

14-2075
TAX TYPE: PROPERTY TAX
TAX YEAR: 2014
DATE SIGNED: 2-8-2016
COMMISSIONERS: M. CRAGUN, R. PERO, R. ROCKWELL
EXCUSED: J. VALENTINE
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF UTAH COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 14-2075</p> <p>Parcel No. #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2014</p> <p>Judge: Phan</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 send the response via email to taxredact@utah.gov, or via mail to the address listed near the end of this decision.

Presiding:

Michael Cragun, Commissioner
Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE-1 FOR PETITIONER, Owner of PETITIONER, By Telephone
REPRESENTATIVE-2 FOR PETITIONER, Bookkeeper, By Telephone
For Respondent: RESPONDENT, Commercial Appraiser, Utah County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on January 11, 2016, in accordance with Utah Code §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. Petitioner (“Property Owner”) has filed an appeal of the decision of the Utah County Board of Equalization regarding the fair market value of the subject property as set for property tax purposes. The appeal proceeded to this Formal Hearing before the Utah State Tax Commission.

2. The lien date at issue in this appeal is January 1, 2014.

3. The County Assessor had originally valued the subject parcel at \$\$\$\$ as of the lien date and the County Board of Equalization (“County”) sustained that value. At the hearing the Property Owner requested that no property tax be assessed on this parcel. The representative for the County asked that the value of \$\$\$\$ be upheld.

4. The property that is the subject of this hearing is parcel no. ##### and is located at approximately SUBJECT ADDRESS, CITY-1, Utah.

5. Based on the Pictometry image, the subject parcel is ##### of an acre in size and is basically a section of sidewalk and grass strip adjacent to the sidewalk located along the edge of a larger commercial parcel also owned by the Property Owner.¹ The Property Owner estimated that this strip is about ##### feet long and the grass section is ##### feet wide, although the sidewalk adjacent to the grass is also part of this parcel. These estimated dimensions from the Property Owner do not add up to a #####-acre (#####-square foot) parcel, however. The Property Owner had acknowledged his dimensions were just an estimate. The Pictometry Image received as Respondent’s Exhibit 1 at the hearing is deemed the most reliable determination of the size of this parcel.

6. At some point in time the subject parcel had been separated from the larger adjacent parcel, which is also owned by the Property Owner. There is a retail business on the adjacent parcel.

7. The Property Owner offered no fair market value evidence regarding the subject parcel.

8. The County’s representative explained that the County considered the subject parcel to be part of the economic unit with the adjacent retail business. He testified that the County valued the land together in the economic unit and concluded that the land value as one economic unit was \$\$\$\$ per square foot. He stated that the assessment of the subject parcel then was based on the \$\$\$\$ per square foot.

9. The County’s representative also pointed out that the sidewalks and mow strips of the neighboring properties were included as part of those properties and part of the tax assessment to the owners of those properties, so the subject sidewalk and mow strip in combination with the Property Owner’s adjacent retail store was being treated equally to the neighboring properties.

10. Mathematically, \$\$\$\$ multiplied by #####-square feet equals \$\$\$\$.

¹ Respondent’s Exhibit 1.

11. Based on the very limited information submitted by the parties at this hearing, the subject parcel should be valued at \$\$\$\$\$ for tax assessment purposes.

APPLICABLE LAW

(1) All 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. (2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2. (Utah Code Sec. 59-2-103.)

“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. (Utah Code Sec. 59-2-102(12).)

(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 . . . (4) 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. (Utah Code Sec. 59-2-1006(1)&(4).)

To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the assessment contained error, and (2) provide the Commission with a sound evidentiary basis upon which the Commission could adopt a lower valuation. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

CONCLUSIONS OF LAW

1. Under Utah law all real property is assessed and taxed at a uniform and equal rate on the basis of its “fair market value” unless it is specifically exempt from taxation. See Utah Code Sec. 59-2-103. In this hearing, the Property Owner’s request was that the subject parcel not be taxed. He does not provide a statutory basis under which this property would be exempt from tax or otherwise assessed and

there is no exemption that is apparent in this matter. Therefore, the Tax Commission must assess this property based on its “fair market value.”

2. “Fair market value” is defined by statute as the amount for which property would exchange hands between a willing buyer and seller. See Utah Code Sec. 59-2-102. It is difficult to determine the fair market value of a narrow strip of sidewalk and lawn separate from the property to which it serves. The County has valued the subject as part of a single economic unit with the adjacent retail property also owned by the Property Owner. The Commission has in previous appeals determined this is an appropriate method² and the Utah Supreme Court’s decision in *County Board of Equalization of Wasatch County v. Stichting Mayflower et al.*, 2000 UT 57 (2000), supports the position that the assessment for several parcels of property may be determined based as a unit.

3. The County’s explanation as to its value being \$\$\$\$ per square foot mathematically supports a value of \$\$\$\$ for the subject property.

4. Considering the evidence and the applicable law in this matter, the value should be reduced to \$\$\$\$ for the lien date at issue in this appeal.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the market value of the subject property as of January 1, 2014, is \$\$\$\$\$. The County Auditor is hereby ordered to adjust his records accordingly. It is so ordered.

DATED this _____ day of _____, 2016.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner

² See Utah State Tax Commission *Findings of Fact, Conclusions of Law and Final Decision, Appeal No. 12-1892* (2014). This and other Tax Commission decisions are available in a redacted format at tax.utah.gov/commission-office/decisions.

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.