

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	<b>INITIAL HEARING ORDER</b>
Petitioner,	Appeal No. 09-2074
vs.	Parcel No. Multiple <sup>1</sup>
BOARD OF EQUALIZATION FOR SALT LAKE COUNTY, UTAH,	Tax Type: Property Tax/Locally Assessed
Respondent.	Tax Year: 2008
	Judge: Marshall

**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:**

Jan Marshall, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REP., *Pro Se*

For Respondent: RESPONDENT REP., Appraiser for Salt Lake County

STATEMENT OF THE CASE

Taxpayer brings this appeal from the decision of the Salt Lake County Board of Equalization ("the County"). This matter was scheduled for an Initial Hearing on December 10, 2009. The Taxpayer is requesting the Commission treat the parcels as a single-economic unit with a value of \$\$\$\$\$. The Salt Lake County Assessor's Office assessed the subject properties separately, for a total value of \$\$\$\$\$, which was sustained by the Board of Equalization. The

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<sup>1</sup> The parcels at issue are #####-1, #####-2, #####-3, #####-4, #####-5, #####-6, #####-6, #####-7, #####-8, #####-9, #####-10, #####-11, #####-12, #####-13, #####-14, #####-15, #####-16, #####-17, #####-18, #####-19, #####-20, and #####-21.

County is requesting a total value of \$\$\$\$\$ for the subject properties, following is a break-down of the Board of Equalization values and the County's requested value for each parcel:

<u>Parcel No.</u>	<u>BOE</u>	<u>County</u>
#####-1	\$\$\$\$\$	\$\$\$\$\$
#####-2	\$\$\$\$\$	\$\$\$\$\$
#####-3	\$\$\$\$\$	\$\$\$\$\$
#####-4	\$\$\$\$\$	\$\$\$\$\$
#####-5	\$\$\$\$\$	\$\$\$\$\$
#####-6	\$\$\$\$\$	\$\$\$\$\$
#####-7	\$\$\$\$\$	\$\$\$\$\$
#####-8	\$\$\$\$\$	\$\$\$\$\$
#####-9	\$\$\$\$\$	\$\$\$\$\$
#####-10	\$\$\$\$\$	\$\$\$\$\$
#####-11	\$\$\$\$\$	\$\$\$\$\$
#####-12	\$\$\$\$\$	\$\$\$\$\$
#####-13	\$\$\$\$\$	\$\$\$\$\$
#####-14	\$\$\$\$\$	\$\$\$\$\$
#####-15	\$\$\$\$\$	\$\$\$\$\$
#####-16	\$\$\$\$\$	\$\$\$\$\$
#####-17	\$\$\$\$\$	\$\$\$\$\$
#####-18	\$\$\$\$\$	\$\$\$\$\$
#####-19	\$\$\$\$\$	\$\$\$\$\$
#####-20	\$\$\$\$\$	\$\$\$\$\$
#####-21	\$\$\$\$\$	\$\$\$\$\$
<b>TOTAL</b>	<b>\$\$\$\$\$</b>	<b>\$\$\$\$\$</b>

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible taxable property located within the state 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 provided by law.

Utah Code Ann. §59-2-103 (2008).

For property tax purposes, "fair market value" is defined in Utah Code Ann. §59-2-102(12), as follows:

"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. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

Utah Code Ann. §59-12-102(12) (2008).

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part below:

- (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. §59-2-1006 (2008).

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 must: 1) demonstrate that the value established by the County Board of Equalization contains error; and 2) provide the Commission with a sound evidentiary basis for changing the value established by the County Board of Equalization to the amount proposed by the party. The Commission relies in part on *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332, 335 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996) and *Utah Railway Co. v. Utah State Tax Comm'n*, 5 P.3d 652 (Utah 2000).

#### DISCUSSION

The subject parcels make up the APARTMENT A apartment complex located at approximately ADDRESS 1 in CITY 1. The complex has a total of ( # ) units, office space, a laundry room, and a pool. There are ( # ) four-plexes built between 1959 and 1961 with two-bedroom, one-bathroom units. A four-plex with an attached office, and one-bedroom, one bathroom units was built in 1961. A five-plex with four two-bedroom, one bathroom units, and a three-bedroom, two-bathroom unit was built in 1977. In 1985, ( # ) new buildings were added to the complex; a ( # )-unit building with two-bedroom, one bathroom units; an ( # ) unit building with one-bedroom, one-bathroom units; and a ( # ) unit building with one-bedroom, one-bathroom units. Sometime in the 1980s, the Taxpayer also acquired a home that was built in 1908 and had been converted to office/retail space, and is leased to a ( WORDS REMOVED ) company. The remaining parcels are land associated with the various buildings in the complex.

Taxpayer contends that the properties should be valued as a single economic unit. He stated that there is a single private road that services most of the complex, that there is a single

manager for the properties, and that the pool and laundry facilities are shared by all buildings in the complex. He stated that ten to twelve years ago, he looked into combining the parcels so that the entire complex was on one parcel. Taxpayer testified that the County required an ALTA (“American Land Title Association) survey, to plat each building and the neighboring parcels to ensure that there were no gaps or overlapping areas. He stated that at the time the cost of the survey was approximately \$\$\$\$\$, and he assumes it would cost more now.

Taxpayer stated that the County is valuing the four-plexes at \$\$\$\$\$ per unit, while the remaining buildings are valued at \$\$\$\$\$ per unit. He argued that the four-plex buildings could not be sold separately, because they are located on a private road and have shared driveways. Taxpayer argued that the four-plex buildings do not warrant a higher value than the remainder of the complex. Taxpayer stated that he believed the subject should be valued at \$\$\$\$\$ per unit, which results in a value of \$\$\$\$\$.

At the hearing, Taxpayer provided a spreadsheet showing the 2007 and 2008 values and taxes for the subject properties, and determined the percentage of total value for each parcel. He also included a valuation estimate of \$\$\$\$\$. He determined this value by using a gross income of \$\$\$\$\$, a 40% expense rate, and a %%% capitalization rate. He then allocated this value to each of the parcels at issue. It appears the Taxpayer used the actual income for the subject properties; however, he provided no support for his expense and capitalization rates.

At the conclusion of the hearing, the Taxpayer requested a value of \$\$\$\$\$. To arrive at that amount, he subtracted \$\$\$\$\$ from the total of the County’s assessed value. The \$\$\$\$\$ represents the \$\$\$\$\$ difference between the per-unit value of the four-plex units and the per-unit value of the other units in the complex.

The County’s representative stated that the County had a change in policy some time ago, and determined that in complexes like the subject, if individual buildings could be sold off separately, then the highest and best use would be to separate the buildings in the complex and sell to developers. She stated that the Taxpayer has a good argument that the subject should be treated as a single economic unit, and asked the Commission to decide whether the parcels should be treated as a single economic unit, or valued separately. The County’s representative stated that if the Commission determines that the subject properties should be valued as a single economic unit, that \$\$\$\$\$ per unit is a fair value.

In support of the separate valuations of each parcel, the County’s representative submitted evidence of comparable sales, as well as calculations of value using a gross rent multiplier. The County’s representative used the same comparable sales, and gross rent

multiplier comparables in her determination of value for the four-plexes and the five-plex. Following are the comparable sales used by the County’s representative:

	Subject	ADDRESS 2	ADDRESS 3	ADDRESS 4	ADDRESS 5	ADDRESS 6
Year Built	1959-1961	1962	1959	1963	1976	1976
Sq. Ft.	2,720	2,432	3,360	3,288	4,180	4,184
Avg. Rm Sz	170	203	240	205	261	261
# of Units	4	4	4	4	4	4
Construction	Fair	Fair	Average	Average	Average	Average
Amenities	None	None	Fair	Fair	Average	Fair
Land/Bldg.	4.16	3.04	3.11	1.72	2.92	2.6
Unit Mix	(4) 2 Bd.	(4) 1 Bd.	(2) 1 Bd. (2) 2 Bd.	(4) 2 Bd.	(4) 2 Bd.	(4) 2 Bd.
Parking	1 Ucv / unit	1 Cv / unit	1 Cv / unit	1 Cv / unit	1Cv 2UCv/unit	1 Cv / unit
Rental Class	“C”	“C”	“C”	“C”	“C”	“C”
Sale Date		2/27/07	2/23/07	11/8/06	5/24/06	5/19/06
Sales Price		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/ Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Prop. Rights		0%	0%	0%	0%	0%
Financing		0%	0%	0%	0%	0%
Conditions		0%	0%	0%	0%	0%
Market		10%	10%	14%	19%	19%
Adj. Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adj. Price/unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adj. Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The County’s representative made the following adjustments for the one-bedroom units:

Location		0%	0%	0%	0%	0%
Avg Room Size		-5%	4%	-5%	10%	10%
Age/Condition		0%	0%	0%	-7.5%	-7.5%
# of Units		0%	0%	0%	0%	0%
Construction		0%	-5%	-5%	-5%	-5%
Amenities		0%	-5%	-5%	-10%	-10%
Site Characteristics		5%	5%	10%	5%	5%
Net Adjustments		0%	-1%	-5%	-7.5%	-7.5%
Adj. Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adj. Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adj. Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The County’s representative made the following adjustments for the two-bedroom units:

Location		0%	0%	0%	0%	0%
Avg Room Size		5%	16%	5%	20%	20%
Age/Condition		0%	0%	0%	-7.5%	-7.5%
# of Units		0%	0%	0%	0%	0%
Construction		0%	-5%	-5%	-5%	-5%
Amenities		0%	-5%	-5%	-10%	-10%

Site Characteristics		5%	5%	10%	5%	5%
Net Adjustments		10%	11%	5%	2.5%	2.5%
Adj. Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adj. Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adj. Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The County’s representative made the following adjustments for the five-plex:

Location		0%	0%	0%	0%	0%
Avg Room Size		0%	8%	0%	15%	15%
Age/Condition		7.5%	9%	7%	0%	0%
# of Units		0%	0%	0%	0%	0%
Construction		0%	-5%	-5%	-5%	-5%
Amenities		0%	-5%	-5%	-10%	-10%
Site Characteristics		0%	0%	5%	0%	3%
Net Adjustments		7.5%	7%	2%	0%	3%
Adj. Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adj. Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adj. Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

In its income approach for the four-plexes and the five-plex, the County’s representative used a gross rent multiplier. The County used a monthly rent of \$\$\$\$\$ for one-bedroom units, \$\$\$\$\$ for two-bedroom units, and \$\$\$\$\$ for three-bedroom units. A gross rent multiplier of 11.43 was used based on the following comparables:

Address	Year Built	Sale Date	GRM
ADDRESS 2	1962	2/27/07	11.62
ADDRESS 4	1953	11/8/06	9.81
ADDRESS 3	1959	2/23/07	11.88
ADDRESS 22	1960	12/07/06	12.43
ADDRESS 23	1959	12/1/06	11.43

For the one-bedroom four-plex<sup>2</sup>, the County’s reconciled value is \$\$\$\$\$, or \$\$\$\$\$ per unit. The County’s representative determined a value of \$\$\$\$\$ using the income approach, and a value of \$\$\$\$\$ using the sales approach. For the two-bedroom four-plexes<sup>3</sup>, the County’s reconciled value is \$\$\$\$\$, or \$\$\$\$\$ per unit. The County’s representative determined a value of \$\$\$\$\$ using the income approach, and a value of \$\$\$\$\$ using the sales approach. For the five-

<sup>2</sup> Parcel no. #####-2.

<sup>3</sup> Parcel nos. #####-1, #####-3, #####-4, #####-6, #####-7, #####-9, #####-10, #####-11, and #####-12.

plex<sup>4</sup>, the County’s reconciled value is \$\$\$\$\$, or \$\$\$\$\$ per unit. The County’s representative determined a value of \$\$\$\$\$ using the income approach, and a value of \$\$\$\$\$ using the sales approach.

The County’s representative determined a value of \$\$\$\$\$, or \$\$\$\$\$ per unit, for the twelve-unit<sup>5</sup> apartment building. She determined a value of \$\$\$\$\$ using the direct capitalization income approach, and a value of \$\$\$\$\$ using the sales approach. Following are the comparable sales used by the County:

	Subject	Sale 1	Sale 2	Sale 3	Sale 4	Sale 5
Address		ADDRESS 7	ADDRESS 8	ADDRESS 9	ADDRESS 10	ADDRESS 11
Year Built	1985	1963	1964	1975	1985	1977
Sq. Ft.	8,820	6,014	7,616	6,840	11,000	10,920
Avg Rm Size	184	200	200	214	220	227
# of Units	12	10	10	8	10	12
Quality	Average	Average	Average	Average	Average	Average
Amenities	Fair	Fair	Fair	Fair	Average	Fair
Land/Bldg	2.57	1.38	1.94	?	2.93	?
Unit Mix	(12) 2 Bd	(10) 1 Bd	(8) 2Bd (2) 1 Bd	(8) 2 Bd	(10) 3 Bd	(12) 2 Bd
Parking	2.5 U/ Unit	0.8 C/ Unit	1.5 U/ Unit	1 U/ Unit	2 C/ Unit	1 U/ Unit
Rental Class	“C”	“C”	“C”	“C”	“C”	“C”
Sale Date		11/8/06	12/7/07	10/30/07	1/25/06	3/15/07
Sales Price		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/ Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Prop. Rights		0%	0%	0%	0%	0%
Financing		0%	0%	0%	0%	0%
Conditions		0%	0%	0%	0%	0%
Market		14%	0%	2%	18%	9.5%
Adjusted. Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Location		-5%	-5%	-5%	-5%	0%
Avg Rm Size		3%	3%	5%	8%	10%
Age/Condition		11%	11%	5%	0%	4%
# of Units		0%	0%	-3%	0%	0%
Quality		0%	0%	0%	0%	0%
Amenities		0%	0%	0%	-5%	0%
Characteristics		5%	3%	0%	-2%	0%
Net Adjustments		14%	12%	2%	-4%	14%
Adjusted Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

<sup>4</sup> Parcel no. #####-19.

<sup>5</sup> Parcel No. #####-14.

The County’s representative determined a value of \$\$\$\$\$ for the ( # )-unit building using the income approach. The County relied on the Taxpayer’s profit and loss statement, as well as information published by Equimark on expense and capitalization rates. Following is the County’s direct capitalization of income:

Potential Gross Income	\$\$\$\$\$
Vacancy (5%)	\$\$\$\$\$
Miscellaneous Income	\$\$\$\$\$
Effective Gross Income	\$\$\$\$\$
Reserves	\$\$\$\$\$
Expenses	
Advertising	\$\$\$\$\$
Administrative & Office	\$\$\$\$\$
Insurance	\$\$\$\$\$
Repairs & Maintenance	\$\$\$\$\$
Utilities	\$\$\$\$\$
Management Fees	\$\$\$\$\$
Payroll	\$\$\$\$\$
Net Operating Income	\$\$\$\$\$
Capitalization Rate	%%%%%%%%
Tax Rate	0.48%
Overall Rate	%%%%%%%%
Capitalized Value	\$\$\$\$\$

The County’s representative determined a value of \$\$\$\$\$, or \$\$\$\$\$ per unit, for the ( # )-unit<sup>6</sup> apartment building. She determined a value of \$\$\$\$\$ using the direct capitalization income approach, and a value of \$\$\$\$\$ using the sales approach. Following are the comparable sales used by the County:

	Subject	Sale 1	Sale 2	Sale 3	Sale 4	Sale 5
Address	ADDRESS 1	ADDRESS 12	ADDRESS 13	ADDRESS 14	ADDRESS 15	ADDRESS 16
Year Built	1985	1969	1972	1974	1961	1977
Sq. Ft.	9,548	9,481	23,164	12,760	9,200	10,920
Avg Rm Size	212	197	241	236	200	227
# of Units	15	14	24	17	14	12
Quality	Average	Average	Average	Average	Average	Average
Amenities	Average	Fair	Fair	Fair	Fair	Fair
Land/Bldg	2.14	1.79	1.71	2.53	2.56	?
Unit Mix	(15) 1 Bd.	(8) 1 Bd (6) 2 Bd	(24) 2 Bd	(14) 1 Bd (3) 2 Bd	(10) 1 Bd (4) 2 Bd	(12) 2 Bd
Parking	2.4 C/Unit	1 C/Unit	1.92U/Unit	1.76C/Unit	1.86U/Unit	1 U/ Unit
Rental Class	“C”	“C”	“C”	“C”	“C”	“C”
Sale Date		4/10/06	9/18/07	2/2/07	8/22/05	3/15/07
Sales Price		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/ Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

<sup>6</sup> Parcel no. #####-21.



Prop. Rights		0%	0%	0%	0%	0%
Financing		0%	0%	0%	0%	0%
Conditions		0%	0%	0%	0%	0%
Market		17%	3\$	11%	20%	9.5%
Adjusted Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Location		5%	-5%	-5%	-5%	0%
Avg Rm Size		-4%	5%	4%	-3%	3%
Age/Condition		8%	7%	5%	12%	4%
# of Units		0%	6%	0%	0%	-2%
Quality		0%	0%	0%	0%	0%
Amenities		3%	3%	3%	3%	3%
Characteristics		2%	2%	-2%	-2%	0%
Net Adjustments		14%	18%	5%	5%	8%
Adjusted Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The County’s representative determined a value of \$\$\$\$\$ for the fifteen-unit building using the income approach. The County relied on the Taxpayer’s profit and loss statement, as well as information published by Equimark on expense and capitalization rates. Following is the County’s direct capitalization of income:

Potential Gross Income	\$\$\$\$\$
Vacancy (5%)	\$\$\$\$\$
Miscellaneous Income	\$\$\$\$\$
Effective Gross Income	\$\$\$\$\$
Reserves	\$\$\$\$\$
Expenses	
Advertising	\$\$\$\$\$
Administrative & Office	\$\$\$\$\$
Insurance	\$\$\$\$\$
Repairs & Maintenance	\$\$\$\$\$
Utilities	\$\$\$\$\$
Management Fees	\$\$\$\$\$
Payroll	\$\$\$\$\$
Net Operating Income	\$\$\$\$\$
Capitalization Rate	%%%%
Tax Rate	0.48%
Overall Rate	%%%%
Capitalized Value	\$\$\$\$\$

The County’s representative determined a value of \$\$\$\$\$, or \$\$\$\$\$ per unit, for the ( # )-unit<sup>7</sup> apartment building. She determined a value of \$\$\$\$\$ using the direct capitalization income approach, and a value of \$\$\$\$\$ using the sales approach. Following are the comparable sales used by the County:

	Subject	Sale 1	Sale 2	Sale 3	Sale 4	Sale 5
Address	ADDRESS 1	ADDRESS 17	ADDRESS 18	ADDRESS 19	ADDRESS 20	ADDRESS 21
Year Built	1985	1969	1972	1974	1961	1977
Sq. Ft.	10,824	9,481	23,164	12,760	9,200	10,920
Avg Rm Size	200	197	241	236	200	227
# of Units	18	14	24	17	14	12
Quality	Average	Average	Average	Average	Average	Average
Amenities	Fair	Fair	Fair	Fair	Fair	Fair
Land/Bldg	1.81	1.79	1.71	2.53	2.56	?
Unit Mix	(18) 1 Bd	(8) 1 Bd (6) 2 Bd	(24) 2 Bd	(14) 1 Bd (3) 2 Bd	(10) 1 Bd (4) 2 Bd	(12) 2 Bd
Parking	1.67U/Unit	1C/Unit	1.92U/Unit	1.76C/Unit	1.86U/Unit	1U/Unit
Rental Class	“C”	“C”	“C”	“C”	“C”	“C”
Sale Date		4/10/06	9/18/07	2/2/07	8/22/05	3/15/07
Sales Price		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/ Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Prop. Rights		0%	0%	0%	0%	0%
Financing		0%	0%	0%	0%	0%
Conditions		0%	0%	0%	0%	0%
Market		17%	3%	11%	20%	9.5%
Adjusted Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Location		5%	-5%	-5%	-5%	0%
Avg Rm Size		0%	6%	5%	0%	5%
Age/Condition		8%	7%	5%	0%	5%
# of Units		-3%	5%	0%	-3%	0%
Quality		0%	0%	0%	0%	0%
Amenities		0%	0%	0%	0%	0%
Characteristics		0%	0%	-3%	-3%	0%
Net Adjustments		10%	13%	2%	1%	9%
Adjusted Price/Sq. Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Unit		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Adjusted Price/Room		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The County’s representative determined a value of \$\$\$\$\$ for the eighteen-unit building using the income approach. The County relied on the Taxpayer’s profit and loss statement, as

<sup>7</sup> Parcel no. #####-16.

well as information published by Equimark on expense and capitalization rates. Following is the County’s direct capitalization of income:

Potential Gross Income	\$\$\$\$
Vacancy (5%)	\$\$\$\$
Miscellaneous Income	\$\$\$\$
Effective Gross Income	\$\$\$\$
Reserves	\$\$\$\$
Expenses	
Advertising	\$\$\$\$
Administrative & Office	\$\$\$\$
Insurance	\$\$\$\$
Repairs & Maintenance	\$\$\$\$
Utilities	\$\$\$\$
Management Fees	\$\$\$\$
Payroll	\$\$\$\$
Net Operating Income	\$\$\$\$
Capitalization Rate	%%%%
Tax Rate	0.48%
Overall Rate	%%%%
Capitalized Value	\$\$\$\$

The County’s representative also provided an income approach calculation for the converted office/retail building<sup>8</sup>. The County’s representative determined a value of \$\$\$\$\$, based on the following:

Potential Gross Income	\$\$\$\$
Vacancy (5%)	\$\$\$\$
Effective Gross Income	\$\$\$\$
Expenses (6%)	\$\$\$\$
Net Operating Income	\$\$\$\$
Capitalization Rate	%%%%
Capitalized Value	\$\$\$\$

The County’s representative is requesting the Commission sustain the Board of Equalization values on the unimproved parcels. She did not provide additional documentation in support of the following values:

<u>Parcel No.</u>	<u>BOE Value</u>
#####-5	\$\$\$\$
#####-8	\$\$\$\$
#####-13	\$\$\$\$
#####-15	\$\$\$\$
#####-17	\$\$\$\$
#####-20	\$\$\$\$

In seeking a value lower than that established by the board of equalization, the Taxpayer has the burden of proof and must demonstrate not only an error in the valuation set by the County

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<sup>8</sup> Parcel no. #####-18.

Board of Equalization, but must also provide an evidentiary basis to support a new value. Property tax is based on the market value of the property as of January 1 of the tax year at issue under Utah Code Ann. §59-2-103. Utah Code Ann. §59-2-102 defines “market value” as the amount for which property would exchange hands between a willing buyer and seller.

Excluding the office/retail conversion, the subject properties should be valued as a single economic unit. The properties are collectively known as the “APARTMENT A Apartments”. They share common ownership, a private road, driveways, laundry facilities, a pool, an office, management, and maintenance. Taxpayers’ argument that he would not be able to sell the buildings separately is persuasive due to the private roadway, shared driveways, and common ownership of the surrounding units. The office/retail conversion is not operated as part of the apartment complex, and is leased to an unrelated business.

The Taxpayer has asked for an overall value of \$\$\$\$\$. He arrived at this by subtracting \$\$\$\$\$ from the County’s combined value for all parcels at issue. Taxpayer stated that the County has valued the four-plex properties at \$\$\$\$\$ per unit, while the rest of the properties are valued at \$\$\$\$\$ per unit. Taxpayer argued that all of the units should be valued at \$\$\$\$\$, and subtracted the \$\$\$\$\$ difference per four-plex unit from the valued determined by the County’s representative to arrive at his requested value of \$\$\$\$\$.

The County has submitted comparable sales and an income calculation for each building. The comparable sales appear to be reasonably similar to the subject and in the same general area, with adjustments made to account for differences in unit size, condition, quality of construction, amenities, and site characteristics. The income approach used by the County is based on the actual income and expenses provided by the Taxpayer, and corroborated by information published in Equimark. The County’s per-unit values range from \$\$\$\$\$ to \$\$\$\$\$, with the average being approximately \$\$\$\$\$. This is less than the \$\$\$\$\$ per unit requested by Taxpayer, and that the County’s representative acknowledged would be reasonable if the apartments were treated as a single economic unit. The County’s requested values, though determined for each parcel separately, appear to be reasonable, and are consistent with the value requested if the apartments were valued as a single economic unit.

Although adjacent to the apartment buildings, and under common ownership, the converted retail/office building is not part of the “APARTMENT A Apartments” and should be valued separately. The Board of Equalization determined a value of \$\$\$\$\$ for this parcel. The County’s representative determined a value of \$\$\$\$\$ based on an income approach. The Taxpayer did not offer any testimony or evidence on the value of this property, other than to argue that it should be included as part of a single economic unit with the apartments. The

County has the burden of proof to provide sufficient evidentiary support for a change in the Board of Equalization value. Though the County's representative used the Taxpayer's actual income in her calculation; she provided no documentation to support the vacancy, expenses, and capitalization rates used. Nor did the County corroborate the income approach value with comparable sales. The County has not provided sufficient evidentiary support for an increase in the value of the converted retail/office building.

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Jan Marshall  
Administrative Law Judge

DECISION AND ORDER

On the basis of the foregoing, the Commission finds the value of the subject properties to be as follows:

<u>Parcel No.</u>	<u>Value</u>
#####-1	\$\$\$\$\$
#####-2	\$\$\$\$\$
#####-3	\$\$\$\$\$
#####-4	\$\$\$\$\$
#####-5	\$\$\$\$\$
#####-6	\$\$\$\$\$
#####-7	\$\$\$\$\$
#####-8	\$\$\$\$\$
#####-9	\$\$\$\$\$
#####-10	\$\$\$\$\$
#####-11	\$\$\$\$\$
#####-12	\$\$\$\$\$
#####-13	\$\$\$\$\$
#####-14	\$\$\$\$\$
#####-15	\$\$\$\$\$
#####-16	\$\$\$\$\$
#####-17	\$\$\$\$\$
#####-18	\$\$\$\$\$
#####-19	\$\$\$\$\$
#####-20	\$\$\$\$\$
#####-21	\$\$\$\$\$

The County Auditor is ordered to adjust its records in accordance with this decision. It is so ordered.

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

Appeal No. 09-2074

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 \_\_\_\_\_, 2010.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

*JM/09-2074.int*