

06-0639  
Locally Assessed Property  
Signed 10/30/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	06-0639
v.	)		
	)	Parcel Nos.	#####-1
BOARD OF EQUALIZATION	)		#####-2
OF SALT LAKE COUNTY,	)	Tax Type:	Property Tax/Locally Assessed
STATE OF UTAH,	)	Tax Year:	2005
	)		
Respondent.	)	Judge:	Chapman

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**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: PETITIONER REPRESENTATIVE 1  
PETITIONER REPRESENTATIVE 2

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 October 18, 2006.

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At issue is the fair market value of the two subject properties as of January 1, 2005, the lien date. The two properties comprise an economic unit, which consists of 2.70 acres and a mini-warehouse facility with an office/apartment. As of the lien date, the mini-warehouse was approximately 80% complete and was unoccupied. Since the lien date, however, the facility has been completed and the mini-warehouses are being rented.

For the 2005 tax year, the County Assessor assessed the property using an income approach. With this approach, the County assessed Parcel No. #####-1 at \$\$\$\$\$ and Parcel No. #####-2 at \$\$\$\$\$, which totals \$\$\$\$\$ for the economic unit. The County Board of Equalization (“BOE”) sustained the assessments for both parcels.

The Petitioners do not disagree that the “fair market value” of the economic unit, as of the lien date, was \$\$\$\$\$, as sustained by the County BOE. At the hearing, they explained they appealed because a County employee told them that the income approach used to assess the properties was calculated under the assumption that the property was 85% occupied and generating income at this rate. Because the property was incomplete and unoccupied as of the lien date, the Petitioners filed the appeal to have this element of the income approach corrected so that the assessed value would be corrected.

Until it was explained at the Initial Hearing, the Petitioners stated that they did not understand that there was a statutory relationship between a property’s “fair market value” and its assessed value. After learning of that relationship, the Petitioners stated that no longer wished to

challenge the County BOE's values, as they believe these values correctly estimate the subject's fair market value as of the lien date.

The County submitted an appraisal prepared by RESPONDENT REPRESENTATIVE, an appraiser in the Assessor's Office. RESPONDENT REPRESENTATIVE included in his appraisal a cost approach, with which he estimated the subject economic unit's total fair market value to be \$\$\$\$\$ as of the lien date. He explained in the appraisal that he did not include an income approach because the facility was incomplete and was not leased as of the lien date. RESPONDENT REPRESENTATIVE further explained that he was submitting the appraisal to support the County BOE's value and was not asking that the Commission raise the current assessed value of the economic unit.

#### 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

The Petitioners no longer contest that the values established by the County BOE overestimate the subject's fair market value. In addition, the County does not request that the Commission increase the economic unit's assessed value on the basis of the cost approach it submitted. For these reasons and because it is plausible that a revised income approach could be more convincing than a cost approach in estimating the subject's value, the Commission will sustain the values established by the County BOE and deny the Petitioner's appeal.

#### DECISION AND ORDER

Based upon the foregoing, the Tax Commission denies the Petitioner's appeal. Accordingly, it sustains the \$\$\$\$ fair market value for Parcel No. #####-1 and the \$\$\$\$ fair market value for Parcel No. #####-2, as established by the County BOE. 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

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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  
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.

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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

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Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

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