

11-967
LOCALLY ASSESSED COMMERCIAL PROPERTY
TAX YEAR: 2010
SIGNED: 09-30-2011
COMMISSIONERS: R. JOHNSON, M. JOHNSON, M. CRAGUN
EXCUSED: D'DIXON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 11-967 Parcel Nos. ##### Tax Type: Property Tax / Locally Assessed Tax Year: 2010 Judge: Chapman
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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 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:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP., Taxpayer

For Respondent: RESPONDENT REP., from the Salt Lake County Assessor's Office

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 September 20, 2011.

At issue is the fair market value of an older residence that has been converted into an office building as of January 1, 2010. The subject property is located at ADDRESS in CITY 1, Utah. The Salt Lake County

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Board of Equalization (“County BOE”) reduced the \$\$\$\$ value at which the subject property was originally assessed to \$\$\$\$ for the 2010 tax year. The taxpayer asks the Commission to reduce the subject’s value to \$. The County asks the Commission to reduce the subject’s value to \$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103(1) provides that “[a]ll 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 provided by law.”

UCA §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”

For a party who is requesting a value that is different from that determined by the County BOE to prevail, that party must: 1) demonstrate that the value established by the County BOE contains error; and 2) provide the Commission with a sound evidentiary basis for reducing or increasing the valuation 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 Comm’n*, 590 P.2d 332, (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 property consists of 0.31 acres of land and an owner-occupied office building. The property is zoned C-2. Part of the office building was originally a home that was built in 1932. It was converted into office space, and additional office space was added many years ago (neither party knew exactly when the conversion and the addition occurred). The subject building contains 2,939 square feet of office

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space on the main floor and 859 square feet in a mezzanine, for a total of 3,798 square feet of “above-grade” space. The subject also has 1,727 square feet of unfinished basement space that is used for storage.

The subject property is currently used by the owners for office and training space. In addition, the owners use a small portion of the subject’s space for retail purposes to sell (X) products. The subject property is located across the street from a (X), and a (X) business occupies the property adjacent to the subject property. PETITIONER REP., the taxpayer’s representative, states that the noise associated with (WORDS REMOVED) is often loud enough to affect the use of the subject property for office and training purposes. RESPONDENT REP. stated that he visited the subject property twice and did not notice significant noise levels either time. He also states that he asked an employee in the subject’s offices whether the noise was problematic and was told that it was not.

Taxpayer’s Information. The taxpayer proffered four comparable sales as evidence. The four comparables sold for prices of \$\$\$\$\$ (\$\$\$\$\$ per square foot), \$\$\$\$\$ (\$\$\$\$\$ per square foot), \$\$\$\$\$ (\$\$\$\$\$ per square foot), and \$\$\$\$\$ (\$\$\$\$\$ per square foot). PETITIONER REP. determined that the comparable that sold for \$\$\$\$\$, or \$\$\$\$\$ per square foot, was the best comparable and adjusted it downward 2% to arrive at a value of \$\$\$\$\$ per square foot for the subject. Then, PETITIONER REP. applied the \$\$\$\$\$ per square foot rate to the subject’s square footage to estimate the subject’s value. PETITIONER REP. applied the \$\$\$\$\$ rate to 4,221¹ square feet to arrive at an estimated value of \$\$\$\$\$ for the subject. Based on this evidence, the taxpayer asks the Commission to reduce the subject’s value to \$\$\$\$\$.

1 Both parties agreed that the County’s determination of 3,798 above-grade square feet for the subject property was more accurate than the 4,221 square feet used by PETITIONER REP. in his analysis. If PETITIONER REP.’s \$\$\$\$\$ rate is applied to the more accurate 3,798 square feet, it would result in an estimated value of approximately \$\$\$\$\$ for the subject property. Nevertheless, PETITIONER REP. only asked the Commission to reduce the subject’s value to the taxpayer’s original proposed value of \$\$\$\$\$.

The taxpayer's \$\$\$\$ estimate of value is not particularly convincing. The taxpayer has calculated its comparables' "prices square foot" by dividing their sales prices by their total square footages (including both finished and unfinished basement space). All of the subject's office space is located "above-grade" (i.e., the subject's 3,798 square feet of office space does not include any basement space). The County has used two of the taxpayer's four comparables in its appraisal. The taxpayer's proposed value is based on a comparable that it determined to have sold at \$\$\$\$ per square foot, based on it having approximately 4,800 square feet of office space. The County indicated that this comparable has 2,412 square feet of above-grade office space and 2,412 square feet of finished basement office space. The County states that finished basement office space generally has a lesser value than above-grade office space. For these reasons, estimating a value for the subject with a comparable with 50% of its office space in the basement may underestimate the subject's value. The County's comparables should also be analyzed before determining whether the County's proposed value of \$\$\$\$ is too high.

County's Information. RESPONDENT REP., a County appraiser, prepared an appraisal in which he estimated the subject property's value to be \$\$\$\$ as of the January 1, 2010 lien date. However, at the hearing, the County discovered that it had mistakenly estimated its value on the wrong square footage. When RESPONDENT REP. corrected this mistake, he derived an estimated value of approximately \$\$\$\$ for the subject property. Based on this revised estimate of value, the County asks the Commission to reduce the subject's value to \$\$\$\$ for the 2010 tax year.

In the appraisal, RESPONDENT REP. compared the subject properties to five comparable sales (including two of the taxpayer's comparable sales). The five comparables sold between January 2009 and March 2010 for prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$ and \$\$\$\$\$. RESPONDENT REP. then determined the above-grade sales price per square foot of each comparable and made adjustments to these prices. RESPONDENT REP. determined that the five comparables showed above-grade square foot prices for the

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subject that ranged between \$\$\$\$ and \$\$\$\$ per square foot. These prices per square foot would show values for the subject that range between \$\$\$\$ (\$\$\$\$ times 3,798 square feet) and \$\$\$\$ (\$\$\$\$ times 3,798 square feet). Because the median and mean of these five adjusted prices were both around \$\$\$\$ per square foot, he applied a \$\$\$\$ price per square foot rate to the subject's 3,759 above-grade square feet to derive a value of approximately \$\$\$\$ for the subject.

It is difficult to estimate a value for a property that is as unique as the subject property. However, RESPONDENT REP.'s methodology is more persuasive than the taxpayer's methodology because he attempted to account for the difference in value between above-grade square footage and basement square footage. In addition, four of RESPONDENT REP.'s five adjusted sales prices support the \$\$\$\$ rate with which he derived his estimated value of \$\$\$\$ for the subject. Although the location of the subject property next to the gravestone business may result in noise that affects the subject property, neither party has proffered evidence to show how this factor influences the subject's value. The evidence available at the Initial Hearing does not show that the County's proposed value of \$\$\$\$ is too high. For these reasons, the subject's value should be reduced to \$\$\$\$ for the 2010 tax year.

Kerry R. Chapman
Administrative Law Judge

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DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject's value should be reduced to \$\$\$\$ for the 2010 tax year. The Salt Lake 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. 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 taxpayer'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 _____, 2011.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

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