

14-313, 14-314, 14-315, & 14-317
TAX TYPE: LOCALLY ASSESSED PROPERTY
TAX YEAR: 2013
DATE SIGNED: 2-6-2015
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>v.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p style="padding-left: 40px;">Respondent.</p>	<p style="text-align: center;">INITIAL HEARING ORDER</p> <p>Appeal Nos. 14-313, 14-314, 14-315 & 14-317</p> <p>Parcel Nos. PARCEL-1 PARCEL-15 PARCEL-21 PARCEL-60</p> <p>Tax Type: Property Tax / Locally Assessed Tax Year: 2013</p> <p>Judge: Chapman</p>
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Presiding:
Kerry R. Chapman, Administrative Law Judge

Appearances:
For Petitioner: REPRESENTATIVE FOR TAXPAYER, Owner
For Respondent: RESPONDENT-1, from the Salt Lake County Assessor's Office
RESPONDENT-2, from the Salt Lake County Assessor's Office
RESPONDENT-3, from the Salt Lake County Assessor's Office
RESPONDENT-4, from the Salt Lake County Assessor's Office
RESPONDENT-5, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

TAXPAYER ("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 October 1, 2013.

At issue are the fair market values of four small, vacant parcels of land as of January 1, 2013. The first parcel is identified as Parcel No. ##### ("Parcel 1") and is located at ADDRESS-1 in CITY-1, Utah. It is #####-acres in size and is the parcel at issue in *Appeal No. 14-317*. The County BOE increased the \$\$\$\$ value at which Parcel 1 was originally assessed for the 2013 tax year to \$\$\$\$\$. The taxpayer asks the

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Commission to reduce Parcel 1's 2013 value to \$\$\$\$\$, which also happens to be the value to which the Commission reduced Parcel 1's 2012 value.¹ The County asks the Commission to sustain Parcel 1's current 2013 value of \$\$\$\$\$.

The second parcel is identified as Parcel No. ##### ("Parcel 15") and is located at ADDRESS-2 in CITY-2, Utah. It is #####-acres in size and is the parcel at issue in *Appeal No. 14-315*. The County BOE increased the \$\$\$\$\$ value at which Parcel 15 was originally assessed for the 2013 tax year to \$\$\$\$\$. The taxpayer asks the Commission to reduce Parcel 15's 2013 value to \$\$\$\$\$, which also happens to be the value that the Commission sustained for Parcel 15 for the 2012 tax year.² The County asks the Commission to sustain Parcel 15's current 2013 value of \$\$\$\$\$.

The third parcel is identified as Parcel No. ##### ("Parcel 21") and is located at ADDRESS-3 in CITY-3, Utah. It is #####-acres in size and is the parcel at issue in *Appeal No. 14-313*. The County BOE increased the \$\$\$\$\$ value at which Parcel 21 was originally assessed for the 2013 tax year to \$\$\$\$\$. The taxpayer asks the Commission to reduce Parcel 21's 2013 value to \$\$\$\$\$, which also happens to be the value to which the Commission reduced Parcel 21's 2012 value.³ The County asks the Commission to sustain Parcel 21's current 2013 value of \$\$\$\$\$.

1 See *USTC Appeal No. 13-635* (Initial Hearing Order Jan. 14, 2014). The Initial Hearing Order for *Appeal No. 13-635* became the final decision for 2012 because neither party requested to proceed to a Formal Hearing. The 2012 Initial Hearing Order shows that the County BOE established a value of \$\$\$\$\$ for Parcel 1 for 2012. It also shows that at the Initial Hearing for that appeal, the parties agreed to a reduction to \$\$\$\$\$ for Parcel 1 for the 2012 tax year. As a result, the Commission reduced Parcel 1's 2012 value to \$\$\$\$\$.

2 The Initial Hearing Order for *Appeal No. 13-635* shows that the County BOE established a value of \$\$\$\$\$ for Parcel 15 for the 2012 tax year. At the Initial Hearing for 2012, the taxpayer asked for the value to be reduced to \$\$\$\$\$, and the County asked for the value to be increased to \$\$\$\$\$. The Tax Commission sustained the \$\$\$\$\$ value established by the County BOE for the 2012 tax year. There is no evidence to suggest that Parcel 15's value was reduced for the 2012 tax year.

3 The Initial Hearing Order for *Appeal No. 13-635* shows that the County BOE established a value of \$\$\$\$\$ for Parcel 21 for the 2012 tax year. At the Initial Hearing for 2012, the taxpayer asked for Parcel 21's value to be reduced to \$\$\$\$\$, and the County asked for the value to be increased to \$\$\$\$\$. The Commission reduced Parcel 21's value to \$\$\$\$\$ for the 2012 tax year.

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The fourth parcel is identified as Parcel No. ##### (“Parcel 60”) and is located at ADDRESS-4 in CITY-4, Utah. It is #####-acres in size and is the parcel at issue in *Appeal No. 14-314*. The County BOE increased the \$\$\$\$ value at which Parcel 60 was originally assessed for the 2013 tax year to \$\$\$\$\$. The taxpayer asks the Commission to reduce Parcel 60’s 2013 value to \$\$\$\$\$, the value at which it was originally assessed for 2013.⁴ The County asks the Commission to sustain Parcel 60’s current 2013 value of \$\$\$\$\$.

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.”

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 is a relatively new law that became effective January 1, 2013 and 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.

⁴ Unlike the taxpayer’s other three properties at issue, Parcel 60’s value for the 2012 tax year was not appealed to either the County BOE or the Tax Commission.

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(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 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

For more than 40 years, the taxpayer has purchased, sold, and traded for a number of small strips of land that have been purchased through tax sales. He stated that he has purchased these strips at low prices (often around \$\$\$\$\$) and then approached the adjacent owners to try to sell the strips of land and make a profit. He indicates that he has been able to sell many of these tax sale parcels for significant profits. He contends, however, that the parcels he still owns, including the four subject properties at issue, are ones that he has not been successful in interesting the adjacent property owners to buy. He states that he has approached the owners, but that no one has been interested in purchasing the subject properties or portions of them. He also points out the four parcels at issue are residential parcels as opposed to commercial parcels. He contends that the four subject properties have little, if any, value because there is no willing buyer to purchase them.

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He also contends that the Commission has already addressed the values of at least three of the subject properties for the prior 2012 tax year and that it established values of \$\$\$\$\$ or \$\$\$\$\$ for these three properties. In *Appeal No. 13-635*, the Commission established values of \$\$\$\$\$ for Parcel 1 and Parcel 21 and a value of \$\$\$\$\$ for Parcel 15 for the 2012 tax year. The Commission did not address Parcel 60 in the appeal for 2012. The taxpayer contends that the Commission should reduce the subjects' 2013 values to reflect the 2012 values that the Commission has previously established. As a result, he asks the Commission to reduce Parcel 1's and Parcel 21's 2013 values to \$\$\$\$\$ and to reduce Parcel 15's 2013 value to \$\$\$\$\$. He also asks the Commission to reduce Parcel 60's 2013 value to \$\$\$\$\$ because it was assessed by the County at \$\$\$\$\$ in 2012 and because it, like the three other subject properties, is landlocked and has little, if any, value.

Parcel 1. This parcel is located in a residential neighborhood in CITY-1. It is #####-acres in size and is a very narrow parcel whose dimensions are approximately ##### feet by ##### feet. This parcel is adjacent to four homes and separates each of these homes from the street on which they are located. The taxpayer contends that none of these homeowners will purchase Parcel 1 because they already have an easement to cross it. As a result, he contends that there will probably never be a buyer for Parcel 1 and that, if it did sell, it would not sell anywhere near the \$\$\$\$\$ value that the County BOE established for it for 2013.

To show that his proposed value of \$\$\$\$\$ is appropriate for Parcel 1, the taxpayer proffers a number of sales of small properties that he considers to be comparable to the four subject properties, as follows:

Address	Parcel No.	Acreage	Sales Date	Sales Price
ADDRESS-5	#####	#####	DATE	\$\$\$\$\$
ADDRESS-6	#####	#####	DATE	\$\$\$\$\$
ADDRESS-7	#####	#####	DATE	\$\$\$\$\$
ADDRESS-8	#####	#####	DATE	\$\$\$\$\$
ADDRESS-9	#####	#####	DATE	\$\$\$\$\$

The taxpayer proffers that he knows of these sales because he was either the purchaser or seller in all of the transactions. He admits that he knew the persons from whom he purchased or to whom he sold these parcels.

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However, he indicates that none of these buyers, including himself, owned land adjacent to these small parcels.

He also indicates that these properties are similar in utility and desirability to the four subject properties and support his proposed value not only for Parcel 1, but also for the other three subject properties.

The County proffers four comparable sales to support the 2013 values established by the County BOE for Parcel 1 and the other three subject properties, as follows:

Address	Parcel No.	Acreage	Sales Date	Sales Price	Utility
ADDRESS-10	#####	#####	DATE	\$\$\$\$\$	Residential – narrow strip; surrounded by vacant land; extends between two roads
ADDRESS-11	#####	#####	DATE	\$\$\$\$\$	Commercial – narrow strip; has frontage on STREET
ADDRESS-12	#####	#####	DATE	\$\$\$\$\$	Lot in PUD – can be built on
ADDRESS-13	#####	#####	DATE	\$\$\$\$\$	Two adjacent condo lots – can be built on

The County’s last two comparables (on ADDRESS-12 and ADDRESS-13) are not helpful in establishing a value for any of the subject properties because they are residential lots upon which residential structures can be built. The County’s first two comparables (on ADDRESS-10 and ADDRESS-11) are more similar to the subject properties because they are narrow strips of land. However, both of them have better potential utility because they are adjacent to other vacant land with which they could be combined for development purposes. Furthermore, the residential parcel that sold for \$\$\$\$\$ has frontage on BOULEVARD as well as a second frontage road, where the other parcel that sold for \$\$\$\$\$ is commercial land. The taxpayer stated that he has owned and sold parcels with similar utility potential for significant profits, but proffers that they are not comparable to Parcel 1 and the other three subject properties.

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There seems to be little or no possibility that Parcel 1 can be combined with other parcels for development purposes. The parcels that Parcel 1 abuts are already developed. In addition, there appears to be no adjacent owner who needs to purchase the subject property to use it. They already have an easement to use it. As a result, the County's two comparables that sold for \$\$\$\$\$ appear to be superior to Parcel 1. While they show that Parcel 1's value is less than \$\$\$\$\$, they are not useful in showing whether or not Parcel 1's current 2013 value of \$\$\$\$\$, as established by the County BOE, is correct. It is doubtful that Parcel 1 has much, if any, value. The taxpayer has shown that some tax sale parcels with little utility sell for prices of \$\$\$\$\$ and \$\$\$\$\$. On this basis, the taxpayer has proffered sufficient information to support his proposed value of \$\$\$\$\$ for Parcel 1.

It is also noted that the parties agreed to a \$\$\$\$\$ value for Parcel 1 for 2012, which the Commission approved in the Initial Hearing Order for *Appeal No. 13-635*. Almost all of the evidence that the parties submitted at the hearing for 2012 was submitted for the 2013 hearing. The Commission is aware that Section 59-2-301.4 took effect on January 1, 2013, and provides for factors that led to reductions in values for the three years prior to 2013 to be considered when a value is determined for 2013. The evidence does not support a 2013 value for Parcel 1 that is higher than the 2012 value established in *Appeal No. 13-365*. Accordingly, the Commission should reduce Parcel 1's 2013 value to \$\$\$\$\$.

Parcel 15. This parcel is located in a residential neighborhood in CITY-2. It is #####-acres in size and is a very narrow parcel whose dimensions are approximately #####- feet by #####- feet. This parcel is a strip that runs along the back of 11 different homes in a subdivision (5 of these homes are on one side of Parcel 15 and 6 of the homes are on its other side). Parcel 15 is landlocked, and there is no vacant land with which it can be combined for development purposes. The taxpayer proffers that he has spoken to at least one of the adjacent homeowners who would not consider buying the portion of the subject property that abutted his home.

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As a result, the taxpayer contends that there will probably never be a buyer for Parcel 15 and that, if it did sell, it would not sell anywhere near the \$\$\$\$ value that the County BOE established for it for 2013.

To support their proposed values for Parcel 15, the two parties proffered the same comparables that have already been discussed in regards to Parcel 1. Again, the County's two comparables on which residences can be built are not helpful in establishing a value for any of the subject properties. Also again, the County's two comparables that each sold for \$\$\$\$ appear to be superior to Parcel 15 because the subject is landlocked and cannot be combined with other parcels for development purposes. In addition, there appears to be no adjacent owner who needs to purchase the subject property to use it. As a result, the County's two comparables that sold for \$\$\$\$ are superior to Parcel 15 and, again, do not show whether or not its current 2013 value of \$\$\$\$ is correct. It is doubtful that Parcel 15 has much, if any, value. The taxpayer has shown that some tax sale parcels with little utility sell for prices of \$\$\$\$ and \$\$\$\$. On this basis, the taxpayer has proffered sufficient information to support his proposed value of \$\$\$\$ for Parcel 15.

It is also noted that the Commission sustained a 2012 value of \$\$\$\$ for Parcel 15 in the Initial Hearing Order for *Appeal No. 13-635* (even though the taxpayer had requested a 2012 value of \$\$\$\$ and the County had requested a 2012 value of \$\$\$\$). Because there was no prior reduction in value for Parcel 15, it does not appear that Section 59-2-301.4 should be considered when determining Parcel 15's 2013 value. Nevertheless, the evidence submitted for the instant appeal supports the taxpayer's proposed value of \$\$\$\$ for 2013 better than it supports the subject's current 2013 value of \$\$\$\$\$. Accordingly, the Commission should reduce Parcel 1's 2013 value to \$\$\$\$.

Parcel 21. This parcel is located in a residential neighborhood in CITY-3. It is #####-acres in size and is a triangular-shaped parcel whose dimensions are approximately #####-feet by #####-feet by #####-feet. This parcel is a strip that runs along the back of and is adjacent to a single parcel under which the CANAL-1 and CANAL-2 is buried in a concrete conduit. As a result, the adjacent parcel, which is owned by CITY-3,

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will not be developed for residential purposes. However, the County indicated that CITY-3 has recently (after the lien date) announced plans to build a bike path over the buried canal of the adjacent parcel). However, there is no indication that the city would need to acquire the subject property to build the bike path. The orientation of the adjacent canal parcel would suggest that the bike path will not cross Parcel 21. For the bike path to be built, however, it appears that the city will have to remove fences and/or sheds that other neighbors have built over the adjacent canal property.

The County asks the Commission to also consider that the back of Parcel 21 can be accessed through an alley that runs along the back of all houses on this block. However, the County admitted that it could not drive all the way to the subject property on the alley. Many of the neighbors have incorporated the alley into their yards, including those homes nearest to the subject parcel. As a result, Parcel 21 appears to be landlocked.

Until the hearing, the taxpayer did not know that the canal was buried on the property adjacent to Parcel 21, and he did not know that adjacent property was owned by CITY-3. The taxpayer indicated that he may contact the city to see if it has any interest in Parcel 21 now that he knows about the adjacent property's ownership. Nevertheless, he asserts that Parcel 21 will not sell anywhere near the \$\$\$\$ value that the County BOE established for it for 2013.

Again, it seems clear that the subject's utility is significantly less than any of the County's comparables. Accordingly, they are unhelpful in establishing a value for the subject property. Unlike the prior two subject properties (Parcel 1 and Parcel 15), however, it is unclear whether an owner of the property adjacent to Parcel 21 (i.e., the city) is interested in purchasing Parcel 21. If the city is interested, Parcel 21 may be a more desirable property than the two subject properties already discussed. If so, its current value of \$\$\$\$ may be reasonable. However, if the city is not interested in purchasing Parcel 21, the taxpayer's proposed value of \$\$\$\$ may be more reasonable.

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The taxpayer has the burden of proof. Because he has never contacted the city about purchasing Parcel 21, it is unknown whether the adjacent property owner would not be interested in purchasing Parcel 21. Without this information, it is unknown whether its current 2013 value of \$\$\$\$\$ is too high. Accordingly, the Commission should sustain Parcel 21's current value of \$\$\$\$\$ for the 2013 tax year.

The Commission recognizes that it reduced the 2012 value of Parcel 21 to \$\$\$\$\$ in the Initial Hearing Order for *Appeal No. 13-635*. However, it appears that new information about Parcel 21 was available at the 2013 hearing that was not known by the taxpayer or considered by the Commission when it reduced its 2012 value from \$\$\$\$\$ to \$\$\$\$\$. Specifically, the taxpayer stated that he had asked the homeowner on the other side of the adjacent canal property to purchase Parcel 21 because he had not known that it was the city that owned the adjacent canal property. Section 59-2-301.4 provides for factors that led to the 2012 reduction to be considered when a value is determined for 2013. However, Subsection 59-2-301.4(3) specifically provides that this statute does not prohibit "any other factor affecting the fair market value of the property" to be considered. As a result, it seems appropriate to consider the new information available at the 2013 hearing that was not available at the 2012 hearing, specifically that the taxpayer has never approached the city about purchasing Parcel 21 and, thus, does not know if the owner of the adjacent parcel would be interested in purchasing Parcel 21. As a result, it does not appear that it would violate Section 59-2-301.4 to sustain the subject's current 2013 value of \$\$\$\$\$.

Parcel 60. This parcel is located in a residential neighborhood in CITY-4. It is #####-acres in size and is a rectangular parcel whose dimensions are approximately #####- feet by #####-feet. Parcel 60 is landlocked and is situated between the back yards of two homes. However, it appears that Parcel 60 has been incorporated into the back yard of at least one of these adjacent properties. The taxpayer stated that he approached the adjacent owners about 10 years ago and that the owners at that time had no interest in purchasing Parcel 60. However, he stated that he not approached them since that time. Nevertheless, the taxpayer contends that there

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is little incentive for either of the adjacent property owners to purchase Parcel 60. As a result, he contends that there will probably never be a buyer for Parcel 60 and that, if it did sell, it would not sell anywhere near the \$\$\$\$\$ value that the County BOE established for it for 2013.

The County's two comparables that sold for \$\$\$\$\$ suggest that Parcel 60's current value of \$\$\$\$\$ is too high. Both of the parcels that sold for \$\$\$\$\$ had the potential to be combined with other parcels for purposes of developing new commercial or residential properties. Parcel 60 is surrounded by properties that have already been developed. In addition, these two comparables had frontage on at least one street and, unlike Parcel 60, were not landlocked. As a result, Parcel 60's value would appear to be less than \$\$\$\$\$. Accordingly, its current 2013 value of \$\$\$\$\$ appears high.

Parcel 60 is not a narrow strip of land like Parcel 1 or Parcel 15. Accordingly, its utility could be superior to these parcels. However, the taxpayer indicates that he was unsuccessful in selling Parcel 60 when he contacted the adjacent property owners, which is similar to his experiences concerning Parcel 1 and Parcel 15. Based on the \$\$\$\$\$ value established earlier for Parcel 1 and the \$\$\$\$\$ value established earlier for Parcel 15, the shape of Parcel 60 would suggest that its value should be at the higher end of these two values, or \$\$\$\$\$. Parcel 60's value, however, may not be high as the \$\$\$\$\$ value established earlier for Parcel 21. Parcel 21's \$\$\$\$\$ value was sustained because the taxpayer had never contracted the adjacent owner to see if there was demand for Parcel 21. The taxpayer has contacted the adjacent owners of Parcel 60 and been turned down. For these reasons, it seems reasonable to place a value of \$\$\$\$\$ on Parcel 60.

It is further noted that Parcel 60's value, unlike the values of two of the other subject properties, has not been reduced for any of the three years prior to 2013. Accordingly, Section 59-2-301.4 does not apply. For these reasons, the Commission should reduce Parcel 60's value to \$\$\$\$\$ for the 2013 tax year.

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the values of the four subject properties for the 2013 tax year are as follows:

Parcel Number	Commission Value
#####	\$\$\$\$
#####	\$\$\$\$
#####	\$\$\$\$
#####	\$\$\$\$

The Salt Lake County Auditor is ordered to adjust its records in accordance with this decision. 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 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

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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