

06-1652
Property Tax/Locally Assessed Commercial
Signed 07/11/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-1652
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	Commercial
UINTAH COUNTY, UTAH)	Tax Year: 2006
)	
Respondent.)	Judges: Hendrickson, Johnson
)	

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:

Pam Hendrickson, Commission Chair
Bruce Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1
 PETITIONER REPRESENTATIVE 2
For Respondent: RESPONDENT REPRESENTATIVE 1, Assessor, Uintah County
 RESPONDENT REPRESENTATIVE 2, Deputy Auditor, Uintah
 County
 RESPONDENT REPRESENTATIVE 3, Deputy Uintah County
 Assessor
 RESPONDENT REPRESENTATIVE 4, Contract Appraiser
 RESPONDENT REPRESENTATIVE 5, Deputy Uintah County
 Attorney
 RESPONDENT REPRESENTATIVE 6, Uintah County Assessors
 Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Uintah 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. Petitioner is appealing the assessed value as established for the subject property by Uintah County Board of Equalization. The lien date at issue is January 1, 2006.

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 consists of a ##### acre parcel of land improved by a motel.

The values determined by the Board of Equalization are as follows:

Land	\$\$\$\$\$
Improvements	<u>\$\$\$\$\$</u>
Total	<u>\$\$\$\$\$</u>

Petitioner believes the property should be valued at about \$\$\$\$\$ to \$\$\$\$\$.

The motel is a ##### unit motel, operating under the COMPANY A, constructed by the Petitioner in 2000. He purchased the underlying land in 1998.

The Board of Equalization values were based on a cost approach submitted by the Assessor. The cost approach indicates a replacement cost new of \$\$\$\$\$, minus depreciation of \$\$\$\$\$, for an indicated depreciated cost of \$\$\$\$\$. The Board of Equalization after considering income information provided by RESPONDENT REPRESENTATIVE 4, raised this value to \$\$\$\$\$. At the hearing, the County supported this value with testimony from RESPONDENT REPRESENTATIVE 4 who testified that an income approach is preferable for such properties, when feasible. Using a “Revpar” model, RESPONDENT REPRESENTATIVE 4 determined that the Board’s value was fully supported by an income approach.

In response to the County’s cost approach, Petitioner noted that he built the property in 2000 for \$\$\$\$\$. He also challenged the cost figure for the following items:

	<u>County’s estimated cost</u>	<u>Petitioner’s estimated cost</u>	<u>Difference</u>
Heating & cooling	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Elevators	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Sprinklers	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Vinyl fencing	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Asphalt	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Landscape	\$\$\$\$\$	\$\$\$\$\$	<u>\$\$\$\$\$</u>
			\$\$\$\$\$

That difference would have to be adjusted to reflect depreciation.

Petitioner also provided some income information. His total income for 2005, based on his income statement, was \$\$\$\$\$. That figure, however, apparently includes \$\$\$\$\$ of sales and use tax and \$\$\$\$\$ of transient room tax. Those items are not revenues of the property. When collected, they represent a liability to the state. Accordingly, the appropriate gross income figure is \$\$\$\$\$. Applying a GRM of 2.5 to this revenue stream would support a value of \$\$\$\$\$ for the entire property, including tangible personal property.

The County argued that Petitioner's cost figures were low because they did not incorporate entrepreneurial profit. Moreover, with the exception of some print advertisements for window air conditioners, Petitioner did not substantiate his costs. We note, however, that if Petitioner's adjustments were accepted, the cost approach would approximate Petitioner's reported original construction cost.

In valuing income-producing properties, such as the subject property, we believe it is important to give significant weight to the income approach. Both parties appeared comfortable with an income approach based on a gross rent multiplier ("GRM"). RESPONDENT REPRESENTATIVE 4 introduced sales information from 14 motel sales in Utah during 2004 and 2005. That summary showed GRM's ranging from 2.26 to 3.64, with an average of 3.05. He argued that a GRM of 3.5 was appropriate for this property. The four highest GRM's are for properties in CITY 1 and CITY 2. The 2.26 GRM is a CITY 3 property, originally constructed in 1950. If the four highest properties, and the lowest outlier are excluded, however, the average GRM is still about 3.0. Accordingly, we find that a GRM of 3.0 is reasonable for this property.

Applying a GRM of 3.0 to gross revenue of \$\$\$\$\$ would result in a total value of \$\$\$\$\$. Subtracting personal property of \$\$\$\$\$, already taxed by the County, would result in a

value of \$\$\$\$\$, a value fully corroborative of RESPONDENT REPRESENTATIVE 4's cost approach and the value determined by the County Board of Equalization.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006, is \$\$\$\$\$. The Uintah County Board of Equalization value is hereby affirmed.

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.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

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.

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

PH/int