

06-1195
Property Tax/Locally Assessed Commercial
Signed 06/04/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-1195
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	Commercial
TOOELE COUNTY,)	Tax Year: 2005
UTAH,)	
)	Judge: Phan
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:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE 1, Tooele County Assessor
 RESPONDENT REPRESENTATIVE 2, Appraiser

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 February 21, 2007. Petitioner is appealing the assessed value as established for the subject property by the Tooele 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. (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, CITY 1. Utah. The Tooele County Assessor’s Office had originally set the value of the subject property,

as of the lien date, at \$\$\$\$\$. The Tooele County Board of Equalization reduced the value to \$\$\$\$\$. Petitioner asks that the value be reduced to \$\$\$\$\$.

The subject property consists of 5.45-acres of land improved with storage units that are rented to the public. The units are in six separate buildings on the property. In addition there is an on-site office and two-story residence. There is also an outdoor parking area for boat and recreational vehicle storage.

Petitioner argued that the land was overvalued. He pointed out that the subject property is not on a main road, that it is two intersections from the main road. He also indicates that 2 acres right behind the subject property had been purchased in January 2005 for \$\$\$\$\$ an acre. He indicated that a 20.5-acre parcel has recently been purchased in CITY 2, with purchaser's intent being to build storage units on the property. The CITY 2 parcel had sold for \$\$\$\$\$ per acre. Petitioner indicated that it was unlikely that the subject land would be worth twice the amount of the CITY 2 land, arguing the County had valued the subject land at \$\$\$\$\$ per acre. Petitioner also pointed out that the County records indicated the property was 6.67 acres. He states that as of the lien date the subject land was only 5.45 acres in size. Respondent did not dispute this contention.

In addition to the land value, Petitioner argued that Respondent should not value the subject property based on an income approach. He argued that storage units should not be treated differently, that the County didn't "put a cap rate on COMPANY A," and the County shouldn't determine the value from his income, but not value COMPANY B based on its income.

Respondent argued that the income approach was the most appropriate method of valuing the subject property. Respondent did not submit an appraisal, but did provide an income approach and information that more than supported the value set by the County Board of Equalization. It was his conclusion that from an income approach the value of the property was over \$\$\$\$\$. He points out that this value is higher than that set by the County Board of

Equalization and indicates that because the Board's value is more than supported by the income approach, an adjustment to the land value should not be made for the correct size. Respondent did not request that the Tax Commission increase the value for the subject property above the County Board's value. He also indicated that the property should be valued as improved.

Respondent's representatives had considered sales of other storage unit properties to determine a capitalization rate and a gross rent multiplier. None of these comparables were located in CITY 1, but he indicated that he was able to determine a capitalization rate and gross rent multiplier from these sales, which he applied to the income from the rental of the storage units of the subject property. He argued that most appraisers would give little weight to the cost approach when valuing this type of property.

Despite that he felt the land value of vacant parcels was less relevant to the subject property's value, Respondent's representative did submit a number of land sales which refuted Petitioner's contention that the subject land was overvalued. He also pointed out that the property immediately behind the subject that sold for \$\$\$\$ per acre had no access and argued that he had not seen another sale in CITY 1 sell for such a low price. In addition he pointed out that land value in CITY 2 was not relevant to land value in CITY 1.

Upon reviewing the information and evidence in this matter, Petitioner has not provided a sound basis to support a new value. Although there was an error in the size of the land, the evidences does not indicate the property is overvalued. An income approach based on the rental income from the storage units on the property is clearly an appropriate appraisal method and indicates a value of over \$\$\$\$\$. Additionally, the Commission notes that if a pro rata deduction is made to the land value in the cost approach submitted by Respondent, it would not result in a material reduction in value below that set by the County Board of Equalization. If any weight is given to the income approach in the correlation with the corrected cost approach, this would support at least the value set by the County Board of Equalization. It is appropriate to

consider an income approach when determining the fair market value of storage units, similar to the approach appraisers typically consider when valuing apartment units. The rental income from the storage units is directly related to the real property that is subject to property tax.

As for the market value of commercial/retail buildings, like COMPANY A, these are also subject to real property tax based on fair market value. When determining the fair market value of the real property, where the subject of the appraisal is a commercial/retail building, appraisers generally consider an income approach. However, the income that they are capitalizing would be the market rent of the real property, not the business income from the sales of goods.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2005, is \$\$\$\$\$. However, the County is to correct its records regarding the land size of the property. 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
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.

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.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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