

13-805

TAX TYPE: PROPERTY TAX

TAX YEAR: 2012

DATE SIGNED: 3-2-2015

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO

EXCUSED: D. DIXON

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="padding-left: 40px;">Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p style="padding-left: 40px;">Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 13-805</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2012</p> <p>Judge: Marshall</p>
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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:**

Robert Pero, Commissioner  
Jan Marshall, Administrative Judge

**Appearances:**

For Petitioner: TAXPAYER, *Pro Se*  
For Respondent: RESPONDENT, Salt Lake County Appraiser

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on August 13, 2014, in accordance with Utah Code Ann. §59-2-1006 and §63G-4-201 et seq. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The above named Petitioner ("Taxpayer") is appealing the assessed value of the subject property as determined by the Salt Lake County Board of Equalization ("County").

2. The Salt Lake County Assessor’s Office valued the subject property at \$\$\$\$ as of the January 1, 2012 lien date, which the Board of Equalization sustained. The County is asking to have the Board of Equalization value sustained.
3. The Taxpayer is requesting the value of the subject be reduced to \$\$\$\$.
4. The subject property is parcel no. #####, located at SUBJECT ADDRESS in CITY. It is an office condominium located within the COMPLEX.
5. There are five buildings in the COMPLEX. Most of the units in the complex are approximately ##### square feet. However, the units in the subject building are larger. The building was built in YEAR, and the units have between ##### square feet to ##### square feet.
6. There are ##### condominium units in the building, and the subject is located on the main floor. There are two units per level, and no elevator in the building. (Exhibit R-1).
7. The unit above the subject property sold for \$\$\$\$ on DATE, YEAR. (Exhibit P-1).
8. The Taxpayer testified that there is an attorney who owned two other units in the building, and the attorney purchased the unit above the subject.
9. The unit above the subject, and the other two units in the building were reduced to \$\$\$\$ for the 2012 tax year on appeal to the Board of Equalization. (Exhibit P-2).
10. The Taxpayer noted that he also appealed the subject property for the 2011 year, and it was reduced to \$\$\$\$. (Exhibit P-2).
11. In support of the Board of Equalization value, the County’s representative submitted information on the following sales:

	Parcel Number	Address	Year Built	Square Feet	Sales Date	Sales Price	Price/ Sq. Ft.
Subject	#####	SUBJECT ADDRESS	YEAR	#####			
Sale #1	#####-1	ADDRESS-1	YEAR	#####	DATE	\$\$\$\$	\$\$\$\$
Sale #2	#####-2	ADDRESS-2	YEAR	#####	DATE	\$\$\$\$	\$\$\$\$

12. The County’s representative pointed out that the subject property is currently assessed at \$\$\$\$ per square foot, which is less than the sales price of the two smaller units that sold in MONTH of YEAR.
13. The County’s representative testified that the unit above the subject was not offered for sale on the open market. In her opinion it was not an arm’s length transaction, because the buyer already owned two other units in the same building.

14. The County's representative stated that she had not reviewed the Board of Equalization records for the other units in the subject building, and speculated that their value may be lower because the units are operating as one business. She does not know if the County BOE lowered the value. That is just her best guess.

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:

"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 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.
- (5) In reviewing the county board's decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:
- (a) the issue of equalization of property values is raised; and
  - (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

A party requesting a value other than that established by the county Board of Equalization has the burden of proof to establish that the market value of the subject property is different. 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 (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

- A. The fair market value of the subject property was \$\$\$\$ as of the January 1, 2012 lien date. The Taxpayer provided only one sale in support of his requested value. The County provided two sales of properties in the same complex that sold for a higher price per square foot than the value per square foot of the subject.
- B. The value of the subject property should be reduced to \$\$\$\$ in order to equalize the value with comparable properties. 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. However, 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).

The \$\$\$\$ value determined by the Board of Equalization has been determined to be the fair market value of the subject property. The Taxpayer raised the issue of equalization, by providing information on the assessed value of the other units in the same building as the subject. Those units are the most similar to the subject out of all of the units in the complex. They are located in the same building as the subject, and were most similar in square footage. The three other units all had their value lowered to \$\$\$\$ for the 2012 tax year. The assessed value of the subject property is nearly 20% higher than the assessed values of the other units in the subject building. The Taxpayer has satisfied the burden of proof for a reduction in value based on an equalization argument.

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, 2012 lien date. The Salt Lake County Auditor is hereby ordered to adjust its records accordingly. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

John L. Valentine  
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.