

12-1880  
TAX TYPE: PROPERTY TAX-LOCALLY ASSESSED  
TAX YEAR: 2011  
DATE SIGNED: 8-23-2013  
COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN, R. PERO

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BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,  Petitioner,  vs.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No. 12-1880  Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2011  Judge: Phan
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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:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: REPRESENTATIVE FOR PETITIONER  
For Respondent: RESPONDENT, Certified General Appraiser, Salt Lake County, By Telephone

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the Salt Lake County Board of Equalization under Utah Code §59-2-1006. This matter was argued in an Initial Hearing on May 30, 2013, in accordance with Utah Code §59-1-502.5. The Salt Lake County Assessor's Office originally valued the subject property at \$\$\$\$\$, as of the January 1, 2011 lien date. The County Board of Equalization ("the County") reduced the value to \$\$\$\$\$. At the

hearing the Property Owner requested a reduction to \$\$\$\$\$. The representative for the County requested that the value remain as set by the County Board of Equalization.

APPLICABLE LAW

Utah Code §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 §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.

A person may appeal a decision of a county board of equalization, as provided in Utah Code §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).

DISCUSSION

The subject property is located at SUBJECT ADDRESS, CITY-1, Utah. It is a five unit apartment building on ##### acres of land. The building was constructed originally in YEAR as a single family residence and was then converted into apartments in the YEAR. The building has ##### rentable square feet. TWO SENTENCES REMOVED. The Property Owner represented that the electrical, plumbing and heating systems all date back to the YEAR conversion. He reported that the property has extremely high maintenance costs because of these old systems including high insurance due to the old wiring and fuses. The tenants pay the electrical but he pays the heating, water and sewer. In order to update these systems, he stated that the he would need to totally gut the interior of the structure and then rebuild it.

The Property Owner requested a reduction to \$\$\$\$\$ based on the condition and costs of the building. He indicated that if he was able to lease all five units, all the time and everyone paid their rent it would be a gross income of \$\$\$\$\$ per year. He indicated his total expenses per year were \$\$\$\$\$. His expenses included property tax, utilities, management, repairs and maintenance and debt service of \$\$\$\$\$. He stated the net annual income would be \$\$\$\$\$, if everyone paid their rent and the units were leased all the time, which he stated was never the case. The Property Owner did not submit an actual income indicator based on this income.

The County submitted six comparable sales at the hearing which had ranged in price per unit from \$\$\$\$\$ to \$\$\$\$\$ or size adjusted price per unit from \$\$\$\$\$ to \$\$\$\$\$. The County considered all of these comparables to be in average condition. Additionally only one of the comparables had one unit as a studio unit, with all the other units being either one or two bedroom units. The subject has two-studio units and additionally the average unit size of the subject was smaller than all but one of the comparables. The County calculated out a size adjusted price per unit from his comparables. The County's comparables are as follows:

Address	Sale Price	Sale Date	Units	Price per Unit Size Adjusted	Year Built
ADDRESS-1	\$\$\$\$\$	11/30/10	#####	\$\$\$\$\$	YEAR
ADDRESS-2	\$\$\$\$\$	5/21/10	#####	\$\$\$\$\$	YEAR
ADDRESS-3	\$\$\$\$\$	9/15/9	#####	\$\$\$\$\$	YEAR
ADDRESS-4	\$\$\$\$\$	9/24/12	#####	\$\$\$\$\$	YEAR
ADDRESS-5	\$\$\$\$\$	5/13/10	#####	\$\$\$\$\$	YEAR
ADDRESS-6	\$\$\$\$\$	10/24/11	#####	\$\$\$\$\$	YEAR

In seeking a value other than that established by the County 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 fair market value of the property as of January 1 of the tax year at issue under Utah Code §59-2-103. Utah Code §59-2-102 defines “fair market value” as the amount for which property would exchange hands between a willing buyer and seller. Neither party submitted an appraisal. The County did submit a number of comparable sales and the County Board’s value at \$\$\$\$\$, or \$\$\$\$\$ per unit does fall within this range. However, the Property Owner’s request at \$\$\$\$\$, or \$\$\$\$\$ per unit, also falls within the range of size adjusted prices per unit, although at the lower end of the range. Given that the subject was constructed in YEAR and is older than the comparables and the condition that it is currently in, as described by the Property Owner, is likely less than average, a reduction to the lower end of the sales range is supported by the County’s sales. The value should be reduced to the \$\$\$\$\$ requested by the Property Owner.

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Jane Phan  
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, 2011 lien date. The Salt Lake County Auditor is hereby ordered to adjust its records accordingly. 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 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 \_\_\_\_\_, 2013.

Appeal No. 12-1880

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner