

10-2696, 11-2946 & 13-564  
TAX TYPE: PROPERTY TAX  
TAX YEARS: 2010, 2011 & 2012  
DATE SIGNED: 8-9-2013  
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN, R. PERO

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BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER-1,  Petitioner,  vs.  BOARD OF EQUALIZATION OF RURAL COUNTY, STATE OF UTAH,  Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 10-2696</p> <p>Parcel No. ##### Tax Type: Property Tax Tax Year: 2010</p> <p>Judge: Marshall</p>
<p>TAXPAYER-2,  Petitioner,  vs.  BOARD OF EQUALIZATION OF RURAL COUNTY, STATE OF UTAH,  Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 11-2946</p> <p>Parcel No. ##### Tax Type: Property Tax Tax Year: 2011</p> <p>Judge: Marshall</p>
<p>TAXPAYER-1 AND TAXPAYER-2,  Petitioner,  vs.  BOARD OF EQUALIZATION OF RURAL COUNTY, STATE OF UTAH,  Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 13-564</p> <p>Parcel No. ##### Tax Type: Property Tax Tax Year: 2012</p> <p>Judge: Marshall</p>

**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. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information**

**obtained from the opposing party to nonparties, outside of the hearing process. Pursuant to Utah Admin. Rule R861-1A-37(7), 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:**

D'Arcy Dixon Pignanelli, Commissioner  
Jan Marshall, Administrative Law Judge

**Appearances:**

For Petitioner: TAXPAYER-1, *Pro Se*  
For Respondent: RESPONDENT-1, Attorney for RURAL COUNTY  
RESPONDENT-2, RURAL COUNTY Assessor  
RESPONDENT-3, RURAL COUNTY Assessor's Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on May 2, 2013, in accordance with Utah Code Ann. §59-1-501 and §63G-4-201 et seq. Appeal Nos. 10-2696 and 11-2946 had been consolidated in a prior Commission Order. The parties agreed to waive the initial hearing for Appeal No. 13-564 and consolidate with Appeal Nos. 10-2696 and 11-2946. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Taxpayer is appealing the assessed value of the subject property located in RURAL COUNTY, Utah.
2. The RURAL COUNTY Assessor's Office assessed the subject property at \$\$\$\$ for each of the years at issue, which the Board of Equalization sustained.
3. The County is asking the Commission to sustain the Board of Equalization value for each of the years at issue.
4. The Taxpayer is requesting the value of the subject property be reduced by 50% for each of the years at issue, or \$\$\$\$.
5. The subject property is parcel no. #####, located at ADDRESS-1 in CITY-1. It is #####-acre parcel that is improved with a motel comprised of ##### different buildings. The buildings were built between 1950 and 2000. There are ##### units totaling ##### square

feet, an office of ##### square feet, and an on-site residence of ##### square feet. In addition, there are storage areas, a covered pavilion, and a carport. (Exhibit R-2).

6. The on-site residence and #####-acres of the total #####-acres receive the primary residential exemption.
7. There is a creek bed that runs across the northwest portion of the subject property. (Exhibit R-4).
8. The Taxpayer has raised an equalization argument, and believes that the subject property is being assessed at market value, while other properties are being assessed at 40% to 50% of market value.
9. The Taxpayer submitted information on listings and the assessed value of other motel properties in the area as follows (Exhibit P-4):

Property Name	Location	List Price	List Date	Assessed Value
NAME-1	ADDRESS-2, CITY-1	\$\$\$\$	DATE	\$\$\$\$ YEAR
NAME-2	ADDRESS-3, CITY-1	\$\$\$\$	DATE	\$\$\$\$ YEAR
NAME-3	ADDRESS-4, CITY-1	\$\$\$\$	DATE	\$\$\$\$ YEAR
NAME-4	ADDRESS-5, CITY-2	\$\$\$\$	DATE	\$\$\$\$ YEAR
NAME-5	ADDRESS-6, CITY-1	\$\$\$\$	DATE	\$\$\$\$ YEAR

10. The Taxpayer submitted information that indicated “NAME OF RANCH” located at ADDRESS-7 in CITY-1, was appraised for \$\$\$\$ as of March 30, 2011. He also provided the County’s valuation information for the parcels that comprise “NAME OF RANCH”, which show a totaled assessed value of \$\$\$\$ as of the January 1, 2011 lien date. (Exhibit P-9).
11. The Taxpayer argued that the County is giving preferential treatment to NAME-6. In support of this he provided a hand-drawn map of the area with labels for commercial land values of NAME-6, CITY-2, and CITY-1. The purported land value for NAME-6 is \$\$\$\$ per acre; the purported unimproved commercial land value in CITY-2 is \$\$\$\$ per acre; and the purported commercial land value in CITY-1 is \$\$\$\$ to \$\$\$\$ per acre. (Exhibit P-8).
12. The acreage for NAME-6 does include some commercial land; however most of the acreage is unimproved, covered in sagebrush, and used for agricultural purposes. The \$\$\$\$ land value shown by the Taxpayer represents an average assessed value for all of the acreage, not just the commercial land.

13. The parties submitted spreadsheets prepared by the County that shows the specifications and assessed value per unit of motel properties in the County for the 2001 and 2002 through 2004 tax years. (Exhibit P-8 and R-5). Following is the information from the spreadsheets:

Motel	Year Built	Size	Units	Grade	Market Value	2001 Unit Value	2002-2004 Unit Value
NAME-7	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-7	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-5	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-5	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-8	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-3	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-9	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-10	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-11	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-1	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-1	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-12	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-13	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-14	YEAR	####	####	Fair	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-15	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-16	YEAR	####	####	Good	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-6				Good	\$\$\$\$	\$\$\$\$	\$\$\$\$

14. Transient room tax revenue overall increased for RURAL COUNTY from \$\$\$\$ in 2009 to \$\$\$\$ in 2010, and to \$\$\$\$ in 2011. However, transient room tax in CITY-1 has decreased. For 2009 the transient room tax in CITY-1 totaled \$\$\$\$; for 2010 it totaled \$\$\$\$; and through the second quarter of 2011 was \$\$\$\$ (Exhibit P-5).

15. RESPONDENT-3 testified on behalf of the County and attributed the change in the transient room tax to NAME-6. He stated that it is attracting more guests to the area, but because it is so large, there is less overflow from CANYON to the CITY-1 area.

16. The County has not looked at transient room tax to assist in their valuation.

17. In 2007, the County hired an outside appraiser, APPRAISER, to appraise the subject property after the Taxpayer appealed the value determined by the Assessor’s Office for a number of years.

18. The County submitted an appraisal that determined a value of \$\$\$\$ as of January 1, 2007 using both a sales comparison and income approach. (Exhibit R-2).

19. The County’s appraisal determined a value of \$\$\$\$ based on the following comparable sales (Exhibit R-2):

Motel	Size	Age	Units	Sales Date	Sales Price	Price/Unit	Adjusted Price
NAME-17, CITY-1	###	###	###	DATE	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-13, CITY-1	###	###	###	DATE	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-18, CITY-3	###	###	###	DATE	\$\$\$\$	\$\$\$\$	\$\$\$\$
NAME-19, CITY-3	###	###	###	DATE	\$\$\$\$	\$\$\$\$	\$\$\$\$

20. The County’s appraisal determined a value of \$\$\$\$\$ based on the income approach. The appraiser used a gross income multiplier of 2.95, derived from the comparable sales. He determined a projected 2007 income of \$\$\$\$\$ based on the Taxpayer’s gross revenues from the prior three years and the average yearly increase. (Exhibit R-2).
21. The County based their subsequent assessments on APPRAISER appraisal value. The County increased the value in 2009 to \$\$\$\$\$. The increase was based on a sales ratio study for the area completed by the Utah State Tax Commission Property Tax Division<sup>1</sup> that indicated commercial land values in the area had increased.
22. The County does not rely on listings in determining commercial land values. They work with the Property Tax Division to determine whether there are enough sales to justify a change in commercial values. The County has not changed motel values since 2002, other than the commercial land value increase in 2009 based on the Property Tax Division’s sales ratio study.
23. RESPONDENT-3 testified that the County’s commercial values remain the same unless the Property Tax Division sales ratio study warrants an adjustment, there are improvements made to a property, or if an adjustment is made because of an appeal.
24. RESPONDENT-3 testified that the market has been fairly stagnant in the County. Commercial properties typically take a year or more to sell, and there have been some years with no commercial sales.

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.

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

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<sup>1</sup> The functions of the Property Tax Division are overseen by the Executive Director of the Commission and are separate from the Appeals in the Office of the Commission.

“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.

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.

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 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).

#### CONCLUSIONS OF LAW

In seeking a value other than that established by the board of equalization, a party has the burden of proof to 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. 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.

The Taxpayer argued that in general, commercial values should have decreased in CITY-1, and in support of that offered information on the transient room tax collected both in the County and CITY-1. It appears that tourism increased in the County, but had declined in CITY-1 from 2009 to 2011. While presumably that would have some negative impact on the value of

motel properties in CITY-1, there has been nothing to show how much that impact would be. Further, the Taxpayer does not actually contest that the assessed value of \$\$\$\$ is not the market value of the subject property. Rather, the Taxpayer argues that he is being treated differently than other motel owners in the County, thus raising an equalization argument.

While Utah Code Ann. §59-2-103 provides that property shall be assessed on a uniform and equal rate on the basis of its fair market value, the Court in *Mountain Ranch Estates v. Utah State Tax Comm'n*, 100 P.3d 1206, 1210 (Utah 2004) found:

Fair market value indeed becomes a subordinate consideration in a scenario where a property owner's assessment accurately reflects the fair market value, but nevertheless exceeds by more than five percent the valuation of comparable properties. Where an accurate fair market value assessment stands apart from a group of undervalued comparable properties, valuation accuracy may not be used to defend the otherwise aberrant assessment. The property owner "singled out" for a legitimate fair market value assessment would be entitled to relief under Section 59-2-1006(4).

In order to prevail on an equalization argument, the Taxpayer must show that the County's appraised value for the subject property deviates more than 5% from the assessed value of comparable properties. In support of his position, the Taxpayer provided information comparing the list price to the assessed value of motel properties in the County. The Commission previously found in Appeal No. 11-2913<sup>2</sup> that comparing the difference between a sales price and the assessed value is not an effective equalization argument under Utah Code Ann. §59-2-1006(4). In the Taxpayer's equalization argument, the list prices are likely a less reliable indication of value, as an individual can ask whatever sales price they would like for a property, and it may or may not be a reflection of actual market value.

The Taxpayer and the County both provided information comparing the assessed value of the subject property to the assessed value of other motel properties in the County. The properties are considered to be of a similar grade and condition by the County, the motel properties bracket the age and number of units of the subject. The data provided by the parties was from the 2001 through 2004 tax years, and the tax years at issue are 2010 through 2012. However, the Commission will consider the information relevant, as the testimony indicated values have not changed since 2002, other than a county-wide increase to commercial land values based on a sales ratio study in 2009. In 2002, the assessed value of the subject property was \$\$\$\$ per unit. The 2002 assessed value per unit of motel properties ranged from \$\$\$\$ to \$\$\$\$\$. NAME-6 is valued at \$\$\$\$ per unit. It is so dissimilar from the other motel properties in the County that it

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<sup>2</sup> Prior Commission decisions are available online at <http://www.tax.utah.gov/commission-office/decisions>.

should be excluded. Excluding NAME-6, the average assessed value of the motel properties in the County was \$\$\$\$ per unit, and the median assessed value was \$\$\$\$\$. The assessed value of the subject on a per unit basis falls in line with the other motel properties, and it has not been shown the assessed values of comparable properties was reduced between 2002 and the tax years at issue. The Taxpayer has not shown reasonable cause to reduce the value on an equalization basis.

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Jan Marshall  
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property was \$\$\$\$ as of the January 1<sup>st</sup> lien date for the 2010, 2011, and 2012 tax years. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner

**Notice of Appeal Rights:** You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.