

05-1014
Locally Assessed Property Tax
Signed 03/24/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
	)	ORDER	
Petitioner,)		
	)	Appeal No.	05-1014
v.)		
	)	Parcel No.	#####
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, Appraiser, Salt Lake County Assessors' 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 March 21, 2006. Although notified of the date and time of the hearing, the Petitioner failed to appear. For this reason, the Commission issues an Order of Default against the Petitioner and, in accordance with Utah Code Ann. §63-46b-11(4)(a), has conducted the Initial Hearing without the participation of the Petitioner and without consideration of any evidence that the Petitioner might have proffered at the hearing.

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At issue is the fair market value of the subject property as of January 1, 2004. The subject property is a 36-unit apartment complex located at ADDRESS. For the 2004 tax year, the subject property was assessed at \$\$\$\$\$, which the County Board of Equalization (“County BOE”) sustained. The County is asking the Commission to reduce the value of the subject property to \$\$\$\$\$, based on a February 21, 2006 appraisal prepared by RESPONDENT REPRESENTATIVE.

RESPONDENT REPRESENTATIVE explains that the subject property has experienced extreme vacancy rates due to its condition, a factor that she does not believe was considered at the hearing held at the County BOE. In her appraisal, she estimated the value of the subject property at \$\$\$\$\$ using a cost approach, \$\$\$\$\$ using a market approach, and \$\$\$\$\$ using an income approach in which she accounted for the excess vacancy with a short-term rent loss adjustment. Using these approaches, she determined that the \$\$\$\$\$ value she derived using the income approach would best reflect the fair market value of the subject property as of the lien date.

RESPONDENT REPRESENTATIVE’S recommendation and appraisal calculations appear reasonable given the condition of the property and its excess vacancy rates. For these reasons, the Commission finds sufficient cause to reduce the fair market value of the subject property to \$\$\$\$\$.

APPLICABLE LAW

1. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. §59-1-210(7).
2. 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 Tax Commission. In reviewing the county board's decision, the Commission may admit additional evidence, issue orders that it considers to be just and proper, and make any

correction or change in the assessment or order of the county board of equalization. Utah Code Ann. §59-2-1006(3)(c).

3. Petitioner has the burden to establish that the market value of the subject property is other than the value determined by Respondent.

4. To prevail, 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), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

DISCUSSION

Based on the County's evidence and testimony only, it appears that the subject property's current value of \$\$\$\$\$ is not reflective of its fair market value. The Commission finds that the Petitioner has called into question the County BOE's value and has sufficiently demonstrated that the a more reasonable fair market value is \$\$\$\$\$.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission issues an Order of Default against the Petitioner. Furthermore, based on the evidence and testimony proffered by the County at the Initial Hearing, the Commission finds that the fair market value of the subject property should be reduced from \$\$\$\$\$ to \$\$\$\$\$ for the 2004 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. 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

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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.

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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