

05-0731,32,33,34,35
Locally Assessed Property Tax
Signed 01/10/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal Nos. 05-0731, 05-0732, 05-0733
)	05-0734, 05-0735
v.)	Parcel Nos. #####-1, #####-2
)	#####-3, #####-4
BOARD OF EQUALIZATION OF)	#####-5
SALT LAKE COUNTY,)	Tax Year: 2004
UTAH,)	Tax Type: PropertyTax/ Locally Assessed
)	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 REPRESENTATIVE
 PETITIONER
For Respondent: RESPONDENT REPRESENTATIVE, 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 November 21, 2005. Petitioner is appealing the assessed value as established by the Respondent for the subject properties for the lien date January 1, 2004. The subject properties are parcel #####-1, located at ADDRESS 1 and parcels #####-2, #####-3, #####-4, and #####-5 located at ADDRESS 2 and ADDRESS 3.

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 Salt Lake County Assessor had originally set the

values and the Salt Lake County Board of Equalization sustained the values for each parcel as follows:

	<u>Assessed Value</u>	<u>BOE Value</u>
#####-1("Parcel 1")	\$\$\$\$\$	\$\$\$\$\$
#####-2("Parcel 2")	\$\$\$\$\$	\$\$\$\$\$
#####-3("Parcel 3")	\$\$\$\$\$	\$\$\$\$\$
#####-4("Parcel 4")	\$\$\$\$\$	\$\$\$\$\$
#####-5("Parcel 5")	\$\$\$\$\$	\$\$\$\$\$

Parcel 1 consists of just over one acre of land with frontage on STREET 1. It is improved with an (X) building with an office and a storage warehouse in the back. Additionally, there is an old residence on this property that is not in usable condition and has been boarded up and would be worth only a salvage value of \$\$\$\$\$. From the information presented the (X), office and storage warehouse buildings on Parcel 1 would be leased together because of the configuration of the property. These buildings were built in 1991 with concrete and block exterior walls and of Class "C" construction. Additionally the site is improved with asphalt parking, two storage sheds and a chain link fence.

Petitioner had submitted value information compiled by PETITIONER REPRESENTATIVE. PETITIONER REPRESENTATIVE is not an appraiser and stated that she personally did not receive compensation for the value information. Her conclusion from the information was a combined value for all five parcels at issue in this appeal of approximately \$\$\$\$\$. PETITIONER REPRESENTATIVE did attempt to provide separate comparables for the different types of buildings on this parcel and the other parcels, however, when coming up with the combined value.

Respondent submitted a separate appraisal of Parcel 1 in this matter. The appraisal had been prepared by RESPONDENT REPRESENTATIVE, Certified General Appraiser. It was RESPONDENT REPRESENTATIVE'S position that the County Board of Equalization had undervalued this property and that the fair market value was actually \$\$\$\$\$. In her appraisal she considered a cost, sales and income approach to value.

Upon review of the evidence regarding Parcel 1, it is clear that this property should be valued as a separate unit from the other parcels at issue. The other parcels are located across the street and are not needed for parking or storage with the use of the buildings on Parcel 1. The information indicated that the buildings on this parcel would, however, sell together as a unit. The Commission notes that Respondent has the same burden of proof to raise the value set by the Board of Equalization as Petitioner has to see it lowered. The Commission has concerns with the information submitted by both parties and for that reason would sustain the Board of Equalization value. Specifically the Commission would find that the rental rate would be higher than as concluded by Petitioner. On the other had, there were some problems with RESPONDENT REPRESENTATIVE's appraisal. She did not convert lease rates to triple net for comparison purposes and acknowledged this change would lower the value below her appraisal value. The small residence should be placed at salvage value and the land related to the residence appeared overvalued. Additionally, RESPONDENT REPRESENTATIVE valued the (X) and warehouse as if they could be sold separately, or at least leased separately and they evidence indicates that this is not likely. Better comparables for this property would be a (X) with a storage warehouse, rather than combining the value for (X) properties with the value of separate storage warehouse properties.

Parcels 2 through 5 do not front STREET 1. Two of these parcels front onto a small side street called STREET 2. These properties would likely be sold together because of the access and configuration. There are several buildings on these parcels. Parcel 2 has a 5,000 square foot metal storage building that was of fair grade and in poor condition. The owner has been unable to find a tenant for this building for many years. Respondent has the size of this building at 5,460 square feet, while the evidence submitted at the hearing indicates it is only 5,000 square feet. Parcel 3 has a newer storage warehouse building. It is a class "C" storage warehouse with office building and was built in 2000. This building would have only one tenant

Appeal Nos. 05-0731, 05-0732, 05-0733, 05-0734 & 05-0735

because of the layout of the building on the parcel. Parcel 4 has an older class “C” storage warehouse building that was constructed in 1953. Parcel 5 is vacant land.

Petitioner had presented a combined value for all five parcels so there is not a breakout of the value that would be assigned to each of the individual parcels. Respondent appraised parcels 2 through 5 as a unit and it was RESPONDENT REPRESENTATIVE’S value conclusion that the combined value was \$\$\$\$\$. However, after discussion about lease rates not being adjusted to triple net, she indicated her value for the combined parcels would be \$\$\$\$\$.

Again the Commission does not find Petitioner to have supported the lease rate with Parcel 3 or 4. However, evidence indicates error in the County’s valuation on Parcel 2. The County has on its records at 5460 an incorrect size for the warehouse on Parcel 2. The correct size for the warehouse is 5000. If this error is correct on RESPONDENT REPRESENTATIVE’S appraisal the combined value would be reduced further. However, additionally Petitioner has established that the lease rate used by RESPONDENT REPRESENTATIVE to value this warehouse is too high, considering the poor condition, that Petitioner has been asking a much lower rate and has been unable to lease this property for years. A good value for this building should be based on the lease rate of \$\$\$\$\$. Making these changes would further reduce the combined value from \$\$\$\$\$ to \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2004, for parcel #####-1 is \$\$\$\$\$, and for parcels #####-2, #####-3, #####-4 and #####-5 a combined value of \$\$\$\$\$. The County is to allocate this value as appropriate among the parcels. 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

Appeal Nos. 05-0731, 05-0732, 05-0733, 05-0734 & 05-0735

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.

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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

JKP/05-0731.int.doc