

06-1654
Property Tax/Locally Assessed Commercial
Signed 07/10/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	INITIAL HEARING ORDER
)	
Petitioner,)	Appeal No. 06-1654
)	Parcel No. #####
v.)	
)	Tax Type: Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF)	Commercial
UINTAH COUNTY, UTAH)	Tax Year: 2006
)	
Respondent.)	Judge: Hendrickson
)	

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

Appearances:

For Petitioner: PETITIONER
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 for
 Uintah County
 RESPONDENT REPRESENTATIVE 5, Deputy Uintah County
 Attorney

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 is parcel no. ##### and is located at ADDRESS in CITY Utah. The Uintah County Assessor’s Office had originally set the value of the subject property, as of the lien date at \$\$\$\$\$. The Uintah County Board of Equalization sustained the value.

The subject property consists of 1.51 acres of land including Right of Way ##### as indicated on the county deed records. There are two commercial structures, a convenience store/service station and a strip mall, located on the property, however the value of these improvements are not in question. Petitioner argues at the hearing that the value of the land should be reduced to compensate for the .4181 acres that is included in the easement and is part of the state and county roads that border the property. Petitioner believes these easements have no

economic value to him and should be taxed at a lower amount than the property not included in the easements. He requested a reduction of \$\$\$\$\$ from \$\$\$\$\$ to \$\$\$\$\$ for the land portion of the value. Petitioner submitted a UDOT Right-of Way Design survey indicating the existing right of ways on two sides of the property. Petitioner points out that taxing of easements is an issue that exists throughout the entire county and that the county should correct this inequity.

Petitioner also presented several pictures of the property including some of the intersection and the traffic controls. He stated that some of the properties in the strip mall could not rent at the same level as other commercial properties but presented no evidence of rent for either the subject or the comparables. It was determined that his concern was in the land value not the structures.

Respondent acknowledges that Petitioner is correct, that a substantial amount of property in Uintah County have the same issue as his property. The land records of many of the parcels in Uintah County includes property deeded to the center of the roadways and a process to change that situation would require costly surveys and record transfers which would impose a substantial hardship on the county. Respondent believes it is beyond the scope of the Assessor's office to make those adjustments without a survey recorded in the Records office. Respondent suggested the best way to correct the acreage issue would be for Petitioner to deed the acreage in the easement to the county and the state so that it would no longer be included in his legal description.

The Respondent's appraiser stated that the land rental rate of \$\$\$\$\$ per square foot that was used in the subject's appraisal is actually lower than if it had been adjusted just for location. He stated that the prime commercial rental rate used in the reappraisal of CITY is \$\$\$\$\$ per square foot.

Upon reviewing the information and evidence in this matter, the weight of the evidence favors the land value determined by the County. Based on the differences in the land rental rates used, the Commission believes the county has taken the impact of easements into account when valuing the subject property, since both parties agree that many of the properties in the county, including, presumably those used as comparables to determine the land guidelines, have similar easements.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the value of the subject property as of January 1, 2006, at \$\$\$\$\$.

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

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.

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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