

14-1088
TAX TYPE: LOCALLY ASSESSED PROPERTY
TAX YEAR: 2013
DATE SIGNED: 4-25-2016
COMMISSIONERS: M. CRAGUN, R. PERO, R. ROCKWELL
RECUSED: J. VALENTINE
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION Appeal No. 14-1088 Parcel No. ##### 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:

Robert P. Pero, Commissioner
Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE-1 FOR TAXPAYER, Representative (by telephone)
REPRESENTATIVE-2 FOR TAXPAYER, Appraiser (by telephone)
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

This matter came before the Utah State Tax Commission for a Formal Hearing on January 4, 2016. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The tax at issue is property tax.

2. The tax year at issue is 2013, with a lien date of January 1, 2013.

3. At issue is the fair market value of Parcel No. #####. The subject property is a commercial manufacturing property located at SUBJECT PROPERTY ADDRESS in CITY-1, Utah.

4. The subject property is owned by TAXPAYER (“Petitioner” or “taxpayer”). The taxpayer brings this appeal from a decision of the Salt Lake County Board of Equalization (“County BOE”).

5. The Commission issued an Initial Hearing Order on the matter on April 20, 2015. The County requested to proceed to a Formal Hearing.

6. The County BOE sustained the \$\$\$\$ value at which the subject property was assessed for the 2013 tax year. The taxpayer asks the Commission to reduce the subject’s value to \$\$. The County asks the Commission to sustain the subject’s current value of \$\$\$\$.

7. The subject property consists of #####-acres of land, a large manufacturing building, and a relatively small storage building. The footprint of the manufacturing building is approximately #####-square feet in size. The manufacturing building, however, has approximately #####-square feet of mezzanine space.¹ Some of the mezzanine is finished as office space and assembly space. Some of the mezzanine is not finished at all. The manufacturing building was built in YEAR and YEAR and has approximately #####-square feet of finished office area, which is more than 20% of the building’s total square footage. As of the lien date, the storage building was open on two sides and used to store materials. It is #####-square feet in size and was built in YEAR.

8. The subject property is owner-occupied and is used to manufacture (X) and (Y). The taxpayer uses all of the subject’s #####-acres of land in its manufacturing process because of the nature of its inventory.² The primary issue in this case is whether the subject’s #####-acres of land contains excess land that an “ordinary” or “typical” manufacturer would not need to support the subject’s buildings

¹ Petitioner’s Exhibit 10.

² Petitioner’s Exhibit 4, p. 2 (email of NAME-1); Petitioner’s Exhibit 3 (photographs).

(i.e., would a *typical* manufacturer be able to sell a portion of the subject's land separately from the subject's buildings and that portion of the land needed to support the buildings).

9. The taxpayer submitted an appraisal of the subject property prepared by REPRESENTATIVE-2 FOR TAXPAYER.³ In the taxpayer's appraisal, REPRESENTATIVE-2 FOR TAXPAYER used the sales comparison approach and the income approach to estimate the subject's value at \$\$\$\$ as of the January 1, 2013 lien date at issue.⁴ REPRESENTATIVE-2 FOR TAXPAYER did not expressly address in his appraisal whether or not the subject property had any excess land. However, he used some comparables that had large land-to-building ratios that were similar to the subject's land-to-building ratio.⁵ He also used some comparables with much smaller land-to-building ratios and made relatively minimal adjustments to these comparables to account for the subject's additional land.⁶ On the basis of REPRESENTATIVE-2 FOR TAXPAYER appraisal, the taxpayer asks the Commission to reduce the subject's current 2013 value of \$\$\$\$ to \$\$\$\$.

10. The County submitted an appraisal of the subject property prepared by RESPONDENT-2.⁷ In the County's appraisal, RESPONDENT-2 estimated the subject's value at \$\$\$\$ as of January 1, 2014, which is one year after the 2013 lien date at issue in this appeal. The County indicated that its appraisal could also be used to estimate the subject's value as of January 1, 2013. In the County's

³ Petitioner's Exhibit 11.

⁴ REPRESENTATIVE-2 FOR TAXPAYER indicated that his appraisal is a restricted report and that "[a]t the specific request of the client, only the Sales Comparison and Income Approaches have been used in determining the subject's final 'as is' value estimate. . . ." Petitioner's Exhibit 11, p. 1. In addition, REPRESENTATIVE-2 FOR TAXPAYER indicated that "[o]nly an adjustment grid was requested for this analysis." Petitioner's Exhibit 11, p. 5.

⁵ In the sales comparison approach section of his appraisal, REPRESENTATIVE-2 FOR TAXPAYER stated that "[t]here are very few sales of projects with the site size of the subject." Petitioner's Exhibit 11, p. 11.

⁶ REPRESENTATIVE-2 FOR TAXPAYER adjusted his comparables with smaller lots to account for the subject's larger land-to-building ratio. On the grids in REPRESENTATIVE-2 FOR TAXPAYER appraisal, this adjustment is identified as the "site characteristics" adjustment. Petitioner's Exhibit 11. On his sales comparison grid (between pages 12 and 13), REPRESENTATIVE-2 FOR TAXPAYER made positive "site characteristics" adjustments to two of his four comparables, one by 5% and another by 10%. On his income lease rate grid (between pages 14 and 15), REPRESENTATIVE-2 FOR TAXPAYER made a positive "site characteristics" adjustment of 5% to one of his four comparables.

⁷ Respondent's Exhibit 1.

appraisal, RESPONDENT-2 concluded that a typical manufacturer would need #####-acres of the subject's land to support the subject's buildings and that the remaining #####-acres was excess land.⁸ RESPONDENT-2 specifically mentioned in his appraisal that the subject property "has been developed so as to allow either further expansion of the present facility or sale of part of the property to a third party who could develop that part to its own highest and best use. This scenario is the one most likely to occur." As a result, RESPONDENT-2 first determined a value of \$\$\$\$\$ for the subject's #####-acres of excess land,⁹ which he added to the sales comparison approach and income approach values he derived for the subject's buildings and its remaining #####-acres of land. On the basis of its appraisal, the County asks the Commission to sustain the subject's current 2013 value of \$\$\$\$\$. The County does not ask the Commission to increase the subject's 2013 value.

Original Assessment and County BOE Decision¹⁰

11. For its original assessment of the subject property for the 2013 tax year, the County determined that #####-acres of the subject's total #####-acres was excess land and that only #####-acres were needed to support the subject's buildings. The County determined that the value of the #####-acres of excess land was \$\$\$\$\$, which equates to approximately \$\$\$\$\$ per acre.

12. For the subject's buildings and the remaining #####-acres of land, the County used separate income approaches to determine a value of \$\$\$\$\$ for the manufacturing building and \$\$\$\$\$ for the storage building. The County then added an additional \$\$\$\$\$ as a "valuation adjustment," which was not explained. When these three values are added to the \$\$\$\$\$ value for the excess land, the County's

⁸ In his appraisal, RESPONDENT-2 indicated on page 17 and the bottom of page 18 that the subject has #####-acres of excess land. Respondent's Exhibit 1. On the top of page 18, however, RESPONDENT-2 also identified the subject's excess land to be #####-acres. The #####-acreage shown on the top of page 18, however, appears to be a mistake because it is inconsistent with the remainder of RESPONDENT-2 appraisal and testimony.

⁹ The \$\$\$\$\$ value that RESPONDENT-2 derived for the #####-acres of excess land equates to approximately \$\$\$\$\$ per square foot or \$\$\$\$\$ per acre.

¹⁰ Details of the County's original assessment and the County BOE decision were provided in the information forwarded to the Commission from the County BOE.

original assessment is \$\$\$\$\$, which, when rounded, equates to the \$\$\$\$\$ value sustained by the County BOE.

Orientation of Subject Property's Buildings on its Lot and its Land-to-Building Ratio

13. The subject's manufacturing and storage buildings are both situated on the western portion of the subject property. The eastern portion of the subject property is not improved and has as much frontage on ROAD as the western half on which the subject's buildings are located. Although the taxpayer uses the eastern portion of the subject property for storage of its inventory, a potential buyer who did not need as much land for its manufacturing facility as the taxpayer could sell off approximately one-half of the subject's land (i.e., the eastern portion of the property). The taxpayer has not shown that any city or county restrictions would prevent it or a potential buyer from separating and selling off the eastern portion of the subject's land. Furthermore, the configuration of the subject's land and buildings is similar to the configuration shown for excess land on two pages of an appraisal reference book that the County submitted.¹¹ As a result, the eastern portion of the subject property may be excess land, if the subject's

¹¹ The County submitted two pages (pages 200 and 201) from *The Appraisal of Real Estate* to explain the difference between "excess land" and "surplus land." Respondent's Exhibit 2. The two pages of the reference book indicate, as follows in pertinent part:

A given land use has an optimum parcel size, configuration, and land-to-building ratio. Any extra or remaining land not needed to support the specific use may have a different value than the land area needed to support that use. The portion of the property that represents an optimal site for the existing improvements will reflect a typical land-to-building ratio. Land area needed to support the existing use or ideal improvements can be identified and quantified by the appraiser. Any remaining land area is either excess or surplus land.

....

If the additional land not needed to support the highest and best use of the existing property is in the back portion of the site, lacking access to the street, that land would probably be considered surplus land because it could not be separated from the site and does not have an independent highest and best use.

....

Excess land may be sold off separately from the rest of the property, so that the subject property in effect becomes two or more properties. . . . Furthermore, excess land must be treated separately in the valuation process. An entirely different set of comparable data may be required and the value of excess land must be reported separately.

Photographs the parties submitted show that the subject property's configuration is similar to the configuration shown in the reference book for "excess land," not "surplus land." Respondent's Exhibit 1, p. 14; Petitioner's Exhibit 3.

actual land-to-building ratio is greater than the typical land-to-building ratio shown for manufacturing properties.

14. RESPONDENT-1, a County appraiser, testified that the subject's land-to-building ratio is much larger than typically seen for large manufacturing properties. The subject's actual land-to-building ratio is somewhere in between ##### and #####, depending on whether the ratio is calculated with a building square footage of ##### (which includes the storage building and all main floor and mezzanine space in the manufacturing building), as shown in the County's appraisal, or ##### (which includes only the manufacturing building's main floor and mezzanine office space), as shown in the taxpayer's appraisal.

15. In its appraisal, the County has determined that #####-acres of the subject property is excess land. As a result, the County's valuation of the subject's manufacturing building(s) and the remaining #####-acres of land represents a land-to-building ratio of ##### to #####, depending on which parties' building square footage is used in the calculation. To decide whether additional excess land value should be added when determining the subject's total value, the Commission must decide whether the taxpayer's evidence is sufficient to show that the subject's actual land-to-building ratio of ##### to ##### is typical for large manufacturing properties.

16. In the taxpayer's appraisal, REPRESENTATIVE-2 FOR TAXPAYER compared the subject property to four sales comparison comparables and to four income lease rate comparables.¹² In the County's appraisal, RESPONDENT-2 compared the subject property to five sales comparison comparables and five income lease rate comparables.¹³ Most of the parties' comparables show that larger manufacturing properties have land-to-building ratios that support the County's position that the subject

¹² Petitioner's Exhibit 11, grids between pages 12 and 13 and between pages 14 and 15.

¹³ Respondent's Exhibit 1, pp. 20 and 24.

property has excess land that a typical manufacturer would not need. For each comparable the parties used, the following chart shows its lot size, its building size, and its land-to-building ratio.¹⁴

Property	Lot Size (in acres)	Building Size (in square feet)	Land-to-Building Ratio
Subject (actual)	#####	##### to #####	##### to #####
Subject (County’s position)	#####	##### to #####	##### to #####
Taxpayer’s Comparables			
Sales Comparable 1	#####	#####	#####
Sales Comparable 2	#####	#####	#####
Sales Comparable 3	#####	#####	#####
Sales Comparable 4	#####	#####	#####
Lease Rate Comparable 1	#####	#####	#####
Lease Rate Comparable 2	#####	#####	#####
Lease Rate Comparable 3	#####	#####	#####
Lease Rate Comparable 4	#####	#####	#####
County’s Comparables			
Sales Comparable 1	#####	#####	#####
Sales Comparable 2	#####	#####	#####
Sales Comparable 3	#####	#####	#####
Sales Comparable 4	#####	#####	#####
Sales Comparable 5	#####	#####	#####
Lease Rate Comparable 1	#####	#####	#####
Lease Rate Comparable 2	#####	#####	#####
Lease Rate Comparable 3	#####	#####	#####
Lease Rate Comparable 4	#####	#####	#####
Lease Rate Comparable 5	#####	#####	#####

17. Only one of the taxpayer’s comparables and two of the County’s comparables have land-to-building ratios that are as high as the actual land-to-building ratios calculated for the subject property on the basis of its #####-acre lot. Another two of the taxpayer’s comparables have land-to-building ratios

¹⁴ RESPONDENT-2 reported land-to-building ratios for the comparables he used in the County’s appraisal, while REPRESENTATIVE-2 FOR TAXPAYER reported site coverage rates for the comparables he used in his appraisal. For a property with #####-square feet of land and a building that is #####-square feet in size, its land-to- building ratio is ##### (##### divided by #####), while its site coverage rate is 25.0% (##### divided by #####). For ease of reference and comparison purposes, the site coverage rates shown in the taxpayer’s appraisal have been converted to land-to-building ratios.

close to this range.¹⁵ On the other hand, 12 of the comparables (including many of the taxpayer's own comparables) support the ##### to ##### range of land-to-building ratios that apply to the subject property after deducting the #####-acres of excess land proposed by the County. It is also noted that for the five comparables with buildings most similar in size to the subject's building(s) (i.e., those comparables with buildings between ##### and #####-square feet in size), all of these comparables have land-to-building ratios between ##### and #####, which supports the County's position. For these reasons, the comparables show that the subject has excess land that a typical large manufacturer would not need for its manufacturing operations.

18. It is also noted that at the hearing, REPRESENTATIVE-2 FOR TAXPAYER testified that a different manufacturer might parcel some of the subject's land off by "cutting" it in the middle. This statement also suggests that the subject property has excess land, especially when it is considered in concert with another statement he made in his appraisal that "[t]here are very few sales of projects with the site size of the subject" (as previously mentioned in Footnote #5).

19. Based on the foregoing, the subject property has #####-acres of excess land. As a result, #####-acres of the subject's land should be valued separately and added to the value derived for the subject's buildings and remaining #####-acres of land.¹⁶

Valuation of Subject's #####-Acres of Excess Land and its Effect on Total Value

¹⁵ The County submitted photographs of the taxpayer's comparables showing the shapes of their lots and the configuration of their buildings on the lots. Respondent's Exhibits 3 and 4. For those of the taxpayer's comparables with land-to-building ratios over #####, the County's photographs show that the comparables' lots are either irregularly-shaped and/or that the comparables' buildings are located near the center of the lots. As a result, it is questionable whether any of these comparables have excess land like the subject property that could be separated off and sold.

¹⁶ The taxpayer submitted two prior Commission cases involving large parcels of land associated with manufacturing operations. Petitioner's Exhibit 9. These two cases, however, are not helpful in the instant case because there was no excess land issue for the Commission to decide in those cases (i.e., the parties were in agreement as to whether or not excess land existed). Furthermore, the Commission's conclusion that excess land exists in the instant case is consistent with a recent Commission decision in which the parties did disagree on whether a property had excess land or not. *See USTC Appeal No. 15-415* (Findings of Fact, Conclusions of Law, and Final Decision Jan. 8, 2016). Redacted copies of this and other selected decisions can be viewed on the Commission's website at <http://www.tax.utah.gov/commission-office/decisions>.

20. In its appraisal, the County estimates a value of \$\$\$\$ for the subject's #####-acres of excess land.¹⁷ For reasons previously discussed, no such estimate was made in the taxpayer's appraisal. To value the subject's #####-acres of excess land, RESPONDENT-2 compared this acreage to seven land comparables. The comparables sold between June 2012 and March 2014 for prices ranging between \$\$\$\$ and \$\$\$\$ per square foot. RESPONDENT-2 adjusted the comparables and derived adjusted sales prices ranging between \$\$\$\$ and \$\$\$\$ per square foot. Because the mean and median of the seven adjusted sales prices were \$\$\$\$ and \$\$\$\$ per square foot, RESPONDENT-2 estimated the value of the excess land at \$\$\$\$ per square foot, which equates to approximately \$\$\$\$ per acre.

21. The taxpayer does not provide any land sales to contest the excess land value that RESPONDENT-2 derived with his seven land comparables. The taxpayer, however, contends that RESPONDENT-2 did not properly account for the fact that the eastern portion of the subject's lot that RESPONDENT-2 has valued as excess land has water drainage issues. The taxpayer explained that it has even built a retention pond on the eastern portion of the subject's lot to handle the water issues. In addition, the taxpayer indicated that the southeast portion of the subject's lot is used less for long term storage "because it is frequently too soft in the wet months to drive into it."¹⁸ RESPONDENT-2 discounts the water issues by indicating that all land owners have to deal with storm runoff and that the retention pond on the eastern portion of the subject property is less than one acre in size and is not required by the city.

22. The taxpayer did not suggest how RESPONDENT-2 land comparables should be adjusted to account for the water issues that currently affect the subject's #####-acres of excess land. In addition, the taxpayer has not provided any evidence to show what it would cost the taxpayer or a potential buyer to eliminate the retention pond and deal with the water issues affecting the eastern portion of the subject lot in a different manner. Nevertheless, if the water issues are accounted for by attributing

¹⁷ Respondent's Exhibit 1, p. 18.

¹⁸ Petitioner's Exhibit 4, p. 2 (email of NAME-1).

no value to #####-acres of the subject's #####-excess acres, the subject's current value would still be supported. The value of #####-acres of excess land would be approximately \$\$\$\$ (based on the County's estimated value of \$\$\$\$ per square foot). If this \$\$\$\$ value is added to the \$\$\$\$ value that REPRESENTATIVE-2 FOR TAXPAYER estimated for the subject property (without adding value for excess land), the sum would be \$\$\$\$\$, which would more than support the subject's current 2013 value of \$\$\$\$\$.¹⁹

23. The taxpayer also criticized the County's use of post-lien date sales to estimate a value for the subject property and its excess land. This criticism, however, is not convincing. It is noted that 50% of the comparables that REPRESENTATIVE-2 FOR TAXPAYER used in his appraisal were also post-lien date sales (i.e., sales that occurred after the January 1, 2013 lien date). One could also criticize the County's appraisal and the estimates of value contained in it because the appraisal's effective date was January 1, 2014, one year after the 2013 lien date at issue in this appeal. Such a criticism, however, would also appear to be unfounded because REPRESENTATIVE-2 FOR TAXPAYER included a sales comparison comparable in his appraisal that sold in December 2013, yet REPRESENTATIVE-2 FOR TAXPAYER made no adjustment to this comparable to account for the fact that it sold almost one year after the 2013 lien date.²⁰ As a result, it does not appear that it would be inappropriate to use any value

¹⁹ The Commission recognizes that REPRESENTATIVE-2 FOR TAXPAYER may have determined a different, lesser value for the subject's buildings and #####-acres of land than the \$\$\$\$ value he estimated for the subject's buildings and all #####-acres of land. REPRESENTATIVE-2 FOR TAXPAYER adjustments to his comparables to account for the subject's extra land, however, were relatively minimal. It does not appear that his site characteristics adjustments to account for the subject's additional land amounted to more than \$\$\$\$\$. If REPRESENTATIVE-2 FOR TAXPAYER appraisal were revised to reflect a value for the subject's buildings and only #####-acres of land, it appears that it would reduce his \$\$\$\$ estimate of value to approximately \$\$\$\$ (using site characteristics adjustments similar in scale to those that REPRESENTATIVE-2 FOR TAXPAYER made in his appraisal). Adding an excess land value of \$\$\$\$ to a revised appraisal value of \$\$\$\$ would result in a total value of \$\$\$\$\$, which also more than supports the subject's current value of \$\$\$\$\$.

²⁰ Petitioner's Exhibit 11, grid between pages 12 and 13.

that the County derived as of the 2014 lien date to estimate the subject's 2013 value. For these reasons, the evidence more than supports the subject's current 2013 value of \$\$\$\$\$.²¹

24. Based on the foregoing, the parties' evidence indicates that the subject's 2013 "fair market value" is at least \$\$\$\$\$.

APPLICABLE LAW

1. Utah Code Ann. §59-2-103(1) provides that "[a]ll 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."

2. 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 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.

3. UCA §59-2-1006 provides that a person may appeal a decision of a county board of equalization to the Tax Commission, pertinent parts as follows:

(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. . . .

. . . .

4. Any party requesting a value different from the value established by the County BOE has the burden to establish that the market value of the subject property is other than the value determined by

²¹ The difference in the \$\$\$\$\$ and \$\$\$\$\$ values that the parties' appraisers estimated for the subject property is \$\$\$\$\$. Most of this difference is attributed to the excess land issue because RESPONDENT-2 added \$\$\$\$\$ to the subject's value to account for it, while REPRESENTATIVE-2 FOR TAXPAYER did not. The parties brought up other issues with one another's appraisals that accounted for the remaining \$\$\$\$\$ difference in their appraised values. There is no need for the Commission to discuss these other issues. As already shown, even if all other of REPRESENTATIVE-2 FOR TAXPAYER appraisal choices were found to be more convincing than RESPONDENT-2 choices, REPRESENTATIVE-2 FOR

the County BOE. 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).

CONCLUSIONS OF LAW

1. For the 2013 tax year at issue, Subsection 59-2-103(1) provides for the subject to be taxed on the basis of its “fair market value” as of January 1, 2013. Subsection 59-2-102(12) defines “fair market value” as “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.”

2. The County does not request a 2013 value for the subject property that is different from the \$\$\$\$\$ value that was established by the County BOE. Accordingly, the \$\$\$\$\$ value has the presumption of correctness. As a result, the taxpayer has the burden not only to demonstrate that this \$\$\$\$\$ value is incorrect, but also to provide the Commission with a sound evidentiary basis for reducing the subject’s value to the \$\$\$\$\$ amount it proposes.²²

3. As previously discussed, the subject property’s “fair market value” should reflect value for excess land. Once value for excess land is added to the value of the subject’s buildings and its

TAXPAYER estimate of value would not support a reduction in the subject’s value once the value of excess land is added.

²² At the hearing, the taxpayer questioned whether the burden of proof is shifted to the County for the Formal Hearing because it was the County who requested to proceed to the Formal Hearing after the Commission issued its Initial Hearing Order. The taxpayer, however, is the party who asked the Commission to review the decision of the County BOE. As a result, the taxpayer is the petitioner in this matter. Furthermore, the Commission is not aware of any appeal before the Commission where the respondent at the Initial Hearing was considered to be the petitioner who bore the burden of proof at the

remaining #####-acres of land, the total value more than supports the subject's current value of \$\$\$\$\$. The taxpayer has not shown that the subject's current value is incorrect or shown that its proposed value of \$\$\$\$\$ is a better representation of the subject's "fair market value."

4. Based on the foregoing, the Commission should deny the taxpayer's appeal and sustain the subject's current value of \$\$\$\$\$ for the 2013 tax year.

Kerry R. Chapman
Administrative Law Judge

Formal Hearing because he or she asked to proceed to the Formal Hearing. REPRESENTATIVE-1 FOR TAXPAYER, the taxpayer's representative, admitted that he is also unaware of any such case.

DECISION AND ORDER

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

DATED this _____ day of _____, 2016.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
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.