

07-0068  
Property Tax/Locally Assessed  
Signed 10/22/2007

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,  Petitioner,  vs.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,  Respondent.</p>	<p><b>ORDER</b>  Appeal No. 07-0068  Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2006  Judge: Jensen</p>
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**Presiding:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER  
For Respondent: RESPONDENT REPRESENTATIVE, Appraiser, Salt Lake Co.  
Assessor's Office

STATEMENT OF THE CASE

Petitioner brings this appeal from the decision of the Salt Lake County Board of Equalization. This matter was argued in an Initial Hearing on August 21, 2007. Petitioner is appealing the market value of the subject property as set by Respondent for property tax purposes. The lien date at issue in this matter 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(11).)

Utah Code Ann. §59-2-1006(1) provides that “[a]ny 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 . . . .”

Any party requesting a value different from the value established by the county board of equalization has the burden to establish that the market value of the subject property is other than the value determined by the county board of equalization.

To prevail, a party requesting a value that is different from that determined by the county board of equalization must (1) demonstrate that the value established by the county board of equalization contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the value established by the county board of equalization to the amount proposed by the party. *Nelson v. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

#### DISCUSSION

The subject property is parcel no. #####, located at ADDRESS in CITY, Utah. The County Assessor had set the value of the subject property, as of the lien date, at \$\$\$\$\$. The County Board of Equalization sustained the value. Petitioner requests that the value be reduced to \$\$\$\$\$. Respondent requests that the value set by the County Board of Equalization be sustained.

The subject property consists of a .23-acre lot improved with commercial office building. The building was 114 years old and built of B class quality of construction. It has a total of 49,154 square feet. The County considered the building to be in average to fair condition. The building has no off-street parking.

Petitioner has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. In this matter Petitioner provided his actual rental income from the building for 2004, 2005, and 2006. Petitioner presented this information not for its own sake, but to show that rental income for the building was decreasing while taxes were increasing.

The county provided an appraisal, prepared by RESPONDENT REPRESENTATIVE. It was the appraiser’s conclusion that the value for the subject property as of the lien date at issue was \$\$\$\$\$. The appraiser reached that conclusion on the basis of a comparative sales approach to valuation and an income approach to valuation.

The county’s appraiser made the comparative sales approach on the basis of the sales of four comparable properties with sale dates from August 2004 to November 2005. The sales

comparables were from 32 years to 97 years old as of January 1, 2006. The county's appraiser made adjustments for differences in factors such as time of sale, location, construction, condition, and parking. After making adjustment for these factors, the sales comparables had adjusted sales prices between \$\$\$\$ and \$\$\$\$\$. The appraiser estimated the value of the subject at \$\$\$\$ on the sales comparison approach.

The county's appraiser made an income approach valuation on the basis of eight building leases. The lease rates of the comparable properties were between \$\$\$\$ and \$\$\$\$ per square foot. The appraiser then formulated a capitalization rate of %%% (including taxes). Before applying market rental and capitalization rates as calculated, the county appraiser made a deduction for a mezzanine area in the subject property that was not considered fully rentable. After taking these factors into account, the appraiser arrived at a value of \$\$\$\$ for the subject by the income approach. Reconciling the market and income approach, the appraiser found that the income approach better valued the subject and therefore settled on a value of \$\$\$\$ for the subject as of January 1, 2006.

The Commission reviews the evidence mindful that by statute, the value as determined by the board of equalization is presumed correct unless a party bears the burden of proof of showing error in the value determined by the board of equalization. In this case, Petitioner has discussed his rents, but made no attempt to connect his rental income to any approach to valuation. On the basis of the information presented at hearing, the Commission finds that Petitioner has not borne the burden of proof of showing error in the value as determined by the board of equalization. On that basis, the Commission sustains the \$\$\$\$ value as determined by the board of equalization.

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2006 is \$\$\$\$.

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

Appeal No. 07-0068

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

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Clinton Jensen  
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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