

06-0929  
Property Tax/Locally Assessed Commercial  
Signed 02/14/2007

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>INITIAL HEARING ORDER</b>
	)	
Petitioner,	)	Appeal No.    06-0929
	)	Parcel No.    #####
v.	)	
	)	Tax Type:    Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF	)	Commercial
SALT LAKE COUNTY, STATE OF	)	Tax Year:    2005
UTAH,	)	
	)	Judge:        Phan
Respondent.	)	

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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 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.**

**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE  
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 pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on December 13, 2006. Petitioner is appealing the assessed value as established for the subject property by Salt Lake County Board of Equalization. The lien date at issue is January 1, 2005.

The Initial Hearing in this matter was held in conjunction with the hearings for five other mobile home parks located in Salt Lake County, which were all under related ownership under ( X ). The same representatives for both Petitioner and Respondent appeared for all the hearings.

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(12).)

(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

The subject property is parcel no. ##### and is located at ADDRESS. The property is the site of the ( X ). The Salt Lake County Assessor's Office had originally set the value of the subject property, as of the lien date, at \$\$\$\$\$. The Salt Lake County Board of Equalization sustained the value.

The subject property consists of 25.20 acres of land improved with 170 mobile home spaces with utility hook-ups for each. The other improvements on this property consist of a swimming pool, storage garage, asphalt paving and fencing.

Petitioner had originally filed the appeal with the State Tax Commission arguing that the value for the subject property be reduced to \$\$\$\$\$, but at the hearing indicated the value would be somewhere around \$\$\$\$\$. Petitioner's representative argued that the property should be valued based on its actual income and expenses. She pointed out that this property was owned by the same owner as the five ( X ), other properties also under appeal, and was professionally managed. She indicated the owner, was one of the largest mobile home park owners in the nation. She provided the actual net operating income and expenses for this property and the five other mobile home properties, arguing that these actual expenses indicated the real and accurate expenses of running these mobile home parks. For the subject property the total revenue for the 2004-year had been \$\$\$\$\$ and the expenses without real estate taxes had been \$\$\$\$\$. Petitioner presented no appraisal and no capitalization rate study. She acknowledged that this property had been recently purchased by her client, but indicated it was part of a bulk sale. She did not know the purchase price attributable to this property.

Respondent submitted an appraisal in this matter prepared by RESPONDENT REPRESENTATIVE, Certified General Appraiser, and Salt Lake County employee. It was RESPONDENT REPRESENTATIVE'S appraisal conclusion that the value for the subject property was \$\$\$\$\$. This value was based primarily on the income approach. RESPONDENT

REPRESENTATIVE'S effective gross income ("EGI") was lower than Petitioner's indicated total revenue for the year ending 2004. However, her expenses were also lower. RESPONDENT REPRESENTATIVE disallowed a portion of the actual expense listed in the general and administrative category. She allowed only \$\$\$\$\$ of the \$\$\$\$\$ in expense claimed in this category. She did, however, allow all the other relevant actual expenses itemized by Petitioner in its accounts. The expenses she used in her appraisal were \$\$\$\$\$. The actual expenses provided by Petitioner had been \$\$\$\$\$.

RESPONDENT REPRESENTATIVE supported her contention as to expenses with "adjusted actuals" of the other related mobile home parks for which Petitioner had provided the actuals. All of the "adjusted actuals" were lower than the actual expenses. No comparables were offered by RESPONDENT REPRESENTATIVE that were truly actual expenses. RESPONDENT REPRESENTATIVE had subtracted out the portion of the general and administrative expenses for all of her expense comparables that were, in her opinion too high, and then used this adjusted amount to support making the same adjustment for the subject property.

RESPONDENT REPRESENTATIVE also considered a sales comparison approach to value but gave it no weight in the value reconciliation. From this approach she concluded a value of \$\$\$\$\$, but indicated that the market data or sales information was not as reliable as the income approach.

Upon review of the information and evidence submitted in this matter, it is the Commission's conclusion that RESPONDENT REPRESENTATIVE has not provided adequate support for her contention that the expenses were too high, in that there are no actual expenses that support her position. It is not convincing to support an adjustment with comparables that only support the adjustment because they have also been adjusted. In fact Petitioner has supported its requested expenses by submitting actuals from six mobile home parks including the subject. The actual expenses for the subject property fit within a reasonable range of the actual

expenses from these other properties. For the subject they are at the higher end of the range on a per unit basis, but considering that this mobile home park has the lowest number of spaces, this is a reasonable result. As Petitioner's dispute was not with the EGI and Petitioner did not present evidence supporting a higher capitalization rate, the Commission concludes the value of this property is rounded to \$\$\$\$\$, based on actual expenses along with the EGI and capitalization rate in RESPONDENT REPRESENTATIVE'S appraisal. For these reasons the Commission concludes that Petitioner has met its burden of proof to lower the value of this property.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2005, is \$\$\$\$\$. The County Auditor is hereby 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 \_\_\_\_\_, 2007.

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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 \_\_\_\_\_, 2007.

**-- Recused --**

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

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