

05-0234
LOCALLY ASSESSED PROPERTY TAX
SIGNED 10-17-2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
)	
Petitioner,)	Appeal No. 05-0234
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	
SALT LAKE COUNTY,)	Tax Year: 2004
UTAH,)	
)	Judge: Phan
Respondent.)	

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:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP, CPA

For Respondent: RESPONDENT REP, Appraiser, 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 May 4, 2005.

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).)

To prevail in a real property tax dispute, 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).

DISCUSSION

Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes. The lien date at issue in this matter is January 1, 2004.

The subject property is parcel no. ##### and is located at ADDRESS, CITY, Utah. The Salt Lake County Board of Equalization had originally set the value of the subject property, as of the lien date at \$\$\$\$\$ and the County Board of Equalization sustained the value. Petitioner requests that the value be lowered to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property is a (X) square foot airplane hanger located on leased land at AIRPORT in CITY. The land is leased from (X) with a lease period of seventeen years. At the end of the lease the ownership of the improvement reverts to (X). The hanger was constructed by the current owner to house a corporate jet in 2001. The cost to construct the hanger was \$\$\$\$\$ and at that time there were full expectations that the corporate jet would be able to take off and land at AIRPORT as Petitioner's schedule required. A second corporate jet hanger was constructed at the airport during the same time period by another party. However, during 2002 the Air Traffic Control started restricting instrument approach landings at AIRPORT. (PORTION REMOVED).

AIRPORT is still suitable for smaller, recreational single engine or twin-engine piston driven aircraft, because they do not use instrument approach landings. There are other hangars at the airport for these smaller planes but no additional corporate jet hangars have been constructed because of the restrictions. The (X) square foot hanger constructed to house a corporate jet is not economically suitable for smaller recreational planes. Due to the restrictions at the airport if Petitioner were to sell the hanger, the only likely purchase would be for use as a hangar for smaller recreational aircraft and for that purpose the hanger is a significant over improvement.

Petitioner provided a number of letters from appraisers or persons involved with the AIRPORT, to support its position that the restrictions severely impacted the value of the

hangar and also some estimates that the value would be no more than \$\$\$\$\$. Although two of the letters were apparently from appraisers, they did not rise to the level of an appraisal.

In addition to providing various letters depicting the obsolescence of the subject hangar due to the restrictions at the airport, Petitioner's representative also argued that the value should be reduced because the hangar reverted to (X) after the 17-year lease had expired. He indicate that at the very least the value should be depreciated by 1/17 per year. He argued that this change alone would reduce the value to \$\$\$\$\$ by the end of 2004. However, the lien date at issue is January 1, 2004, so he would have subtracted an additional year of depreciation. In addition he started with a cost of \$\$\$\$\$, which was about the cost derived by Marshall and Swift, but not the higher cost actually paid by Petitioner to construct the airplane hangar.

Respondent's value was based on a Marshall and Swift cost approach and Respondent argued that it was supported by Petitioner's actual cost to construct the airplane hangar. However, no adjustment was made for the obsolescence arising from the fact that the subject property can no longer be used for the purpose for which it was intended. The Marshall and Swift Cost guidelines indicated a value of approximately \$\$\$\$\$. In addition, Respondent's approach does not account for the fact that the building ownership will revert to (X) in less than 17 years.

Based on the evidence presented Petitioner has established error on the part of Respondent's value as it does not account for obsolescence of the subject property. Petitioner has presented opinions from three people with expertise in the area that conclude that the value for the property would be around \$\$\$\$\$. Respondent has presented no evidence to indicate a different adjustment for obsolescence.

DECISION AND ORDER

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Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2004 is \$\$\$\$\$. 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 _____, 2005.

Jane Phan
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

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The agency 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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