

13-1903
TAX TYPE: PROPERTY TAX
TAX YEAR: 2012
DATE SIGNED: 11-5-2014
COMMISSIONERS: J. VALENTINE, D. DIXON, M. CRAGUN
EXCUSED: R. PERO

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;">INITIAL HEARING ORDER</p> <p>Appeal No. 13-1903</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:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE FOR TAXPAYER, Representative
For Respondent: RESPONDENT, Appraiser for Salt Lake County

STATEMENT OF THE CASE

Petitioner ("Taxpayer") brings this appeal from the decision of the Salt Lake County Board of Equalization ("the County"). This matter was argued in an Initial Hearing on June 4, 2014 in accordance with Utah Code Ann. §59-1-502.5. 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 the Commission to sustain the Board of Equalization. The Taxpayer is requesting the value of the subject property be reduced to \$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible personal 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).

DISCUSSION

The subject property is parcel no. #####, located at ADDRESS in CITY. It is a #####-acre parcel that is used as a mobile home park with ##### pad sites. The mobile home park was established in YEAR (REMOVED PART OF SENTENCE).

The Taxpayer’s representative noted that from the 2011 tax year, the land value of the subject property increased 141.2% from \$\$\$\$\$ to \$\$\$\$\$. However, the improvement value decreased 65% from \$\$\$\$\$ to \$\$\$\$\$. He also noted that the subject is a very long and narrow parcel, and that it would need to be redeveloped and modernized to increase the pad sizes and improve traffic flow.

The Taxpayer’s representative provided an income approach that determined a value of \$\$\$\$\$. Following are the Taxpayer’s income calculations:

Potential Gross Income	\$\$\$\$\$
Reimbursements Not in Rent	\$\$\$\$\$
Effective Gross Income	\$\$\$\$\$
Operating Expenses	(\$\$\$\$\$)
Net Operating Income	\$\$\$\$\$
Capitalization Rate	%%%%%%%%
Effective Tax Rate	%%%%%%%%
Overall Capitalization Rate	%%%%%%%%
Indicated Value	\$\$\$\$\$

The Taxpayer used annual market rents of \$\$\$\$\$ per pad at a 90% occupancy rate to arrive at the potential gross income of \$\$\$\$\$. He added reimbursements for options and property taxes not included in the rent of \$\$\$\$\$, for a total effective gross income of \$\$\$\$\$. The Taxpayer’s representative indicated that two local brokers indicated that the capitalization rate should be in the 10.5% to 11% range, unless it is a Class A mobile home park, then the capitalization rate would be in the 6% to 7% range. The Taxpayer’s operating expenses are based on actual expenses, less management fees and property tax. However, the Taxpayer took a 3% reduction for management fees, and made a \$\$\$\$\$ per pad site allowance for reserves. He stated that the reserves amount was based on his experience in representing approximately ##### mobile home parks throughout the country.

The Taxpayer’s representative stated that Marshall & Swift indicates an average life of 25 years, and that the subject is ##### years old. He argued that there is a limited time period during which a potential investor could recapture their investment. He argued that as a property gets toward the end of its economic life, the capitalization rate increases. He stated that from the County’s increase in land value and decrease in the improvement value, the highest and best use of the subject appears to be in transition.

The County’s representative agrees with the Taxpayer’s representative that the subject property is very long and narrow. He provided a plat map and aerial photographs showing the layout of the subject property. However, he disagrees with the Taxpayer’s representative that the subject is nearing the end of its economic life. He noted that the subject property has an actual occupancy rate of 97.5%, with ##### spaces. The County’s representative argued that if the subject were beginning to depreciate and needed to be redeveloped and modernized, the occupancy rates and rents would start to decline. He believes it is at that point the owners would look at whether it was time to modernize the property or to redevelop it. In his opinion, with occupancy so high, the subject is not near the end of its economic life.

In support of the Board of Equalization value, the County’s representative prepared an income approach using the 2011 actual income and expenses for the subject property, which had previously been provided by the Taxpayer. Following is the County’s income calculation:

Income	\$\$\$\$
Expenses (excluding property tax)	(\$\$\$\$)
Reserves	(\$\$\$\$)
Net Operating Income	\$\$\$\$
Capitalization Rate	% % % %
Effective Tax Rate	% % % %
Overall Capitalization Rate	\$\$\$\$
Indicated Value	\$\$\$\$

The County’s representative also prepared an income approach using potential gross income, and a market vacancy rate of 5%. This indicated a value of \$\$\$\$ for the subject. The County’s representative noted that either of these calculations more than support the value determined by the Board of Equalization.

The County’s representative argued that the Taxpayer is ignoring that the capitalization rate range is from 6% to 11%; that it is incorrect to assume that mobile home parks fall either in the 6% to 7% range or the 10.5% to 11% range. The County’s representative explained that he looked at mobile home park sales nationwide, and noted that while there were not many sales in Utah, those that did occur, corresponded with the national data. He provided a list of sales that occurred between 2010 and 2014. He then graphed out the capitalization rates based on parks with between ##### and ##### pad sites in metro areas, all mobile home parks and the date of sale, and all cap rates and the date of sale. He stated that for January 2012, the capitalization rate was kind of at the low-end, between 8% and 9%. The County’s representative stated that he used a 9.25% capitalization rate, and believes that is the biggest difference between the Board of Equalization value and the Taxpayer’s requested value.

In response, the Taxpayer’s representative stated that he does not believe the subject can maintain a 97.5% occupancy rate. He believes economic conditions have created an artificial

scenario that benefits the lowest end of the housing market. He stated that people need a place to live, and a mobile home park is all they can afford. He speculates that when the economy turns around, mobile home parks would be some of the first places vacated, and the subject would then struggle to maintain occupancy rates. The Taxpayer's representative argued that capitalization rates are very sensitive, and it does not take a large change in a capitalization rate to cause a large change in value. He noted that when he reviewed the sales offered by the County's representative in support of his capitalization rate, that the rates do not seem to correlate to size, and are all over the place. He argued that the subject property should be on the higher end of the range of capitalization rates because it is an older park. He noted that newer manufactured homes tend to not be put in older mobile home parks, and when people do move, they often leave the mobile home behind because of the costs associated with moving it, and thus the park ends up with a large number of older mobile homes.

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 a sound 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's actual income for 2011 was \$\$\$\$\$; with expenses of \$\$\$\$\$, excluding property taxes; and \$\$\$\$\$ for reserves, it leaves a net operating income of \$\$\$\$\$. The Taxpayer has argued for an overall capitalization rate of 11.692%, while the County has used an overall capitalization rate of 10.19%. Even using the Taxpayer's higher capitalization rate, a value of \$\$\$\$\$ is indicated for the subject. This is higher than the Board of Equalization value of \$\$\$\$\$. The Board of Equalization value has not been shown to be in error, and should be sustained.

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. 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

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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 _____, 2014.

John L. Valentine
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner