

14-563 & 14-752  
TAX TYPE: PROPERTY TAX / LOCALLY ASSESSED  
TAX YEAR: 2013  
DATE SIGNED: 1-29-2015  
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO  
EXCUSED: D. DIXON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,  Petitioner,  v.  BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal Nos.    14-563 & 14-572  Parcel Nos.    ##### (PARCEL-1) ##### (PARCEL-3)  Tax Type:      Property Tax / Locally Assessed Tax Year:      2013  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:    REPRESENTATIVE FOR PETITIONER, Representative  
For Respondent:    RESPONDENT-1, from the Salt Lake County Assessor's Office  
                      RESPONDENT-2, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

PETITIONER ("Petitioner" or "taxpayer") brings these appeals from the decisions of the Salt Lake County Board of Equalization ("County BOE"). These matters came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on September 29, 2014. On October 6, 2014, both parties submitted post-hearing information (as discussed at the hearing).

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At issue are the fair market values of two parcels of vacant commercial land in the NAME OF CENTER shopping center of the January 1, 2013 lien date. The first parcel is identified as Parcel No. ##### (“Parcel 1”) and is located at SUBJECT ADDRESS-1 in CITY, Utah. It is ##### acres in size and is the parcel at issue in *Appeal No. 14-563*. The County BOE increased the \$\$\$\$ value at which Parcel 1 was originally assessed for the 2013 tax year to \$\$\$\$\$. The taxpayer asks the Commission to reduce Parcel 1’s value to \$\$\$\$\$. The County asks the Commission to sustain Parcel 1’s current value of \$\$\$\$.

The second parcel is identified as Parcel No. ##### (“Parcel 3”) and is located at SUBJECT ADDRESS-2 in CITY, Utah. It is ##### acres in size and is the parcel at issue in *Appeal No. 14-572*. The County BOE increased the \$\$\$\$ value at which Parcel 3 was originally assessed for the 2013 tax year to \$\$\$\$\$. The taxpayer asks the Commission to reduce Parcel 3’s value to \$\$\$\$\$. The County asks the Commission to sustain Parcel 3’s current value of \$\$\$\$.

The following chart shows the acreage of each subject property. It also shows, on a square foot basis, each property’s original value for 2013, the value established by the County BOE, the taxpayer’s proposed value, and the County’s proposed value.

<b>Parcel</b>	<b>Acreage</b>	<b>Original Assessed Value</b>	<b>County BOE Value</b>	<b>Taxpayer’s Proposed Value</b>	<b>County’s Proposed Value</b>
Parcel 1	####	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Parcel 3	####	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

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.”

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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 §59-2-301.4 provides for a county assessor to consider a valuation reduction when assessing a property, as follows:

- (1) As used in this section, "valuation reduction" means a reduction in the value of property on appeal if that reduction was made:
  - (a) within the three years before the January 1 of the year in which the property is being assessed; and
  - (b) by a:
    - (i) county board of equalization in a final decision;
    - (ii) the commission in a final unappealable administrative order; or
    - (iii) a court of competent jurisdiction in a final unappealable judgment or order.
- (2) In assessing the fair market value of property subject to a valuation reduction, a county assessor shall consider in the assessor's determination of fair market value:
  - (a) any additional information about the property that was previously unknown or unaccounted for by the assessor that is made known on appeal; and
  - (b) whether the reasons for the valuation reduction continue to influence the fair market value of the property.
- (3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

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*

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*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 properties are located within the NAME OF CENTER, which is a shopping center located near ADDRESS-1 in CITY, Utah. This shopping center is located across the street from a BUSINESS-1. The NAME OF CENTER is anchored by BUSINESS-2, BUSINESS-3, and BUSINESS-4 and also has a BUSINESS-5 and BUSINESS-6. Most of the parcels in the shopping center are already improved. The two subject parcels, however, were still vacant as of the lien date.

The taxpayer proffered eight comparable sales of vacant commercial land to show that the current values of \$\$\$\$ per square foot for Parcel 1 and \$\$\$\$ per square foot for Parcel 3 are too high. The eight comparables are located between 8 and 91 blocks away from the subject properties and range between 0.92 and 6.30 acres in size. One of the eight comparables sold in September 2012 and the remaining seven sold in 2013 (after the 2013 lien date). The eight comparables sold for prices ranging between \$\$\$\$ and \$\$\$\$ per square foot. Of the eight comparables, the taxpayer points out that two of them are located approximately eight blocks away from the subject properties and that these two sold for \$\$\$\$ and \$\$\$\$ per square foot. All of the other comparables are located at least 37 blocks away from the subject properties.

The County proffered a “Commercial Land Sale Adjustment Grid” for each of the subject properties, on which RESPONDENT-1 compared the subject properties to five comparable sales of vacant commercial land. The five comparables are located between 1 block and 88 blocks away from the subject properties and sold between August 2011 and August 2013.<sup>1</sup> The comparables are all between 1.52 and 2.72 acres in size.

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<sup>1</sup> The County’s grids include County Comparable #5, which is located at ADDRESS-2 and which shows a sales date of “1/1/00.” The County contends that the sales date of 1/1/00 is a mistake, and both parties agree

The County shows that the five comparables sold for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot. For each subject property, the County adjusted the comparables for location, size, and street orientation and derived adjusted sales prices for the comparables. For Parcel 1, the County derived adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square feet, with a mean and median of \$\$\$\$\$ and \$\$\$\$\$ per square feet. If a value of \$\$\$\$\$ per square feet is applied to the #####-acre Parcel 1, it results in a value of \$\$\$\$\$, which is higher than Parcel 1's current value of \$\$\$\$\$. The County also points out that the taxpayer had Parcel 1 listed for sale in late 2014 at an asking price of \$\$\$\$\$. The County contends that this list price also supports Parcel 1's current value.<sup>2</sup> On the basis of this information, the County asks the Commission to sustain Parcel 1's current value of \$\$\$\$\$.

For Parcel 3, the County derived adjusted sales prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square feet, with a mean and median of \$\$\$\$\$ and \$\$\$\$\$ per square feet. If a value of \$\$\$\$\$ per square feet is applied to the #####-acre Parcel 3, it results in a value of \$\$\$\$\$, which is higher than Parcel 3's current value of \$\$\$\$\$. The County also points out that the taxpayer had Parcel 3 listed for sale in late 2013 at an asking price of \$\$\$\$\$. The County contends that this list price also supports Parcel 3's current value.<sup>3</sup> On the basis of this information, the County asks the Commission to sustain Parcel 3's current value of \$\$\$\$\$.

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that this comparable was sold in August 2013. This comparable is located in the NAME OF CENTER, the same shopping center in which the two subject properties are located. In addition, it was the taxpayer who owned this comparable property and sold it in August 2013.

2 The \$\$\$\$\$ list price for Parcel 1 equates to more than \$\$\$\$\$ per square foot for the #####-acre parcel. This list price is not particularly convincing. The list price is from September 2014, which is more than 20 months after the 2013 lien date. In addition, a list price is generally higher than fair market value.

3 The \$\$\$\$\$ list price for Parcel 3 equates to \$\$\$\$\$ per square foot for the #####-acre parcel. As a result, it is unlikely that its fair market value as of the 2013 lien date would have been higher than this price per square foot. Thus, it appears that the County's adjustment grid, in which the County estimated Parcel 3's 2013 value to be higher (at \$\$\$\$\$ to \$\$\$\$\$ per square foot), may overestimate its 2013 fair market value. Again, it is noted that fair market value is generally lower than a list price.

The taxpayer admits that it sold County Comparable #5, which is in the same shopping center as the two subject properties, in August 2013. However, the taxpayer disputes the sales price that RESPONDENT-1 used for this comparable in his adjustment grids. RESPONDENT-1 contends that the sales price he used is correct and proffered information the County obtained in late 2013 from [www.loopnet.com](http://www.loopnet.com) indicating that a 1.52-acre parcel in the NAME OF CENTER had a “price” of \$\$\$\$\$ and that it had sold. At the hearing, the taxpayer contended that it had listed this comparable for \$\$\$\$\$ and that it sold for \$\$\$\$\$. The “loopnet” information on which the County relied does not clearly show whether the \$\$\$\$\$ price was a “list price” or a “sales price.” As a result, the parties were given 10 days after the hearing to provide additional information about the sale of this comparable.

The County did not provide any additional information about the comparable to show whether it sold for \$\$\$\$\$, as it had argued. The taxpayer, however, provided a “Seller(s) Closing Statement” dated August 14, 2013, which showed the contract sales price for the comparable to be \$\$\$\$\$ with the seller identified as the taxpayer and the buyer identified as COMPANY. Although the closing statement the taxpayer proffered is not signed by the parties, it is the best evidence of the comparable’s “sales price.” As a result, the Commission should find that County Comparable #5 sold in August 2013 for \$\$\$\$\$, which equates to \$\$\$\$\$ per square foot.

The taxpayer, however, asks the Commission not to rely on County Comparable #5 to establish the two subject properties’ 2013 values, even though it is the only comparable provided by either party that is in the same shopping center as the subject properties.<sup>4</sup> The taxpayer asks the Commission to consider the three comparables the two parties submitted that are located approximately eight blocks from the subject properties.

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<sup>4</sup> The taxpayer argues against using County Comparable #5 to value the subject properties because it sold after the 2013 lien date. However, this argument is discredited because seven of the taxpayer’s eight comparables sold after the 2013 lien date. Moreover, three of the taxpayer’s eight comparables sold even later in 2013 than County Comparable #5.

These three comparables sold for \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$ per square foot, and the taxpayer indicates that the average sales price of these three comparables is \$\$\$\$\$ per square foot. The taxpayer further indicated that the average sales price of the taxpayer's eight comparables and the County's five comparables is \$\$\$\$\$ per square foot. For these reasons, the taxpayer contends that its proposed value of around \$\$\$\$\$ per square foot for both subject properties is reasonable.

The "average" sales prices of \$\$\$\$\$ and \$\$\$\$\$ per square foot on which the taxpayer relies, however, are not convincing. The parties' comparables suggest that there are two ranges of values for vacant commercial land throughout Salt Lake County. The County's comparables indicate that there is one range with prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot.<sup>5</sup> In contrast, the taxpayer's comparables indicate that there is another range with prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot. Instead of averaging the prices that constitute these disparate ranges, it would be more appropriate to determine which of these ranges best reflects the subjects' fair market values. County Comparable #5, which is located in the same shopping center as the two subject properties and which the Commission has determined to have a sales price of \$\$\$\$\$ per square foot, suggests that the higher range of values would better reflect the subjects' fair market values.

In its adjustment grids, the County adjusted the sales price it showed for County Comparable #5 upward by 5% for Parcel 1 and downward by 5% for Parcel 3 to account for location, size, and street orientation. No evidence has been proffered to show that these adjustments are incorrect. Applying these adjustments to the \$\$\$\$\$ per square foot sales price of the comparable would result in values of \$\$\$\$\$ per square foot for Parcel 1 and \$\$\$\$\$ per square foot for Parcel 3. Both of these values per square foot are lower

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<sup>5</sup> This range is based on the sales price of County Comparable #5 being adjusted down from \$\$\$\$\$ per square foot, as shown in the County's adjustment grids, to \$\$\$\$\$ per square foot, based on the closing statement provided by the taxpayer.

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than the values established by the County BOE. It is further noted that none of the County's comparables sold for a value as high as the \$\$\$\$ per square value that the County BOE established for Parcel 1.

Most of the parties' comparables are too far away from the subject properties to be convincing. The best evidence of the subjects' values is County Comparable #5, which is located in the same shopping center and sold in August 2013. After applying the adjustments that RESPONDENT-1 made to County Comparable #5 in his adjustment grids to its sales price of \$\$\$\$ per square foot, this comparable shows a value of \$\$\$\$ per square foot for Parcel 1 and \$\$\$\$ per square foot for Parcel 3. These values per square foot equate to \$\$\$\$ (rounded) for Parcel 1 and \$\$\$\$ (rounded) for Parcel 3 and are the values best shown for the subject properties by the evidence proffered at the Initial Hearing. However, before establishing these values as the subject properties' 2013 values, another issue needs to be discussed.

In the taxpayer's evidence are letters in which it mentions that Parcel 1's and Parcel 3's values were reduced for the 2012 tax year pursuant to stipulations reached by the parties. Specifically, for the 2012 tax year, Parcel 1's value was reduced to \$\$\$\$ and Parcel 3's value was reduced to \$\$\$\$. Both of these reduced values equate to \$\$\$\$ per square foot. Section 59-2-301.4 provides that when assessing a property subject to a valuation reduction within the three years prior to the tax year at issue, the county assessor shall consider whether the reasons for the valuation reduction continue to influence the fair market value of the property.

County records show that the subject properties' values were also reduced in 2011. These reductions would also be considered under Section 59-2-301.4 because they occurred within the three years prior to the 2013 tax year at issue. For 2011, Parcel 1's value was reduced to \$\$\$\$ and Parcel 3's value was reduced to \$\$\$\$. Both of these values equate to \$\$\$\$ per square foot. No information was provided to show whether the 2011 values were based on stipulations reached by the parties. In any case, the subject properties' 2011 and 2012 values were not appealed to and considered by the Tax Commission.



The reductions made in the three years prior to 2013 are not particularly helpful in establishing the subjects' 2013 values because the reductions for 2011 and 2012 resulted in widely disparate values. Furthermore, it is unknown what information was considered when either the 2011 or 2012 reductions were made. As mentioned earlier, the best evidence proffered at the Initial Hearing for the current appeal shows 2013 values of \$\$\$\$\$ for Parcel 1 and \$\$\$\$\$ for Parcel 3. These values are in between the reduced values established in 2011 and 2012. The evidence is insufficient to show that either the subjects' 2011 reduced values or their 2012 reduced values would better reflect their 2013 fair market values. While the evidence is sufficient to show that the subjects' current 2013 values should be reduced, it is not sufficient to show that Parcel 1's value should be reduced below \$\$\$\$\$ or that Parcel 3's value should be reduced below \$\$\$\$\$. For these reasons, the Commission should reduce Parcel 1's 2013 value to \$\$\$\$\$ and Parcel 3's 2013 value to \$\$\$\$\$.

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Kerry R. Chapman  
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that PARCEL-1 value should be reduced to \$\$\$\$\$ for the 2013 tax year and that PARCEL-3 value should be reduced to \$\$\$\$\$ for the 2013 tax year. The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision.

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, or emailed, 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

or emailed to:

taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

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

John L. Valentine  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner