

06-0933  
Property Tax/Locally Assessed Commercial  
Signed 04/30/2007

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,	)	<b>INITIAL HEARING ORDER</b>	
	)		
	)		
Petitioner,	)	Appeal No.	06-0933
	)	Parcel Nos.	#####
v.	)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF	)		Commercial
SALT LAKE COUNTY,	)	Tax Year:	2005
UTAH,	)		
	)	Judge:	Robinson
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 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:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER  
For Respondent: RESPONDENT REPRESENTATIVE, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the County Board of Equalization. This matter was presented to the Tax Commission in an Initial Hearing pursuant to the provisions of Utah Code Ann. Sec. 59-1-502.5, on January 30, 2007.

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.

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. For purposes of taxation, ‘fair market value’ shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value. (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 a fifteen-unit apartment building located at ADDRESS 1 in Salt Lake County, Utah. The Salt Lake County Assessor's Office had originally set the value as of the lien date at \$\$\$\$\$. The Salt Lake County Board of Equalization reduced the value to \$\$\$\$\$.

The subject property consists of a Class D brick building with fifteen apartments, three of which are one-bedroom units, and twelve of which are two-bedroom units. It was constructed in 1969. It was in average condition on the lien date.

The building has 13,077 square feet total gross and 11,806 square feet rentable. The property also has carports for the units, 4,600 square feet of asphalt paving, and a 6 x 64 storage shed. The area of the property is .31 acres.

Petitioner submitted an appraisal in this matter, prepared by COMPANY A, Certified General Appraisers, which valued the property at \$\$\$\$\$. It used the sales comparison and income approaches in reaching this value.

The COMPANY A appraisal used three sales. The first is located at ADDRESS 2 in CITY. It is a twelve-unit apartment built in 1965 on .28 acres. The appraisal does not indicate the size of the units. It is a two-story masonry building. It has thirteen parking stalls in the rear of the building. It sold on January 26, 2005, for \$\$\$\$\$, or \$\$\$\$\$ per unit. It was in average condition on the date of sale. The COMPANY A appraisal adjusted the value based on physical characteristics to \$\$\$\$\$ per unit.

The second sale is a fifteen-unit apartment (seven studio and eight one-bedroom units) located at ADDRESS 3, in CITY. It was built in 1946 on .16 acres. It sold on June 14, 2005, for \$\$\$\$\$, or \$\$\$\$\$ per unit. The COMPANY A appraisal did not adjust this value.

The third sale is a thirteen-unit apartment (twelve one-bedroom and one three-bedroom) located at ADDRESS 4 in CITY. It has twenty parking spaces. It sold on September

19, 2005, for \$\$\$\$\$, or \$\$\$\$\$ per unit. The COMPANY A appraisal adjusted the value based on physical characteristics to \$\$\$\$\$ per unit.

The COMPANY A appraisal also compared the subject to three rental properties. All three were surveyed in September of 2005.

The first is located at ADDRESS 5 in CITY. It was built in 1970. It consists of 12 two-bedroom units, each of which rents for \$\$\$\$\$ per month. The range and refrigerator are included. There is no off-street parking. Tenants pay utilities.

The second is located at ADDRESS 6 in CITY. It was built in 1972. It consists of sixteen one-bedroom units. They each rent for \$\$\$\$\$ per month. The range, refrigerator, and disposal are included. There are seventeen parking spaces. Tenants pay electricity.

The third is located at ADDRESS 7 in CITY. It consists of twelve one-bedroom units built in 1970. They each rent from \$\$\$\$\$ to \$\$\$\$\$ per month. The range, refrigerator and disposal are included. It has a coin-operated laundry. There is no off-street parking.

Using information from the above noted rental properties, and a net operating income for the subject of \$\$\$\$\$, with a capitalization rate of %%%%, the COMPANY A appraisal rounded the value of the subject property to \$\$\$\$\$. The COMPANY A appraisal placed more weight on the income approach. It did not develop the cost approach because of the age of the improvements.

Petitioner stated rents had not changed much in the past ten years. RESPONDENT REPRESENTATIVE agreed with that.

Respondent submitted an appraisal in this matter prepared by RESPONDENT REPRESENTATIVE, a Certified General Appraiser, and Salt Lake County employee. RESPONDENT REPRESENTATIVE'S appraisal concluded that the value of the subject property was \$\$\$\$\$. She considered both a sales approach and an income approach. She did not develop the cost approach. Her combined sales approach conclusion was \$\$\$\$\$. Her combined

income approach conclusion was \$\$\$\$\$. Her appraisal gave the most weight to the income approach.

For the sales approach, RESPONDENT REPRESENTATIVE considered four comparables. The first is located at ADDRESS 8 in CITY. It is a fifteen-unit apartment building constructed in 1969 on .31 acres. It sold on April 28, 2004, for \$\$\$\$\$, or \$\$\$\$\$ per unit. The rentable square footage is 9,270. RESPONDENT REPRESENTATIVE adjusted the value to \$\$\$\$\$ per unit, or \$\$\$\$\$.

The second comparable is located at ADDRESS 9. It is a twelve-unit apartment building constructed in 1963 on .37 acres of land. It sold on July 27, 2005, for \$\$\$\$\$, or \$\$\$\$\$ per unit. The rentable square footage is 10,204. RESPONDENT REPRESENTATIVE adjusted the value to \$\$\$\$\$ per unit, or \$\$\$\$\$.

The third comparable is located at ADDRESS 10 in CITY. It is an eleven-unit apartment building constructed in 1950 on .34 acres of land. It sold on June 13, 2005, for \$\$\$\$\$, or \$\$\$\$\$ per unit. The rentable square footage is 7,721. RESPONDENT REPRESENTATIVE adjusted the value to \$\$\$\$\$ per unit, or \$\$\$\$\$.

The fourth comparable is located at ADDRESS 11 in CITY. It is a fifteen-unit apartment building constructed in 1930 on .22 acres of land. It sold on March 9, 2004, for \$\$\$\$\$, or \$\$\$\$\$ per unit. The rentable square footage is 12,011. RESPONDENT REPRESENTATIVE adjusted the value to \$\$\$\$\$ per unit, or \$\$\$\$\$.

Based on the sales comparison approach, RESPONDENT REPRESENTATIVE valued the subject property at \$\$\$\$\$. She also used the income approach to value the subject property.

In her income approach, RESPONDENT REPRESENTATIVE compared the subject to eight other buildings with one-bedroom apartments, and six others with two-bedroom apartments. RESPONDENT REPRESENTATIVE'S potential gross income for the subject, based on the data from the comparables, was \$\$\$\$\$. RESPONDENT REPRESENTATIVE

allowed only 7% vacancy. In the calculation prepared by Petitioner's representative, an amount substantially higher, 20%, had been deducted for vacancy, concessions and credit loss. This contributed significantly to the difference between the two calculations that resulted in the County's value being higher than Petitioner's value.

RESPONDENT REPRESENTATIVE'S effective gross income ("EGI") of \$\$\$\$\$, was higher than Petitioner's \$\$\$\$\$. RESPONDENT REPRESENTATIVE indicated an NOI of \$\$\$\$\$. RESPONDENT REPRESENTATIVE capitalized the NOI with an overall rate, including taxes, of %%%% which indicated a value of \$\$\$\$\$.

As indicated above, RESPONDENT REPRESENTATIVE lowered the rental cost of the two-bedroom units to \$\$\$\$\$ during the hearing. This yields a PGI of \$\$\$\$\$. Using this as the PGI, the estimated value by the income approach is \$\$\$\$\$. At the hearing, RESPONDENT REPRESENTATIVE stated she would go down to \$\$\$\$\$ as the fair market value of the property.

The Commission finds the evidence submitted by the Respondent to be more persuasive than that submitted by the Petitioner. The Respondent's value, \$\$\$\$\$, seems low. It was derived using a higher vacancy rate of 20%, and a higher capitalization rate of %%%% percent.

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 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. 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

Appeal No. 06-0933

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.

---

R. Spencer Robinson  
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.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

RSR/06-0933.int.doc