

07-1477
Locally Assessed Property
Signed 07/17/2008

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, vs. BOARD OF EQUALIZATION OF GRAND COUNTY, STATE OF UTAH Respondent.	INITIAL HEARING DECISION Appeal No. 07-1477 Parcel No. Multiple-2 Tax Type: Property Tax / Locally Assessed Tax Year: 2007 Presiding: M. 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 regulation pursuant to 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 notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Marc B. Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE 1, Grand County Assessor
 RESPONDENT REPRESENTATIVE 2, Clerk/Auditor
 RESPONDENT REPRESENTATIVE 3, Contract Appraiser

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on May 28, 2007. The property at issue encompasses two motels located on separate parcels in CITY, UT. The first is a MOTEL 1 and the other is a MOTEL 2, both owned by the taxpayer. The MOTEL 1 was assessed at \$\$\$\$ and the MOTEL 2 at \$\$\$\$\$, including 38.10 acres of land (out of 40.67 acres total) assessed under greenbelt at \$\$\$\$\$. The assessment attributable to the motel and associated commercial land is \$\$\$\$\$. The assessments were sustained by the Board of Equalization. The taxpayer requests that the improvement value (building only) be reduced to \$\$\$\$\$ for the MOTEL 1, and \$\$\$\$\$ for the

Appeal No. 07-1477

MOTEL 2. The relevant assessments for the improvements only are \$\$\$\$\$ and \$\$\$\$\$, respectively. The appeal involves identical issues, so both properties will be dealt with simultaneously.

APPLICABLE LAW

1. The Tax Commission is required to oversee the just administration of property taxes to ensure that property is valued for tax purposes according to fair market value. Utah Code Ann. §59-1-210(7).

2. 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 Tax Commission. In reviewing the county board's decision, the Commission may admit additional evidence, issue orders that it considers to be just and proper, and make any correction or change in the assessment or order of the county board of equalization. Utah Code Ann. §59-2-1006(3)(c).

3. Petitioner has the burden to establish that the market value of the subject property is other than the value determined by Respondent.

4. To prevail, 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), *Utah Power & Light Co. v. Utah State Tax Commission*, 530 P.2d. 332 (Utah 1979).

5. In order to prove that assessments are not equalized, it must be established that there is a systematic practice of undervaluation, based on more than two comparable properties within a class. *Mountain Ranch Estates v. Utah State Tax Comm'n.*, 2004 UT 86 (Utah 2004).

ANALYSIS

The taxpayer's argument is based on one critical issue. He argues that the assessment of the two motels is higher than another motel located in CITY on a room-to-room comparison. The first motel (MOTEL 1), which has ##### rooms, is assessed at \$\$\$\$\$ per room for the improvements only.

The second motel (MOTEL 2) is assessed at \$\$\$\$\$ per room for ##### rooms. The taxpayer has one primary issue; he believes the subject properties have been unfairly assessed when compared with another motel in the area. That property has ##### rooms, and is assessed at \$\$\$\$\$ per room.

The taxpayer's first motel (MOTEL 1) opened in 1988. It is wood-framed, with fewer construction details and upgrades than the comparable property. The second motel opened in 1998, has a basic wood frame and stucco exterior, and again, less construction detail and upgrades than the comparable. The comparable

Appeal No. 07-1477

motel has ##### rooms. It opened in 1992, and has a brick and stucco exterior with aluminum framing. The taxpayer describes it as a (X).” He testified that it has better construction materials, better and larger rooms, and tile floors. In addition, the taxpayer argues that the comparable is in the most expensive area in town, while his properties are at the (X) end of town in an inferior location.

The taxpayer presented two different arguments in support of his position. First, he argues that his properties increased significantly – 78%- from the previous year, while the comparable motel saw an increase of 2%. Furthermore, the improvement value for the comparable decreased by 31%. His second argument is a more direct equalization argument. In spite of its superior construction, the comparable property is assessed at a lower per unit value than the two subject motels.

RESPONDENT REPRESENTATIVE 3 represented the assessor’s office at the hearing. His firm undertook a recent commercial reassessment for Grand County. The assessor’s office (“assessor”) provided cost approaches for the two subject properties. In support of the valuations a sales comparison grid was provided for all of the motels in CITY. This grid established modified comparable sales estimates of value for all of the motels in the area. It then compared these values with the actual assessments, which were based on the cost approach. This comparison showed a ratio of estimated sales prices compared with the cost-based assessments. The grid generally supported the assessed values, including the subject and comparable properties. The ratios ranged from 88% to 121%, with the subject properties at 103% and 100%. The ratio for the comparable property, submitted by the taxpayer, indicated a ratio of 108%, even though the cost approach was erroneous and undervalued.

However, the assessor made one critical point. The single comparison used by the taxpayer was under-assessed due to an erroneous appraisal. During the reappraisal, the appraisers failed to include the second story of the building. As a result, 42,940 sq. ft. of space was excluded from the cost approach on which the appraisal was based. This in turn resulted in a value loss of approximately \$\$\$\$\$, as evidenced by the preliminary corrected assessment for the 2008 tax year. After making this adjustment, the Commission finds that the corrected unit value for the improvement only should have been \$\$\$\$\$ instead of \$\$\$\$\$, as calculated by the taxpayer. This is higher than either of the unit values for the two motels owned by the taxpayer. The Commission notes further that the erroneous underassessment also caused the disparity between the rates of increase between the two subject properties and the single comparable property.

The assessor made an additional argument that room-to-room comparisons based on the improvement value only are not valid comparisons. Instead, according to the assessor, it is appropriate to compare unit

Appeal No. 07-1477

values on the total appraised value. Under this basis, the unit values for the subject properties are \$\$\$\$ and \$\$\$\$\$, while the adjusted comparable motel is \$\$\$\$\$.

The Commission finds, based on the evidence presented, that there is no substantive disparity between comparable assessments. Furthermore, while it is clear that relative valuations for the subject properties are high in comparison with the other motel, that assessment is erroneous and cannot be used as a basis in and of itself to warrant a reduction. Finally, whether erroneous or not, a single comparable property is insufficient to establish a systematic undervaluation. The taxpayer has provided no direct evidence of fair market value for his properties, nor has he shown that any other motels in the area are assessed at a lower rate than his. To the contrary, without making a finding on the validity of the sales comparison grid, the assessor's sales grid did generally support an equalized assessment.

DECISION AND ORDER

Based on the forgoing, the Commission finds that no change in the assessment is required. The current assessment, as set by the Grand County Board of Equalization is sustained.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files 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 _____, 2008.

Marc B. Johnson
Commissioner

Appeal No. 07-1477

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2008.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

MBJ/07-1477.int