

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. . . . (Utah Code Ann. Sec. 59-2-1006(1).)

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.#####, located at ADDRESS, Salt Lake County, 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 Salt Lake County Board of Equalization reduced the value to \$\$\$\$\$. At the hearing Petitioner requested that the value be reduced to \$\$\$\$\$. Respondent presented an appraisal, which supported a value of \$\$\$\$.

The subject property consists of 3.23-acres of vacant industrial land with 253.48 feet of frontage on STREET. It is zoned M and suitable for a light industrial manufacturing building or warehouse.

Petitioner explained that he had appealed the County Board of Equalization's decision to the State Tax Commission in part over frustration with the process at the County level. He indicates that he went to a hearing at the County Board of Equalization and presented six comparable sales that indicated an average price per square foot of \$\$\$\$\$. He indicates that no one representing the County Assessor attended the hearing and he was not given evidence supporting the County's value at the hearing. When he received a form letter from the County indicating that the board had reduced the value, but it was not as low as the value he requested, he did not know the basis for the change and he filed the appeal to the State Tax Commission. Petitioner was unaware that he could have requested the County Board of Equalization hearing officer's decision, which explained the basis of the value change.

Two of the six comparables offered by Petitioner were fairly similar in size to the subject. Petitioner did include two comparables that were twice the size and one that was more than four times the size. The tendency for these types of parcels is that the larger the size the less they sell for per square foot. Additionally one of Petitioner's comparables was across the street from a (X) and it had sold for significantly less per square foot (\$\$\$\$) than any of the other parcels (\$\$\$\$-\$\$\$\$). Petitioner took a straight average of the prices per square foot from the six sales to conclude that the subject would sell for \$\$\$\$ per square foot. A straight average is not an appraisal technique, as an appraiser would generally give the most weight to sales that were the most comparable to the subject, not average in sales that were not comparable. In this case Petitioner includes sales that are less comparable to the subject and serve to lower the average value. Just by removing from the average the two properties that are clearly not

comparable, the property across from the (X) and the 13.70-acre parcel, the average is increased to \$\$\$\$ per square foot. The Commission would note, however, that this form of taking a straight average is not the best basis for valuing vacant land.

Respondent submitted an appraisal in this matter. The appraisal was prepared by RESPONDENT REPRESENTATIVE, Salt Lake County Appraiser, and supported a value for the subject property of \$\$\$\$\$. This is the amount Petitioners purchased the property for in 1997. He stated that sales in the area did not indicate a significant change from the 1997 value to the 2004 value. He supported this value with four comparable sales and one listing price. The comparables had sold for \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$ per square foot. The listing was at \$\$\$\$\$ per square foot. Although there was some question as to whether there was comparable frontage and if the frontage adjustment was appropriate, the actual sale prices unadjusted support the value of \$\$\$\$\$ per square foot for the subject. Respondent clearly provided more information about the comparables in his appraisal than Petitioner had provided for the comparables on which he relied.

DECISION AND ORDER

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.

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