

16-460 – 16-461
TAX TYPE: LOCALLY ASSESSED PROPERTY
TAX YEAR: 2015
DATE SIGNED: 4-27-2017
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO, R. ROCKWELL
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 Nos. 16-460 & 16-461 Parcel Nos. 10 2 Tax Type: Property Tax/Locally Assessed Tax Year: 2015 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: TAXPAYER, Taxpayer
For Respondent: RESPONDENT, from the COUNTY-1 Assessor's Office (by telephone)

STATEMENT OF THE CASE

These matters came before the Utah State Tax Commission for a Formal Hearing on February 13, 2017. 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 2015, with a lien date of January 1, 2015.

3. At issue are the fair market values of two vacant parcels of commercial land, specifically Parcel No. ##### (“Parcel 10”) (which is at issue in *USTC Appeal No. 16-460*) and Parcel No. ##### (“Parcel 2”) (which is at issue in *USTC Appeal No. 16-461*). Parcel 2 is ##### acres in size and is located at PARCEL 2 ADDRESS in CITY-1, Utah (WORDS REMOVED). Parcel 10 is ##### acres in size. Parcel 10 is located to the north of Parcel 2 and is located at PARCEL 10 ADDRESS in CITY-1, Utah.

4. TAXPAYER (“Petitioner” or “taxpayer”) owns the subject properties. The taxpayer brings these appeals from decisions of the COUNTY-1 Board of Equalization (“Respondent” or “County BOE”).

5. The Commission held Mediation Conferences in these matters on June 22, 2016. Because the matters were not resolved through mediation, they were scheduled together for a Formal Hearing.

6. For Parcel 2, the County BOE sustained the \$\$\$\$ value at which it was originally assessed for the 2015 tax year.¹ Parcel 2’s current value of \$\$\$\$ equates to \$\$\$\$ per square foot. The taxpayer asks the Commission to reduce Parcel 2’s value to \$\$\$\$\$, which equates to \$\$\$\$ per square foot. The County asks the Commission to sustain Parcel 2’s current value of \$\$\$\$.

7. For Parcel 10, the County BOE sustained the \$\$\$\$ value at which it was originally assessed for the 2015 tax year. Parcel 10’s current value of \$\$\$\$ equates to \$\$\$\$ per square foot. The taxpayer asks the Commission to reduce Parcel 10’s value to \$\$\$\$\$, which equates to approximately \$\$\$\$ per square foot. The County asks the Commission to sustain Parcel 10’s current value of \$\$\$\$.

8. To show that the subject properties’ current values are too high, the taxpayer submitted an appraisal prepared by APPRAISER-1, a certified general appraiser.² In the appraisal, APPRAISER-1 estimated the subject properties’ values, as of the 2015 lien date, to be \$\$\$\$ (\$\$\$\$ per square foot) for

¹ Parcel 2 has some asphalt pavement on it. Petitioner’s Exhibit 1, p. 5. Neither the County nor the taxpayer’s appraiser has attributed any improvements value to the asphalt pavement.

Parcel 2 and \$\$\$\$\$ (\$\$\$\$\$ per square foot) for Parcel 10. In addition, the taxpayer testified that the County ignores the values to which the subject parcels' assessed values have been reduced for prior years. For these reasons, the taxpayer asks the Commission to reduce Parcel 2's value to \$\$\$\$\$ and Parcel 10's value to \$\$\$\$\$ for the 2015 tax year.

9. Parcel 2, the #####-acre parcel, is located on the northeast corner of ##### South and STREET. Parcel 10, the #####-acre parcel, is an "interior" parcel located north of Parcel 2 on STREET. The two subject properties are separated by ##### South Street, a city-owned street. ##### East Street, another public street, runs across the "back" of the two subject properties. Neither subject parcel has "curb cut access" on STREET, ##### South, or ##### East Street (i.e., the subject properties cannot be accessed from these streets). Instead, a person must turn onto ##### South Street and access the subject parcels from this street. There is also a median along STREET that restricts left in and left out access to and from ##### South Street. The taxpayer's appraiser has determined that the accessibility to the subject properties is "average."³ For the County, RESPONDENT testified that he does not consider the subject properties' access to be a hindrance. The Commission, however, finds that the access to the subject properties is a hindrance that has a negative effect on their values.

10. The subject properties are zoned CN(HSN) (Neighborhood Commercial Historic CITY-1 Neighborhood District) under the jurisdiction of CITY-1. This zone is created to provide for the convenience, shopping, and service needs of the surrounding area, while at the same time providing guidelines for development to recognize and maintain the neighborhood for unique characteristics. A number of uses are permitted within the zone, including agricultural, medical care, commercial repair service, hotel, and sit down restaurant uses. In addition, several conditional uses are permitted, including automotive service and repair, bed and breakfast, and drive-up restaurant.⁴

2 Petitioner's Exhibit 1.
3 Petitioner's Exhibit 1, pp. 22-23 and 33.
4 Petitioner's Exhibit 1, pp. 34-35 and Addendum.

11. TAXPAYER, however, testified that he has approached CITY-1 several times about developing the subject properties and that the city has informed him that it will not approve an automobile dealership, an (X) Rent-A-Car business, an automobile service or repair store, a gas station, a tire store, or a drive-up restaurant to be developed on the subject properties. He stated that the city wants the subject properties developed as a hotel, but indicates that no one has ever approached him about developing a hotel on the subject parcels. He also stated that the city has informed him that it might be willing to sell him ##### South Street (the street that separates the two subject parcels) so that the two subject parcels could be developed together, if the city “liked” the proposed development.

12. TAXPAYER stated that in the past, he had allowed an individual to sell Christmas trees on the subject properties as a temporary use. He explained, however, that in 2013, the city passed an ordinance that now requires vacant or unimproved lots like the subject properties to be improved before they can be used for such temporary purposes. The newly required improvements include “all weather surface parking lot, curb, gutter, sidewalks, fire hydrants, approved access points, storm water retention, and landscaping.”⁵ Because of the costs of making such improvements to the subject properties, TAXPAYER indicates that the ability to generate income from temporarily using the subject properties for seasonal sales has declined.

13. The taxpayer’s appraiser used the market or sales comparison approach to estimate a value for each of the subject properties. The taxpayer’s appraiser compared each of the subject properties to the same five comparables. The five comparables range between ##### and ##### acres in size. They sold in 2012, 2013, and 2014 for prices ranging between \$\$\$\$\$ and \$\$\$\$\$ per square foot. The taxpayer’s appraiser adjusted the comparables for time of sale (to account for increasing values), condition of sale (to account for the appraisal’s Comparable #5 being a bank-owned property), location, size, shape, and development potential (to account for differences in zoning). After adjusting for these differences, the taxpayer’s appraiser derived adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and

5 Petitioner’s Exhibit 2, p. 1.

\$\$\$\$\$ for Parcel 2 (the #####-acre, corner parcel) and adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$ for Parcel 10 (the #####-acre, interior parcel). With these adjusted sales prices, the taxpayer's appraiser estimated Parcel 2's value to be \$\$\$\$\$ per square foot (which equates to) and Parcel 10's value to be \$\$\$\$\$ per square foot (which equates to \$\$\$\$\$).⁶

14. The Commission gives no weight to Comparable #5 from the taxpayer's appraisal, which is the bank-owned property that sold for \$\$\$\$\$ per square foot in 2012 and which the taxpayer's appraiser adjusted to adjusted sales prices of \$\$\$\$\$ for Parcel 2 and \$\$\$\$\$ for Parcel 10. In addition, the Commission gives no weight to Comparable #3 from the taxpayer's appraisal, which is located approximately ##### blocks away from the subject properties.

15. The most convincing comparables from the taxpayer's appraisal are: 1) Comparable #1, which is the 2014 sale of a property that is located on ##### South and sold for \$\$\$\$\$ per square foot. It is located two to three blocks west of the subject properties. The taxpayer's appraiser adjusted this comparable to \$\$\$\$\$ per square foot for both Parcel 2 and Parcel 10; and 2) Comparable #4, which is the 2012 sale of a property that is located on STREET and sold for \$\$\$\$\$ per square foot. It is located about five blocks north of the subject properties and has the same CN(HSN) zoning as the subject properties. The taxpayer's appraiser adjusted this comparable to \$\$\$\$\$ per square foot for Parcel 2 and to \$\$\$\$\$ per square foot for Parcel 10.

16. For the County, RESPONDENT indicated that the appraisal's Comparable #1 was an "okay" comparable, but criticized the appraisal's Comparable #4 because it, unlike Parcel 2, was not located on a corner. However, when the taxpayer's appraiser adjusted the comparables to estimate the value of Parcel 2 (the subject property that is a corner lot), he adjusted Comparable #4's sales price upwards by 10% because the comparable was not located on a corner. The County has not shown this adjustment to be inadequate. As a result, the adjustments the taxpayer's appraiser made to his comparables appear reasonable and lend support to the adjusted sales prices he derived. For these

reasons, the sales prices and adjusted sales prices of the appraisal's Comparables #1 and #4 support the taxpayer's appraiser's conclusions that Parcel 2 has a value of \$\$\$\$ per square foot and that Parcel 10 has a value of \$\$\$\$ per square foot as of the 2015 lien date.

17. To support Parcel 2's current value of \$\$\$\$ per square foot and Parcel 10's current value of \$\$\$\$ per square foot, the County submitted three comparable sales. The County's three comparables sold in 2012 and 2014 for prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$ per square foot. RESPONDENT adjusted the three comparables for time of sale (to account for increasing values), for location, and size. RESPONDENT identified the zoning of each of the County's three comparables, but he, unlike the taxpayer's appraiser, did not adjust his comparables for differences in development potential or zoning.⁷

18. After RESPONDENT made adjustments to the County's three comparables, he derived adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$ for Parcel 2 (the #####-acre, corner parcel) and adjusted sales prices of \$\$\$\$\$, \$\$\$\$\$, and \$\$\$\$\$ for Parcel 10 (the #####-acre, interior parcel). With these adjusted sales prices, RESPONDENT estimated Parcel 2's value to be \$\$\$\$ per square foot (which equates to \$\$\$\$\$) and Parcel 10's value to be \$\$\$\$ per square foot (which equates to \$\$\$\$\$).⁸ The values that RESPONDENT derived are greater than the subject parcels' current values. The County, however, does not ask the Commission to increase the subjects' 2015 values. On the basis of its three comparables, the County asks the Commission to sustain the subjects' current values for the 2015 tax year.

19. Overall, the County's comparables are not as convincing as the taxpayer's appraisal and the comparables used in it. The County's Comparable #2, which sold for \$\$\$\$ per square foot, is located on the (A) side of FREEWAY, whereas the subject properties are located on the (B) side of FREEWAY. In addition, this comparable is #####-acres in size, which is more than 11 times larger than

6 Petitioner's Exhibit 1, pp. 53-57.

7 Respondent's Exhibit 1.

8 Respondent's Exhibit 1.

Parcel 2 and more than 20 times larger than Parcel 10. Furthermore, this comparable is zoned “ID,” and RESPONDENT testified that he did not know what ID-zoning meant and how it compared to the subject properties’ CN(HSN) zoning. TAXPAYER suggested that ID-zoning relates to a “heavy industrial” zoning, which the County did not refute. For these reasons, the County’s Comparable #2 is too dissimilar to be a convincing comparable, and it will receive no weight in the analysis.

20. The County’s Comparable #3, which sold for \$\$\$\$ per square foot, is located near ##### East and is about 15 blocks away from the subject properties. This comparable is zoned SD(H), and RESPONDENT testified that he did not know what SD(H)-zoning meant and how it compared to the subject properties’ CN(HSN) zoning. TAXPAYER stated that he believed that this particular zoning is for a MEDICAL FACILITY, which the County did not refute. Furthermore, TAXPAYER indicated that this comparable is located near a BUSINESS-1 and MEDICAL FACILITY, which the County also did not refute. The parties described the various small businesses that surround the subject properties,⁹ and none of these businesses are similar to a BUSINESS-1 or a MEDICAL FACILITY. For these reasons, questions exist as to whether the County’s Comparable #2 is similar enough to the subject properties to be a convincing comparable, especially where RESPONDENT did not know whether its sales price required an adjustment for zoning. As a result, it will receive no weight in the analysis.

21. Lastly, the County’s Comparable #1, which sold for \$\$\$\$ per square foot, is located at ##### STREET and, thus, is only about two blocks south of the subject properties. It is zoned RC, which appears to be a superior zoning to the subject properties’ CN(HSN) zoning. The taxpayer’s appraiser also used RC-zoned comparables located near the subject properties, and he applied an adjustment of negative 10% to account for their superior zoning. If a negative 10% zoning adjustment were applied to the County’s Comparable #1’s sales price of \$\$\$\$ per square foot, it results in an adjusted sales price of

⁹ To the north of the subject properties are a beauty shop and an old motel, and homes are located to the east. To the south of the subject properties (across ##### South) are a computer store and a “car lot,” and a RESTAURANT is located to the west (across STREET).

\$\$\$\$\$ per square foot. At first glance, this adjusted sales price suggests that Parcel 2's current value of \$\$\$\$\$ per square foot and Parcel 10's current value of \$\$\$\$\$ are too low.

22. However, too many questions remained unanswered about the County's Comparable #1 to know whether it is a convincing comparable. Its \$\$\$\$\$ per square foot sales price is nearly double the next highest sales price of any of the parties' comparables that are located to the (A) of FREEWAY. As a result, its sales price appears to be an anomaly. In addition, RESPONDENT admitted that this comparable was bought by "BUSINESS-2" in connection with the purchase of other parcels.¹⁰ Without more information about the other parcels purchased with this comparable and why its sales price is so much higher than the sales price of other nearby parcels, the Commission is not convinced that the County's Comparable #1 should be used to estimate the subject properties' values.

23. Based on the foregoing, the taxpayer's appraisal and some of the comparables contained in it are more convincing than any of the County's comparables. For reasons discussed earlier, the most convincing evidence shows that Parcel 2's value is \$\$\$\$\$ (\$\$\$\$\$ per square foot) and that Parcel 10's value is \$\$\$\$\$ (\$\$\$\$\$ per square foot) as of the 2015 lien date.

24. The evidence supports the taxpayer's proposed values for the subject properties. However, it may be useful to address one other issue that TAXPAYER raised at the hearing. TAXPAYER indicated that when the County assessed the subject properties for the 2015 tax year, it ignored the value reductions that the subject properties had received for prior years. TAXPAYER's claim should be considered under Utah Code Ann. §59-2-301.4 because the subject properties' values have been reduced by the County BOE or by the Commission for each of the three years prior to 2015. The Commission reduced the subject properties' values for the 2013 tax year. In addition, it appears that the County BOE reduced the subject properties' values for the 2012 and 2014 tax years, years in which the subject properties' values were not appealed to the Tax Commission.¹¹ For the 2012, 2013, and 2014 tax

10 The County's Comparable #1 is located across STREET from the EVENT CENTER.

11 These reductions can be viewed on the County Assessor's website at <http://slco.org/assessor/>.

years, the values at which the subject properties were originally assessed and the values to which they were reduced by the Commission or County BOE are, as follows:

Parcel 2:

2012 Original Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.); 2012 County BOE Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.)
2013 Original Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.); 2013 Commission Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.)
2014 Original Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.); 2014 County BOE Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.)

Parcel 10:

2012 Original Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.); 2012 County BOE Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.)
2013 Original Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.); 2013 Commission Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.)
2014 Original Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.); 2014 County BOE Value - \$\$\$\$\$ (\$\$\$\$\$/ sq. ft.)

25. Effective for tax year 2013, Subsection 59-2-301.4(1) and (2) provide that where a property's value has been reduced within the three years before the lien date at issue, a county assessor shall consider "any additional information about the property that was previously unknown or unaccounted for by the assessor that is made known on appeal" and "whether the reasons for the valuation reduction continue to influence the fair market value of the property." In addition, Subsection 59-2-301.4(3) provides that the statute "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."

26. The Commission has interpreted Subsection 59-2-301.4(1), (2), and (3) to mean that a value reduction within three years before the lien date shall be considered in establishing the subject's value as of the lien date at issue, especially where evidence relevant to the lien date at issue does not show that the subject's value has significantly changed since the year for which the reduction occurred.¹² These provisions, however, do not provide that a county assessor *must assess* a property at the value to which it was reduced within the prior three years. It provides that a county assessor *must consider* the value

¹² See, e.g., *USTC Appeal Nos. 13-2390 & 15-36* (Findings of Fact, Conclusions of Law, and Final Decision Dec. 18, 2015). 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>.

reduction when assessing the property for the year at issue.¹³ In addition, Subsections 59-2-301.4(2)(b) and (3) make clear that a county assessor may consider factors other than the valuation reduction when assessing a property for a current year. Given these guidelines, the Commission will address how the valuation reductions made to the subject properties within the prior three years affect their 2015 values.

27. There is no evidence to suggest that the circumstances surrounding the subject properties, such as their zoning and lack of direct access on STREET and/or ##### South, have changed between the three years prior to 2015 and the 2015 tax year currently at issue. Furthermore, neither party provided evidence to suggest that values established for the subject properties for 2012, 2013, or 2014 had appreciated to such an extent from these years to warrant the subjects' current 2015 values.¹⁴ Perhaps the County's Comparable #1, which sold for \$\$\$\$\$ per square foot in 2014, had not occurred and was not considered when any of the value reductions for the prior three years were made. However, for reasons explained above, questions exist as to whether this comparable should be used to establish the subject properties' 2015 values. For these reasons, the subject properties' value reductions for the prior three years should be considered when establishing their 2015 values.

28. As explained earlier, the best evidence submitted by the parties supports the taxpayer's proposed value of \$\$\$\$\$ per square foot for Parcel 2 and \$\$\$\$\$ per square foot for Parcel 10. These values are within the ranges of value reductions shown for both subject properties for the prior three

13 As a result, at a Tax Commission hearing that concerns a Section 59-2-301.4 valuation reduction in whole or in part, a county is expected to provide evidence to show that it followed Utah law and considered the prior valuation reduction when assessing the property whose value is at issue. A county's failure to provide such evidence may be a factor that the Commission considers when determining whether a party has met its burden of proof or not.

In the instant case, the County has not shown that it considered the subject properties' 2012, 2013, or 2014 valuation reductions when it assessed the subject properties for the 2015 tax year at issue. As a result, this is a factor that the Commission could consider when determining whether the taxpayer met its burden of proof to show that the subjects' 2015 values should be reduced under Section 59-2-301.4. In the instant matters, however, the failure of the County to provide such evidence is not critical to the Commission's decision. The taxpayer's evidence is sufficient to support his proposed values for the subject properties even without any consideration of his Section 59-2-301.4 arguments.

14 Both RESPONDENT and the taxpayer's appraiser used comparables that sold in 2012 to estimate the subject properties' 2015 values. Neither appraiser applied a time of sale adjustment to their 2012 comparables that exceeded 6%.

years. In summary, for the 2015 tax year, Parcel 2's value is \$\$\$\$\$ (\$\$\$\$\$ per square foot), and Parcel 10's value is \$\$\$\$\$ (\$\$\$\$\$ per square foot).

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 §59-2-301.4 provides for a county assessor to consider certain prior valuation reductions 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.

(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.

4. 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) In reviewing evidence submitted to the commission by or on behalf of an owner or a county, the commission shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

. . . .

5. In a proceeding before the Tax Commission, the burden of proof is generally on the petitioner to support its position. To prevail in this case, the petitioner must: 1) demonstrate that the subject property's current value contains error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes. *See 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*, 2000 UT 49, 5 P.3d 652 (Utah 2000).

CONCLUSIONS OF LAW

1. For the 2015 tax year at issue, Section 59-2-103(1) provides for each of the subject properties to be taxed on the basis of its "fair market value" as of January 1, 2015. Section 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 value for Parcel 2 that is different from the \$\$\$\$ value that was established by the County BOE. In addition, the County does not request a value for Parcel 10 that is different from the \$\$\$\$ value that was established by the County BOE. Accordingly, the \$\$\$\$

value of Parcel 2 and the \$\$\$\$ value of Parcel 10 have the presumption of correctness. As a result, the taxpayer has the burden not only to demonstrate that these values are incorrect, but also to provide the Commission with a sound evidentiary basis for reducing the subject properties' values to the amounts he proposes.

3. For reasons explained earlier, the taxpayer's evidence concerning the subject properties' values is more convincing than the County's evidence. The taxpayer has not only shown the subject properties' current values are incorrect, but has also provided a sound evidentiary basis to support his proposed values of \$\$\$\$ for Parcel 2 and \$\$\$\$ for Parcel 10.

4. For reasons also explained earlier, it appears that the County has also not properly considered the subject properties' value reductions within the prior three years, as required under Section 59-2-301.4. The taxpayer's proposed 2015 values are within the ranges of the value reductions for the prior three years.

5. Based on the foregoing, the Commission should reduce Parcel 2's value to \$\$\$\$ and Parcel 10's value to \$\$\$\$ for the 2015 tax year.

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that Parcel No. 2's current value of \$\$\$\$\$ should be reduced to \$\$\$\$\$ for the 2015 tax year. In addition, the Tax Commission finds that Parcel No. 10's current value of \$\$\$\$\$ should be reduced to \$\$\$\$\$ for the 2015 tax year. The COUNTY-1 Auditor is ordered to adjust its records in accordance with this decision.

DATED this _____ day of _____, 2017.

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. §§59-1-601et seq. and 63G-4-#####1 et seq.