, the comparables are superior to the subject property, so he made adjustments. However, the appraiser's adjustments may be too conservative. Consider PARK 7 comparable, which is sale #2, for instance. This property sold in January 2002 for \$\$\$\$\$/pad, at about the same time Petitioner purchased the subject for \$\$\$\$\$/pad. Although the appraiser considers the PARK 7 comparable to be superior to the subject, the appraiser is suggesting that the market value of the subject is \$\$\$\$\$/pad, which higher than the actual PARK 7 purchase price and higher than the adjusted prices of two superior properties, comparables #2 and #3. The Commission is not satisfied that the appraiser has accurately accounted for the differences between comparable parks and the subject that explain the disparity in sales prices. Additionally, Respondent appraiser overlooked the PARK 2 sale (Petitioner's comparable #1), which is a property very closely similar to the subject. That sale at about \$\$\$\$\$/pad supports a lower value.

Overall, the income approach, the actual purchase price and the sale of the PARK 2 property all support a finding of \$\$\$\$\$/pad, or \$\$\$\$\$. This value is about the same as Petitioner's 2002 purchase price, but because Respondent's appraiser made no time adjustment to his market sales dating back to 2001, it appears that the market for this property may have remained flat over that time.

DECISION AND ORDER

Based on the evidence and testimony presented, the Commission finds the fair market value of the subject property to be \$\$\$\$\$ as of the 2004 lien date.

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 _____, 2006.

Irene Rees, 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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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