

09-0985
LOCALLY ASSESSED PROPERTY TAX
SIGNED 04-13-2010

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 09-0985</p> <p>Parcel No. #####-1</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2008</p> <p>Judge: Phan</p>
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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 REP.
For Respondent: RESPONDENT REP., Appeals Manager, Salt Lake County

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 September 22, 2009. Petitioner is appealing the assessed value as established for the subject property by the Salt Lake County Board of Equalization, as of the lien date January 1, 2008. The County Assessor had set the value at \$\$\$\$ and the County Board of Equalization sustained the value. The representative for the Petitioner (“Property Owner”) requests that the value be lowered to \$\$\$\$\$. At the hearing, Respondent (the “County”) requested that the value set by the Count Board of Equalization be sustained.

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. . . . (Utah Code Ann. Sec. 59-2-1006(1).)

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. #####-2 and is located at ADDRESS 1, in Salt Lake County, Utah. The property consists of 5.30-acres of land improved with mini-storage warehouses. The storage units were constructed in 2000-2001 and contain 47,430 rentable square feet.

The Property Owner asked that the value be reduced to \$\$\$\$\$. The Property Owner explained that he was in the storage rental business and had this unit in Utah and also owned storage units out of state. He stated that he understood the business better than the County’s appraisers and that these types of units sold for a %%% capitalization rate. His value was based on his actual net operating income divided by the %%% capitalization rate.

The Property Owner argued that capitalization rates were very subjective and could have been calculated incorrectly by the County in its capitalization rate study. He was provided the opportunity to submit posthearing a study or other support for the %%% capitalization rate that he was requesting. However, he did not do so.

Additionally, the Property Owner stated that for the 2009 tax year the County had reduced the value of the subject property to \$\$\$\$\$. He understood that values had generally declined from January 1, 2008 to January 1, 2009, but argued the amount of this reduction

supported the fact that this property had been overvalued in 2008. The Property Owner did not submit his 2009 tax notice or any other documentation in support of this argument. Upon reviewing the 2009 Tax information that is available to the public on-line at the Salt Lake County's website, it was apparent that part of this difference in value between 2008 and 2009 was due to the fact that the parcel had been subdivided. The buildings and 3.54 acres had been assessed at the \$\$\$\$ stated by the Property Owner. The remaining 1.76 acres of land had been separated into parcel no. ##### - 1 and valued at \$\$\$\$.

The County had submitted an income indicator based primarily on the subject's income and expenses. The representative for the County indicated that the difference between the County and the Property Owner was primarily due to the capitalization rate. The County has used a rate of %%%%, while the Property Owner had calculated his value based on a %%%% capitalization rate. The County had capitalized net operating income of \$\$\$\$ by the rate of %%%% plus 1.17 for taxes. This resulted in a capitalized value of \$\$\$\$.

To this the County then added an additional \$\$\$\$ for excess land. For the 2008 year the parcel contained the combined 5.30 acres. The County's value for excess acres was based on land sales and it was the County's conclusion that there was more land in this parcel than necessary for the existing business. With the excess land value added, this resulted in an income indicator of \$\$\$\$.

The County did not request that the value be raised to this amount and instead offered this information in support of the County Board of Equalization value.

The County had sales that supported the %%%% capitalization rate, as well as a publication titled PUBLICATION; Semiannual Report from COMPANY A which provided that average capitalization rates had risen to %%%% from the second quarter of 2007 to the second quarter of 2008. The representative for the County stated that capitalization rates had not been as high as %%%% in Salt Lake County for 10 to 15 years.

The County representative indicated that capitalization rates had increased further by January 1, 2009, and there had generally been a %%%% reduction in value on average.

Upon review of the evidence the Commission considers the information of both parties and notes that the burden of proof is on the Property Owner in this matter. The Property Owner did not support the %%%% capitalization rate, which he requested, nor did he provide support for a lower value for the excess land.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2008, is \$\$\$\$\$. The County Auditor is hereby ordered to adjust its records in accordance with this decision.

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 _____, 2009.

Jane Phan
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

DATED this ____ day of _____, 2009.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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