

12-821  
TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED  
TAX YEAR: 2011  
DATE SIGNED: 1-10-2013  
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN

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BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER,  Petitioner,  v.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No.    12-821  Parcel No.    ##### Tax Type:    Property Tax / Locally Assessed Tax Year:    2011  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:    TAXPAYER, Taxpayer

For Respondent:    RESPONDENT, 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 November 27, 2012.

At issue is the fair market value of an office condominium as of the January 1, 2011 lien date. The subject property is located at ADDRESS in CITY, Utah. The Salt Lake County Board of Equalization ("County BOE") sustained the \$\$\$\$ value at which the subject was assessed for the 2011 tax year. The

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taxpayer asks the Commission to reduce the subject's value to \$\$\$\$\$. The County asks the Commission to sustain the subject's current value of \$\$\$\$\$.

#### 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 §59-2-102(12) defines “fair market value” to mean “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.”

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 is an office condominium located on the ##### floor of the NAME OF BUILDING, which is located in the (X) district of CITY. The NAME OF BUILDING was built in YEAR, but

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has been maintained and, to some extent, updated. The subject property is ##### square feet in size and is owner occupied. The subject's current value of \$\$\$\$\$ equates to \$\$\$\$\$ per square foot.

The taxpayer asks the Commission to reduce the subject's value to \$\$\$\$\$, which is the amount the taxpayer paid for the subject property in October 2006. This value equates to \$\$\$\$\$ per square foot. The taxpayer also points out that the County stipulated to a value of \$\$\$\$\$ for the subject property for the 2008 tax year and that the County BOE reduced the subject's value to \$\$\$\$\$ for both the 2009 and 2010 tax years. The taxpayer believes that this valuation history requires the subject property's 2011 value to also be reduced to \$\$\$\$\$, particularly when it is considered that values in AREA OF CITY dropped between 2008 and 2011 and that the subject property was adjacent to and greatly affected by construction between 2007 and 2012. TAXPAYER, as owner of the subject property, also offered his opinion that the subject's value was \$\$\$\$\$ as of the 2011 lien date.

The NAME OF BUILDING is located on STREET-1 between STREET-2 and STREET-3. The building used to be located next to the NAME OF STORE in what was the MALL. Between 2007 and 2012, the MALL was razed and the NAME OF CENTER was built. The taxpayer claims that this construction resulted in noise, vibration, dust, temporarily blocked sidewalks, and lack of parking that negatively impacted the subject's value during the construction period, which included the January 1, 2011 lien date at issue in this appeal. The taxpayer contends that this evidence is sufficient to show that the subject's 2011 value was \$\$\$\$\$.

The 2006 sales price for the subject property is too old to be convincing evidence of its 2011 value. In addition, the Commission generally does not base a current year's value on the value to which the parties have stipulated for a prior year or which a County BOE has established for a prior year. Market or other evidence near the current lien date is preferred to show the value of property as of this lien date.

The County has also cast some doubt on whether the subject's value remained constant or fell during the 2007 to 2012 construction period that affected the subject property and whether TAXPAYER opinion of

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value is convincing. TAXPAYER did not represent that he was an appraiser. RESPONDENT, an appraiser for the County, proffered that in his opinion, he would expect the subject's value to go up as construction neared completion in anticipation of the subject's being located next door to a desirable project such as NAME OF CENTER. The County's argument is persuasive.

For the reasons cited above, the taxpayer's information is insufficient to show that the \$\$\$\$ value established by the County BOE for the subject property as of the 2011 tax year contained error. Accordingly, the taxpayer has not met the burden of proof required for the County BOE's value to be reduced, and the subject's current value of \$\$\$\$ should be sustained.

Although the taxpayer's appeal is denied, one other issue should, nevertheless, be discussed. At the Initial Hearing, the County asked to proffer evidence of comparable sales that are part of the County BOE record and that the County BOE had relied on when it made its decision concerning the subject's 2011 value. The taxpayer objected to the Commission considering this information because it had never seen the information prior to the Initial Hearing and because the County had not exchanged this information 10 days prior to the hearing.

The taxpayer explained that at the County BOE hearing, the hearing officer took the taxpayer's evidence and stated that a decision would be issued. However, no one from the County Assessor's Office attended the County BOE hearing, and the taxpayer claims that the County's evidence that is part of the County BOE record was not discussed at the local hearing and was never shared with the taxpayer. At the Initial Hearing, the presiding officer informed the parties that he would not make a ruling on whether evidence from the County BOE record should be considered under these circumstances, but would instead bring the issue to the Commission for a decision. The taxpayer's appeal has been denied without the evidence from the County BOE record that the County asked to proffer being considered. Accordingly, it is moot whether or not the evidence could be considered for purposes of the Initial Hearing.

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Kerry R. Chapman  
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the subject's current value of \$\$\$\$ for the 2011 tax year. 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 \_\_\_\_\_, 2013.

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner