

15-371
TAX TYPE: LOCALLY ASSESSED PROPERTY
TAX YEAR: 2014
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.	INITIAL HEARING ORDER Appeal No. 15-371 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2014 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 TAXPAYER, Representative (by telephone)
For Respondent: RESPONDENT, from the Salt Lake County Assessor's Office

STATEMENT OF THE CASE

TAXPAYER ("Petitioner" or "taxpayer") brings this appeal from the decision of the Salt Lake County Board of Equalization ("County BOE"). This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on January 4, 2016.

Appeal No. 15-371

At issue is the fair market value of a commercial manufacturing property as of the January 1, 2014 lien date. The subject property is located at SUBJECT ADDRESS in CITY-1, Utah. The County BOE reduced the \$\$\$\$ value at which the subject property was originally assessed for the 2014 tax year to \$\$\$\$\$. 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 \$\$\$\$.

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 §59-2-1006(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

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. 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 used in the manufacturing process. It is #####-square feet in size and was built in YEAR.

The subject property is owner-occupied and is used to manufacture EQUIPMENT. The taxpayer uses all of the subject's #####-acres of land in its manufacturing process because of the nature of its inventory. 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 (i.e., would a *typical* manufacturer be able to sell a portion of the subject's land separately from the subject's buildings and the land needed to support the buildings).

The taxpayer proffered an appraisal of the subject property prepared by NAME-1, MAI. In the taxpayer's appraisal, NAME-1 used the sales comparison approach and the income approach to estimate the subject's value at \$\$\$\$ as of the January 1, 2014 lien date at issue.¹ NAME-1 did not expressly address in his appraisal whether or not the subject property had any excess land. However, he used some comparables that

¹ NAME-1 indicated at page 1 of his appraisal that the 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. . . ." In addition, NAME-1 indicated at page 5 of his appraisal that "[o]nly an adjustment grid was requested for this analysis."

had large land-to-building ratios that were similar to the subject property's land-to-building ratio.² 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.³ On the basis of NAME-1's appraisal, the taxpayer asks the Commission to reduce the subject's current 2014 value of \$\$\$\$\$ to \$\$\$\$\$.

The County proffered an appraisal of the subject property prepared by RESPONDENT. In the County's appraisal, RESPONDENT estimated the subject's value at \$\$\$\$\$ as of the January 1, 2014 lien date at issue. In the County's appraisal, RESPONDENT 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.⁴ RESPONDENT 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 first determined a value of \$\$\$\$\$ for the subject's #####-acres of excess land,⁵ 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

2 In the sales comparison approach section of his appraisal, NAME-1 stated that "[t]here are very few sales of projects with the site size of the subject."

3 NAME-1 adjusted his comparables with smaller lots to account for the subject's larger land-to-building ratio. On the grids in NAME-1's appraisal, this adjustment is identified as the "site characteristics" adjustment. On his sales comparison grid (between pages 12 and 13), NAME-1 made positive adjustments to three of his five comparables, two by 5% and another by 10%. On his income lease rate grid (between pages 14 and 15), NAME-1 made positive adjustments to two of his five comparables, one by 5% and another by 10%.

4 RESPONDENT indicated on page 17 and the bottom of page 18 of his appraisal that the subject has #####-acres of excess land. On the top of page 18, however, RESPONDENT 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 appraisal and statements he made at the hearing.

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

sustain the subject's current 2014 value of \$\$\$\$\$. The County does not ask the Commission to increase the subject's 2014 value.

Original Assessment and County BOE Decision. For its original assessment of the subject property for the 2014 tax year, the County determined that #####-acres of the subject's total #####-acres was excess land and that only #####-acres was 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. The County BOE sustained this portion of the original assessment.

For the subject's buildings and the remaining #####-acres of land, the County originally used separate income approaches to determine a value of \$\$\$\$\$ for the manufacturing building and \$\$\$\$\$ for the storage building. The County then subtracted \$\$\$\$\$ as a "valuation adjustment," which was not explained. When these building values, the valuation adjustment, and the \$\$\$\$\$ value of the excess land are summed, the County's original assessment is approximately \$\$\$\$\$.

The County BOE, however, reduced the County's original values for the buildings and the #####-acres of land needed to support them to \$\$\$\$\$ for the manufacturing building and \$\$\$\$\$ for the storage building. The County BOE also eliminated the negative valuation adjustment that was incorporated into the original assessment. When these two values are added to the \$\$\$\$\$ value that it sustained for the excess land, the sum is approximately \$\$\$\$\$. This is the value established by the County BOE.

Orientation of Subject Property's Buildings on its Lot and its Land-to-Building Ratio. 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 STREET 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 the taxpayer 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 proffered.⁶ As a result, the eastern portion of the subject property may be excess land, if the subject's actual land-to-building ratio is greater than the typical land-to-building ratio shown for manufacturing properties.

NAME-2, a County appraiser, testified that the subject's typical 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

6 The County proffered two pages (pages 200 and 201) from *The Appraisal of Real Estate* to explain the difference between "excess land" and "surplus land." 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 proffered show that the subject property's configuration is similar to the configuration shown in the reference book for "excess land," not "surplus land."

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.

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.

In the taxpayer’s appraisal, NAME-1 compared the subject property to five sales comparison comparables and five income lease rate comparables. In the County’s appraisal, RESPONDENT also compared the subject property to five sales comparison comparables and five income lease rate comparables. Most of the parties’ comparables show that larger manufacturing properties have land-to-building ratios that support the County’s position that the subject property has excess land that a typical manufacturer would not need. For each comparable the parties used, the following charts show its lot size, its building size, and its land-to-building ratio.⁷

Property	Lot Size (in acres)	Building Size (in square feet)	Land-to-Building Ratio
Subject (actual)	#####	##### to #####	##### to #####
Subject (County’s position)	#####	##### to #####	##### to #####

7 RESPONDENT reported land-to-building ratios for the comparables he used in the County’s appraisal, while NAME-1 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.

Taxpayer'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	#####	#####	#####
Property	Lot Size (in acres)	Building Size (in square feet)	Land-to-Building Ratio
Subject (actual)	#####	##### to #####	##### to #####
Subject (County's position)	#####	##### to #####	##### to #####
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	#####	#####	#####

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 close to this range.⁸

⁸ The County proffered photographs of the taxpayer's comparables showing the shapes of their lots and the configuration of their buildings on the lots. For those of the taxpayer's comparables with land-to-building

On the other hand, 15 of the comparables (including many of the taxpayer's 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 six 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), five of the comparables have land-to-building ratios between ##### and #####, and the sixth comparable's land-to-building ratio is #####. These comparables support the County's position better than they support the taxpayer'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.

Furthermore, in his appraisal, NAME-1 stated that "[t]here are very few sales of projects with the site size of the subject[,]" which suggests that the subject property has excess land. 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.⁹

Valuation of Subject's #####-Acres of Excess Land and its Effect on Total Value. In its appraisal, the County estimates a value of \$\$\$\$\$ for the subject's #####-acres of excess land. For reasons previously

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.

9 The taxpayer proffered two prior Commission cases involving large parcels of land associated with manufacturing operations. 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>.

discussed, no such estimate was made in the taxpayer's appraisal. To value the subject's #####-acres of excess land, RESPONDENT compared it to seven land comparables. The comparables sold between June 2012 and March 2014 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot. RESPONDENT 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 estimated the value of the excess land at \$\$\$\$\$ per square foot, which equates to approximately \$\$\$\$\$ per acre.

The taxpayer does not provide any land sales to contest the value that RESPONDENT derived with his seven land comparables. The taxpayer, however, contends that RESPONDENT did not properly account for the fact that the eastern portion of the subject's lot that RESPONDENT 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 proffered an email in which it indicates 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." RESPONDENT 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.

The taxpayer did not suggest how RESPONDENT 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 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 NAME-1 estimated for the subject property without adding value for excess land, the sum would be \$\$\$\$\$, which would more than support the subject's current 2014 value of \$\$\$\$\$.¹⁰

Based on the foregoing, the parties' evidence indicates that the subject's 2014 "fair market value" is at least \$\$\$\$\$. 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."¹¹ Accordingly, the Commission should deny the taxpayer's appeal and sustain the subject's current value of \$\$\$\$\$ for the 2014 tax year.

Kerry R. Chapman
Administrative Law Judge

10 The Commission recognizes that NAME-1 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. NAME-1's 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 NAME-1's 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 NAME-1 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 \$\$\$\$\$.

11 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 added \$\$\$\$\$ to the subject's value to account for it, while NAME-1 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 NAME-1's appraisal choices were found to be more convincing than RESPONDENT choices, NAME-1's estimate of value would not support a reduction in the subject's value once the value of excess land is added.

Appeal No. 15-371

DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the subject's current value of \$\$\$\$ for the 2014 tax year. 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
CITY-1, 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 _____, 2016.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner