

15-415

TAX TYPE: PROPERTY TAX

TAX YEAR: 2014

DATE SIGNED: 1-8-2016

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO, R. ROCKWELL

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BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="padding-left: 40px;">Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH,</p> <p style="padding-left: 40px;">Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 15-415</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](mailto: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 FOR TAXPAYER, Representative  
For Respondent: RESPONDENT, Certified General Appraiser, Salt Lake County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on August 31, 2015, 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 (“Taxpayer”) filed an appeal of the decision of the Salt Lake 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 property that is the subject of this appeal is parcel no. ##### and is located at SUBJECT PROPERTY, CITY-1, Utah.

4. The Salt Lake County Assessor had originally valued the subject property at \$\$\$\$\$ as of the lien date and the County Board of Equalization (“County”) sustained the value. At the hearing, the Property Owner requested a reduction to \$\$\$\$\$. The County had submitted an appraisal at the hearing in this matter that concluded a value of \$\$\$\$\$ for the lien date at issue. However, the County offered the appraisal in support of the County Board of Equalization value of \$\$\$\$\$ and did not request an increase to the appraisal value.

5. The subject property is #####-acres of land improved with a warehouse building of #####-square feet and a small office building of #####-square feet. Both buildings were constructed in YEAR and total #####-square feet. The buildings are metal and the office is a modular unit that is attached to the real property. The current tenant at this property is using the buildings as well as the entire #####-acres of land for open storage of (X) trailers.

6. It is the County’s position that three acres of the subject’s land support the current buildings with typical land to building ratios for this property. Based on the access and configuration of the property, the rest of the acreage, which is #####-acres, could be sold off as excess land.

7. The Taxpayer argued that the County’s assessed value for the subject property, which calculated out to be \$\$\$\$\$ per square foot of building was too high. He offered four comparable sales and the County’s assessed values for each of those sales.<sup>1</sup> He stated that the County was not adjusting its assessed value to the sale price. He argued that this showed a disconnect between the assessed value and the current market conditions for warehouses in Salt Lake County and that warehouses were generally selling for \$\$\$\$\$ per square foot.

8. The Taxpayer’s comparables were the following:

Address	Sale Price/ Per Building Square Foot	Year Built	Building Size	Land Size	Assessed Value
Subject: SUBJECT PROPERTY		YEAR	#####	#####	

<sup>1</sup> Petitioner’s Exhibits B-F.

ADDRESS-1	\$\$\$\$/\$\$\$\$	YEAR #####	#####	\$\$\$\$
ADDRESS-2	\$\$\$\$/\$\$\$\$	YEAR #####	#####	\$\$\$\$
ADDRESS-3	\$\$\$\$/\$\$\$\$	YEAR #####	#####	\$\$\$\$
ADDRESS-4	\$\$\$\$/\$\$\$\$	YEAR #####	#####	\$\$\$\$

9. The representative for the Taxpayer argued that these comparable sales indicated values for warehouse space around \$\$\$\$ per square foot. It was his request, acknowledging that the subject building was a much newer building, that the value for the subject building should be \$\$\$\$ per square foot, on the higher end of the market. At \$\$\$\$ per square foot, his value for the subject property equated to \$\$\$\$.

10. As pointed out by the County, the approach made by the Taxpayer’s representative does not add any value for the additional acreage of the subject. No adjustment was made for the fact that the subject, at #####-acres, was substantially larger than all of the comparable sales, three of which were less than #####-acres. Additionally, the subject could be subdivided and developed into two different parcels with warehouse properties, both of which would be larger in land size than the Taxpayer’s comparables. It was the County’s position that the additional acreage added value.

11. The County submitted an appraisal prepared by RESPONDENT, Licensed General Appraiser.<sup>2</sup> It was RESPONDENT’S conclusion that as of the lien date at issue of January 1, 2014, the value of the subject property was \$\$\$\$\$. However, at the hearing RESPONDENT stated that the appraisal was being offered to support the value set by the County Board of Equalization of \$\$\$\$\$.

12. In his appraisal, RESPONDENT noted that the subject with the #####- acres and existing structures had a land to building ratio of ##### to #####, or site coverage of only 3%. It was his appraisal opinion that only three acres were needed to support the current improvements and that warehouse buildings typically sell with much smaller land to building ratios, which was supported by all of the comparables offered by the Taxpayer. With the improvements and #####-acres, the land to building ratio would still be high, at ##### to #####, or site coverage of 8.6%. The County provided an aerial photograph and platted out how the property could be divided, the #####-acres with the current improvements and #####-acres as excess land. It was the County’s position that a value would have to be added for the excess land.

13. The County’s appraiser considered both a cost approach and an income approach to value but he placed the most weight on the income approach as he indicated it was the most reliable. In his income approach he developed a value for the improvements with the three acres and then a value for the #####-acres of excess land based on land sales. It was his conclusion from looking at four comparables that the market rent for the improvements and three acres would be \$\$\$\$per square foot. From this, he

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<sup>2</sup> Respondent’s Exhibit 1.

calculated an income value for the improvements and three acres of \$\$\$\$\$. It should be noted that this is very similar to the value conclusion made by the Taxpayer’s representative, although he did not then add a value for the remaining #####-acres.

14. To his conclusion of \$\$\$\$\$, RESPONDENT added a value of \$\$\$\$\$ for the excess land or remaining #####-acres. This resulted in a concluded value from the income approach of \$\$\$\$\$. He supported the land value of \$\$\$\$\$, or \$\$\$\$\$ per square foot, from comparable land sales, which were the following:

Address	Sale Price/ Per Square Ft	Land Size	Adjusted Price Per Square Ft
Subject: SUBJECT PROPERTY		#####	
ADDRESS-5	\$\$\$\$\$/\$\$\$\$	#####	\$\$\$\$
ADDRESS-6	\$\$\$\$\$/\$\$\$\$	#####	\$\$\$\$
ADDRESS-7	\$\$\$\$\$/\$\$\$\$	#####	\$\$\$\$
ADDRESS-8	\$\$\$\$\$/\$\$\$\$	#####	\$\$\$\$
ADDRESS-9	\$\$\$\$\$/\$\$\$\$	#####	\$\$\$\$

15. Upon reviewing the evidence presented by the parties in this matter, the value requested by the Taxpayer of \$\$\$\$\$ is not supported because the Taxpayer has calculated a value for the improvements and only a small portion of the subject land. Even if the subject lot could not be subdivided, the additional acreage would attribute some value. However, in this case the County has shown that the lot could be divided with the improvements remaining on a three acre parcel and a ##### section that could be developed for a separate warehouse property. The County’s value for the existing buildings and three acres that would support the existing building was \$\$\$\$\$, very near to the value requested by the Taxpayer. However, some additional value is needed to account for the excess land. With a value for the excess land added to the \$\$\$\$\$, the County has supported, at the very least, the value set by the County Board of Equalization in this matter of \$\$\$\$\$.

APPLICABLE LAW

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. (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. Property tax is based on its "fair market value" pursuant to Utah Code Sec. 59-2-103. "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. The Taxpayer's representative had made the argument that for the comparables that he offered, the County's assessed value was considerably different from the sale price and that this was a disconnect. However, in this appeal, based on Utah Code Sec. 59-2-103, the Commission is tasked with determining the fair market value of the subject property as of the lien date January 1, 2014. Market value evidence does support the value set by the County Board.

2. The value set by the County Board of Equalization has the presumption of being correct and to either raise or lower the value, either party must demonstrate that the County Board's assessment contained error and provide a sound evidentiary basis for the new value. See *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997). In this case, the Taxpayer failed to account for the value added by the excess land and therefore did not provide a basis to support a lower value. Considering the evidence and the applicable law in this matter, the value should remain as set by the County Board of Equalization.

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 \$\$\$\$\$. It is so ordered.

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

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.