

05-0924
Locally Assessed Property Tax
Signed 06/12/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	05-0924
)		
v.	)	Parcel Nos.	#####-1
	)		#####-2
BOARD OF EQUALIZATION	)	Tax Type:	Property Tax/Locally Assessed
OF SALT LAKE COUNTY,	)	Tax Year:	2004
STATE OF UTAH,)		
	)	Judge:	Chapman
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 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.

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: No one appeared

For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake 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 June 6, 2006. Although notified of the date and time of the hearing, the Petitioner failed to appear at the hearing, either in person or by telephone. For this reason and in accordance with Utah Code Ann. §63-46b-11(4)(a), the Commission issues an Order of Default against the Petitioner and has conducted the Initial Hearing without the participation of the Petitioner and without considering any evidence that the Petitioner might have proffered at the hearing.

At issue is the fair market value of the subject properties as of January 1, 2004. The subject properties operate as an economic unit and are located on the southwest corner of ADDRESS 1 in CITY, Utah. For the 2004 tax year, the County Assessor assessed Parcel No. #####-1 at \$\$\$\$ and Parcel No. #####-2 at \$\$\$\$\$, which resulted in the economic unit having a total value of \$\$\$\$\$. The Salt Lake County Board of Equalization (“County BOE”) sustained the County Assessor’s assessed values.

Parcel No. #####-1 contains 0.09 acres of land and Parcel No. #####-2 contains 0.10 acres of land, for a total of 0.19 acres. The economic unit also consists of a commercial building that is, for the most part, two stories in height with 4,133 square feet on the main floor and an unusable second floor. The main floor is used as a (X), with both showroom/retail space and preparation area/warehouse space. The basement has approximately 2,000 square feet of usable warehouse space. RESPONDENT REPRESENTATIVE states that parking is located at the rear of the property and can be accessed from STREET.

For the County, RESPONDENT REPRESENTATIVE proffers an appraisal in which estimates the economic unit to have a fair market value of \$\$\$\$\$. Because the economic unit is currently assessed at \$\$\$\$\$, he requests that the Commission increase the subject’s value for the 2004 tax year. In his appraisal, RESPONDENT REPRESENTATIVE estimated the economic unit’s value using two approaches. First, he estimated the subject’s value at approximately \$\$\$\$\$ (\$\$\$\$\$ land value and \$\$\$\$\$ building value) using the cost approach. Second, he estimated the value to be \$\$\$\$\$ using the market approach. RESPONDENT REPRESENTATIVE states that the market approach is more reliable in this instance due to the age of the subject’s improvements and derived a correlated value for the economic unit of \$\$\$\$\$.

Market Approach. For this approach, RESPONDENT REPRESENTATIVE submits seven comparables that sold between \$\$\$\$\$ and \$\$\$\$\$ per square foot. RESPONDENT REPRESENTATIVE

calculated a price per square foot of the seven comparables, which had a median and mean price per square foot of \$\$\$\$\$ and \$\$\$\$\$ per square foot, respectively. Using this information, RESPONDENT REPRESENTATIVE estimated that the subject's 4,133 square foot main floor would have a value of \$\$\$\$\$per square foot, that its approximately 2,000 square foot basement would have a value of \$\$\$\$\$ per square foot (\$\$\$\$\$), and that its unusable second floor would have no value. These estimates result in a total estimated value of approximately \$\$\$\$\$ for the subject economic unit.

The economic unit's current assessed value is \$\$\$\$\$. If \$\$\$\$\$ of this amount is attributable to the basement and none to the second floor, as RESPONDENT REPRESENTATIVE recommends, the remaining \$\$\$\$\$ results in a current assessment of approximately \$\$\$\$\$ for the subject's 4,133 main floor square footage.

The Commission is not convinced by the seven market comparables that the current assessed value of \$\$\$\$\$ per square foot for the subject's main floor is too low. First, RESPONDENT REPRESENTATIVE did not disclose if the comparable properties he used had basements and, if so, whether he deducted any value for such space prior to calculating his comparables' square foot prices. The pictures submitted indicate that at least two, and perhaps more of the comparables, have basement space. RESPONDENT REPRESENTATIVE also stated that he had not been in some of the comparables and did not know how they were finished.

Furthermore, most of the comparables are used as office buildings and are not necessarily comparable to the subject in terms of interior finish and utility. In addition, Comparable #2 is much newer than the subject, and Comparable #3 is in the center of the city's central business district, while the subject is, at best, on the district's edge. Given that three of the seven comparables sold around or less than the \$\$\$\$\$ per square foot at which the subject's main floor is assessed, that the comparables differ from the subject in use

and features, and that there is incomplete information available about the comparables to determine where in the wide range of their respective prices the subject would most likely sell, the Commission is not convinced that this market information shows the current assessed value of \$\$\$\$\$ to be incorrect.

Cost Approach. Like RESPONDENT REPRESENTATIVE, the Commission is concerned that a cost approach may not be an accurate approach to use to value a property as old as the subject. Nevertheless, in analyzing the cost estimate that RESPONDENT REPRESENTATIVE proffered, the Commission notes that the majority of the estimated value appears to lie in the land, not the improvements. If \$\$\$\$\$ of the current \$\$\$\$\$ assessed value is attributable to improvements, as RESPONDENT REPRESENTATIVE suggest, the 0.19 acres of land is currently assessed at \$\$\$\$\$, or approximately \$\$\$\$\$ per square foot.

RESPONDENT REPRESENTATIVE has estimated the subject's 0.19 acres to have a value of \$\$\$\$\$ per square foot, which equates to a land value of approximately \$\$\$\$\$. Of the five land comparables provided, only one sold above \$\$\$\$\$ per square foot, specifically Comparable #5, which sold at \$\$\$\$\$ per square foot. Although this parcel is similar in size and location as the subject, RESPONDENT REPRESENTATIVE stated that it was purchased by (X), who owns most of the property that surrounds it and on which he operates an (X). RESPONDENT REPRESENTATIVE also stated that he doubts that the owner put the property up for sale and imagined that (X) approached the seller in order to purchase the property to add to his other holdings. Given these circumstances, it appears that (X) may have paid a premium for the property in order to convince the prior owner to sell. If this circumstance actually occurred, the \$\$\$\$\$ per square foot price paid for Comparable \$5 may be higher than its fair market value, as defined by law.

Because the one land comparable that support RESPONDENT REPRESENTATIVE estimate of \$\$\$\$ per square foot or the subject's land is questionable, because the \$\$\$\$ improvements value is questionable due to the age of the structure, and because the remaining four land comparables appear to support the current assessed value, the Commission is not convinced that this cost information shows the subject's current assessed value of \$\$\$\$ to be incorrect.

Income Approach does not Support Land Value. At the hearing, RESPONDENT REPRESENTATIVE stated that he did not prepare an income approach because the current improvements would not generate enough income for the approach to support even the value of the land. If this is the case, the use of the above market and cost approaches by RESPONDENT REPRESENTATIVE is suspect because they both attribute value to the subject's structures that, according to RESPONDENT REPRESENTATIVE, will not generate sufficient income to support the subject's land value. If RESPONDENT REPRESENTATIVE'S statements are correct, is it likely that any potential buyer would raze the structures of the subject property, as (X) did on the property across the street. All of the comparables that RESPONDENT REPRESENTATIVE used in his market approach were apparently were sold for their land **and** buildings, as there is no information that any of them were razed and pictures of the buildings were provided in his appraisal. For these and the previous reasons stated above, the Commission does not find RESPONDENT REPRESENTATIVE'S appraisal convincing to show that the current value is incorrect.

APPLICABLE LAW

Utah Code Ann. §59-2-1006(1) provides that “[a]ny 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”

Any party requesting a value different from the value established by the County BOE has the burden to establish that the market value of the subject property is other than the value determined by the county board of equalization.

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must (1) demonstrate that the value established by the County BOE contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the County BOE to the amount proposed by the party. *Nelson V. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

DISCUSSION

Based on the evidence and testimony proffered by the County, the Commission finds that the County has called into question the current assessed value of \$\$\$\$ for the two parcels comprising the economic unit at issue. However, the Commission is not convinced by this evidence and testimony that the total, current assessed value for the economic unit is incorrect.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the values that the County BOE established for the two parcels at issue. Accordingly, for the 2004 tax year, the Commission sustains the \$\$\$\$ value for Parcel No. #####-1 and the \$\$\$\$ value for Parcel No. #####-2. It is so ordered.

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

Appeal No. 05-0924

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.

Kerry R. Chapman, 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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