19-954
TAX TYPE: PROPERTY TAX/LOCALLY ASSESSED
TAX YEAR: 2018
DATE SIGNED: 2/5/2021
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH, Respondent.	**INITIAL HEARING ORDER** Appeal No. 19-954 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2018 Judge: Jensen

This Order may contain confidential "commercial information" within the meaning of Utah Code Section 59-1-404, and is subject to disclosure restrictions as provided in that section and Utah Admin. Rule R861-1A-37. In accordance with Section 59-1-404(4)(b)(iii)(B), Utah Admin. Rule R861-1A-37(6) prohibits parties from disclosing commercial information obtained from the opposing party to nonparties outside of the hearing process. As provided by Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the 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:
Clinton Jensen, Administrative Law Judge

Appearances:
For Petitioner: REPRESENTATIVE-1 FOR TAXPAYER, for the Taxpayer
REPRESENTATIVE-2 FOR TAXPAYER, for the Taxpayer
Respondent: RESPONDENT, for the County

STATEMENT OF THE CASE

The above-named Petitioner (the "Taxpayer") brings this appeal from the decision of the Board of Equalization of COUNTY (the "County"). The parties presented their case in an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5 on September 17, 2020. The Taxpayer is appealing the market value of the subject property as set by the board of equalization for property tax purposes. The lien date at issue in this matter is January 1, 2018. The County Assessor had set the value of the subject property, as of the lien date, at $$$$$. The board of equalization sustained the value.

At the hearing, the Taxpayer requested that the value be reduced to $$$$$. The County requested that the value set by the board of equalization be sustained.

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 Ann. §59-2-103(1).

"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. Utah Code Ann. §59-2-102(13).

Utah Code Ann. §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 . . . ."

Utah Code Ann. §59-2-301.4 provides requirements for assessment of property after a reduction in value as follows in pertinent part:

> (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 . . . .

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 COUNTY-1*, 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); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000); and *Fraughton v. Tax Commission*, 2019 UT App 6.

DISCUSSION

The issue before the Commission is to determine the fair market value of the subject property as of the lien date. Under Utah Code Ann. §59-2-103, property tax is based on the market value of the property as of January 1 of the tax year at issue. Utah Code Ann. §59-2-102 defines "fair market value" as the "amount for which property would change hands between a willing buyer and seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts." The "valuation reduction" provisions described in Utah Code Ann. §59-2-301.4 do not apply in this matter because the value of the subject property was not reduced on appeal in any of the three years prior to the tax year at issue in this case.

The subject property is parcel no. #####, located at SUBJECT ADDRESS in COUNTY. It consists of an office warehouse building and (X)storage shed on a #####-acre parcel. The office/warehouse building has ##### square feet of class C concrete block construction built in YEAR with several additions as late as YEAR. The weighted average year built is YEAR. Office finish percentage is %%%%%. Clear height is ##### feet. The lumber storage shed is a (X)structure open to the center of the site. It has ##### square feet and was constructed in YEAR. SENTENCE REMOVED

Taxpayer's Presentation of Information

The Taxpayer has the burden of proof in this matter and must demonstrate not only an error in the valuation set by the board of equalization, but also provide a sound evidentiary basis to support a new value. In this matter, the Taxpayer provided an appraisal prepared by REPRESENTATIVE-2 FOR TAXPAYER. The Taxpayer's appraiser completed an income approach to value and a sales comparison approach to value for the main office/warehouse building. For the (X) structure, he completed a cost approach.

The Taxpayer's appraiser presented his income approach to value as follows:

<u>Potential Gross Income</u>	
Market Rent: ### sq.Ft. x $$$$ x ### =	$$$$$
Less: Vacancy and Collection Loss: - %%%%%%%%%	($$$$$)
<u>Effective Gross Income</u> $122,102	
<u>Operating Expenses</u>	
Management %%% ($$$$$)	
Reserves %%% ($$$$$)	
<u>Total Operating Expenses</u>	($$$$$)
<u>Net Operating Income</u>	$$$$$
Capitalization Rate	%%%
Income Approach to Value Indication	$$$$$
Rounded to	$$$$$

In support of his lease rate of $0.42 per square foot per month (or $5.04 per square foot per year), the Taxpayer's appraiser relied on five comparable leases as follows:

	Subject	One	Two	Three	Four	Five
Address	ADDRESS	ADDRESS	ADDRESS	ADDRESS	ADDRESS	ADDRESS
City	CITY	CITY	CITY	CITY	CITY	CITY
Expense Basis	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Date of Lease	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Leased Area sq. ft.	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Year Built	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED

Construction	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Quality	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Effective Age	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Ceiling Height	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Lease Rate/Sq.Ft./Mo. Concessions/Condition		REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Adjusted Lease Rate/Sq.Ft./Mo. Market (Time)		REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Adjusted Lease Rate/Sq.Ft./Mo. Terms/Expenses		REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
NNN Rate/Sq.Ft./Mo.		REDACTED	REDACTED	REDACTED	REDACTED	REDACTED

Location/Exposure	]REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
NNN Rate/Sq.Ft./Mo.	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED

Physical Characteristics

Age/Condition Adjustment	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Quality/Appeal Adjustment	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Size Adjustment	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Ceiling Height Adjustment	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Office Finish/Amenities Adjustment	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Site Coverage Ratio Adjustment	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Amenity		REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Net Adjustment/Sq.Ft./Mo.		REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Adjusted Rate/Sq.Ft./Mo.		REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Average/Sq.Ft./Mo.		REDACTED				

In support of his vacancy figure of %%%, the Taxpayer's appraiser cited a YEAR year-end market study by BUSINESS-1, which indicated year-end vacancy of %%%. However, the study noted %%% as a historical average of vacancy from YEAR to year-end YEAR. The Taxpayer's appraiser considered these figures and concluded %%% vacancy.

The Taxpayer's appraiser noted that %%% management and %%% reserves were typical of the industry and often employed by appraisers and property managers.

In support of his capitalization rate of %%%, the Taxpayer's appraiser provided commercial sales with capitalization rates as follows:

TABLE OF 23 COMPARABLES REDACTED

For a sales comparison approach, the Taxpayer's appraiser relied on the sales of six comparable properties in the CITY valley with sale dates from DATE through DATE. The Taxpayer's appraiser made adjustments to the comparable properties to account for differences between the subject property and the comparable properties. The comparable properties and the adjustments thereto are as follows:

Comparable	Subject	1	2	3	4	5	6
Address	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
City	West Valley	Salt Lake	S. Salt Lake	Salt Lake	Salt Lake	Salt Lake	Salt Lake
Gross Building Size	#	#	#	#	#	#	#
Site Area in Acres	#	#	#	#	#	#	#
Land to Bldg Ratio	#	#	#	#	#	#	#
Site Coverage Ratio	%	%	%	%	%	%	%
Purchase Price	$	$	$	$	$	$	$
Property Rights							
Yr Built/Renovated							
Clear Height	#	#	#	#	#	#	#
Office Ratio	%	%	%	%	%	%	%
Effective Age	#	#	#	#	#	#	#
Construction Class							
Date of Sale		DATE	DATE	DATE	DATE	DATE	DATE
Quality		REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Sales Price/Sq. Ft. Property Rights		$ %	$ %	$ %	$ -%	$ -%	$ %
Adjusted Price/Sq. Ft. Financing Terms		$ %	$ %	$ %	$ %	$ %	$ %
Adjusted Price/Sq. Ft. Conditions of Sale		$ %	$ %	$ %	$ %	$ %	$ %
Adjusted Price/Sq. Ft. Expenditures After Purchase		$ %	$ %	$ %	$ %	$ %	$ %
Adjusted Price/Sq. Ft. Market (Time) Adj.		$ %	$ %	$ %	$ %	$ %	$ -%
Adjusted Price/Sq. Ft.		$	$	$	$	$	$

Location/Exposure	%	%	%	%	%	%

Physical Characteristics

Effective Age Adjustment	X	X -%	X -%	X %	X -%	X -%	X -%
Quality/Appeal Adjustment	X	X -%	X %	X %	X %	X %	X -%
Size	#	#	#	X	X	X	X

Adjustment		%	-%	%	%	%	%
Site Coverage Ratio Adjustment	%	% %	% %	% -%	% %	% %	% %
Finish Percentage Adjustment	%	% %	% -%	% %	% %	% -%	% -%
Ceiling Height Adjustment	#	# -%	# %	# -%	# %	# -%	# -%
Amenity/Mezzanine		%	%	%	%	%	%
Other		%	%	%	%	%	%
Economic Characteristics		%	%	%	%	%	%
Use		%	%	%	%	%	%
Net Adjustments/Sq. Ft.		-%	-%	-%	%	-%	-%
Adjusted Value/Sq. Ft.		$	$	$	$	$	$
Average Value/Sq. Ft.		$					
Median Value/Sq. Ft.		$					

The appraiser used a concluded value of $$$$$ per square foot. For the ##### square feet of the subject property, this yielded a rounded value for the sales comparison approach of $$$$$.

The appraiser indicated that he placed greater weight on the $$$$$ sales comparison approach than the $$$$$ income approach. He reconciled the $$$$$ income approach value with the $$$$$ sales comparison approach to value to arrive at a final indicated value for the land and main building of $$$$$. He used the $$$$$ sales comparison value for further calculations in the appraisal.

The appraiser indicated that he did not include income from a (X) lumber shed on the subject property in his income approach nor did he include the square footage of the lumber shed in his sales comparison approach. For the lumber shed, the appraiser used a cost approach. The lumber shed has ##### square feet. The appraiser used a replacement cost approach new of $$$$$ per square foot for the lumber shed. The appraiser deducted %%% for depreciation to arrive at a depreciated value of $$$$$ per square foot. For the ##### square feet in the lumber shed, this yielded a value of $$$$$.

The appraiser added the $$$$$ value of the lumber shed to the sales comparison approach value of $$$$$ to reach a final value of $$$$$, which the appraiser rounded to $$$$$.

County's Presentation of Information

The County's representative completed an income approach to value and a sales comparison approach to value for the main office/warehouse building. For the #####-sided lumber shed and lack of warehouse heat, he indicated he completed a cost approach but did not provide details regarding the cost approach for these items.

The County's representative presented his income approach to value as follows:

Potential Gross Income

Market Rent: # Sq.Ft. x $ = $

Less: Vacancy and Collection Loss: -% (###)

Effective Gross Income $

Operating Expenses – Management and Reserves at % ($)

Net Operating Income $ Capitalization

Rate %

Income Approach to Value Indication $

Plus Three Sided Lumber Shed $

Deduction for no Heat in Warehouse -$

Total Value – Income Approach $

Rounded to $

In support of his lease rate of $$$$$ per square foot per year, the County's representative relied on five comparable leases as follows:

	Subject	One	Two	Three	Four	Five
Address	ADDRESS	ADDRESS	ADDRESS	ADDRESS	ADDRESS	ADDRESS
City	CITY	CITY	CITY	CITY	CITY	CITY
Occupant	NAME	NAME	NAME	NAME	NAME	NAME
Expense Basis	NNN	NNN	NNN	NNN	NNN	NNN
Date of Lease	N/A	DATE	DATE	DATE	DATE	DATE
Leased Area sq. ft.	#	#	#	#	#	#
Year Built (weighted)	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR
Land/Building Ratio	#	#	#	#	#	#
Construction Class						
Quality of Construction	Average	Average	Average	Average	Average	Average
Condition	Average	Average	Average	Average	Average	Average
Office Percentage	%	%	%	%	%	%
Warehouse Story Height	#	#	#	#	#	#

Unadjusted Lease Rate/SF	$	$	$	$	$

Adjustments

Conditions/Terms of Lease	-%	%	%	-%	%
Adjusted Lease Rate/SF	$	$	$	$	$
Lease Structure	%	%	%	%	%
Adjusted Lease Rate/SF	$	$	$	$	$

Market Conditions (Time)	%	%	%	-%	-%
Adjusted Lease Rate/SF	$	$	$	$	$

Other Adjustments

Location	%	%	%	%	%
Size	-%	-%	-%	-%	-%
Age/Condition	-%	-%	-%	%	-%
Quality/Appeal	%	%	%	%	%
Office/Finished Area	%	-%	%	%	-%
Land/Building Ratio	%	%	%	%	%
Warehouse Story Height	%	-%	%	%	%

Net Adjustments	%	-%	%	%	%
Gross Adjustments	%	%	%	%	%

Adjusted Lease Rate/SF	$	$	$	$	$

Average/SF	$			
Median/SF	$		Indicated Rate	$
Low/SF	$			
High/SF	$			

The County's representative indicated that he arrived at a weighted average lease rate of $$$$$ per square foot giving greater weight to the comparable sales most similar to the subject property as follows:

Weighting of Comparable

Adjusted Lease Rate/SF	$	$	$	$	$	Totals
Weighted %%%	%	%	%	%	%	%
Weighted Share	$	$	$	$	$	$

In support of his vacancy figure of %%%, the County's representative relied on published sources. The 2017 REPORT-1 indicated a 2017 year-end vacancy rate for medium distribution warehouse properties of %%%. The County's representative did not indicate the geographical area covered by the REPORT-1. The REPORT-2 for the fourth quarter of 2017, based on existing properties over ##### square feet in COUNTY-1, indicated a vacancy rate of %%% and an average asking lease rate of $$$$$ per month ($$$$$ per year) for the CITY-2 submarket of the VALLEY. The %%% vacancy rate for CITY-2 was lower than the %%% vacancy indicated in the same report for all of COUNTY-1. The REPORT-3 for the fourth quarter of 2017, based on industrial properties in COUNTY-1, indicated a vacancy rate of %%% and a weighted average lease rate of $$$$$ per year ($$$$$ per month) for the Central West submarket of the VALLEY. The %%% vacancy rate for the Central West submarket was lower than the %%% vacancy indicated in the same report for all of COUNTY-1.

The County's representative did not provide independent support for his %%% management and reserve figure, noting that he agreed with the Taxpayer's use of the same figure.

The County supported its %%% capitalization rate with four comparable of sales of industrial properties in the VALLEY as follows:

Commercial Use	City	Sale Date	Rentable sq. ft.	Year Built	Capitalization Rate
Storage	VALLEY	DATE	#	YEAR	%
Storage	VALLEY	DATE	#	YEAR	%
Storage	VALLEY	DATE	#	YEAR	%
Storage	CITY-2	DATE	#	YEAR	%
Storage	CITY	DATE	#	YEAR	%
		Mean			%
		Median			%

The County's representative explained that these sales represented all of the industrial sales he could find with fewer than ##### square feet and built between 1961 and 2001. Based on these sales, the County's representative reached an indicated capitalization rate of %%%.

The County presented a sales comparison approach to value based on the sales of five comparable industrial properties in the VALLEY as follows:

	Subject	One	Two	Three	Four	Five
Address	ADDRESS	ADDRESS	ADDRESS	ADDRESS	ADDRESS	ADDRESS
City	CITY-2	CITY	CITY-2	CITY	CITY	CITY-2
Name	NAME	NAME	Not Listed	Not Listed	Not Listed	Not Listed
Acres	#	#	#	#	#	#
Year Built (weighted)	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR
Building Size (s.f.)	#	#	#	#	#	#

Land/Building Ratio	#	#	#	#	#	#
Construction Class	Masonry	Masonry	Masonry	Masonry	Masonry	Masonry
Quality of Construction	#	#	#	#	#	#
Office Percentage	%	%	%	%	%	%
Industrial Story Height	#	#	#	#	#	#

Sale Information

Sale Date	DATE	DATE	DATE	DATE	DATE
Property Rights	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Leased Fee
Sale Price	$	$	$	$	$
Price/s.f.	$	$	$	$	$

Adjustme

Property Rights Conveyed Adjusted Price/sf	% $	% $	% $	% $	% $
Financing Adjusted Price/sf	% $	% $	% $	% $	% $
Conditions of Sale Adjusted Price/sf	% $	% $	-% $	% $	% $
Expenditures After Sale Adjusted Price/sf	% $	% $	% $	% $	% $
Market Conditions (Time) Adjusted Price/sf	% $	% $	% $	% $	% $

Other Adjustments

Location	%	%	%	%	%
Size	%	%	%	%	%
Age/Condition	-%	-%	-%	%	%
Quality/Appeal	%	-%	-%	%	%
Office/Finished Area	%	%	-%	-%	-%
Land/Building Ratio	%	%	%	%	%
Warehouse Story Height	-%	-%	-%	%	%

Net Adjustments	%	%	-%	%	%
Gross Adjustments	%	%	%	%	%

Adjusted Value/SF	$	$	$$$$$	$	$$$$$

Average/sf	$		Indicated Rate	Square Feet	Indicated Value	
Median/sf	$		$	#^{2}	$	
Low/sf	$					
High/sf	$			Rounded Value	$	
				Plus Open Bldg	$	
				Adj Whse Heat	-$	
				Final Value	$	

The County provided the following information regarding the weighting of its comparable sales it followed to arrive at its concluded value of $$$$$ per square foot:

Weighting of Comparables	$	$	$	$	$	Totals
Weighted %	%	%	%	%	%	%

Weighted Share	$	$	$	$	$	$

The County's representative reconciled the $$$$$ income approach value with the $$$$$ sales comparison approach to value to arrive at a final reconciled value of $$$$$. He explained that he gave the income approach greater weight because of a greater abundance of comparables and closer proximity of the comparables to the subject. Although the $$$$$ value was higher than the $$$$$ board of equalization value, the County requested that the Commission sustain the board of equalization value rather than increasing the value.

Parties' Comments on Each Other's Information

In addition to presenting their own information, the parties commented on each other's presentations. The Taxpayer's representative noted that several of the County's comparable leases and sales had higher traffic counts than the street on which the subject property is located. The County's representative did not dispute this information, but noted that the subject property has visibility from I-15 and thus has greater visibility than either party's lease or sales comparables. The County's representative opined that the greater visibility would compensate for the lesser traffic count. The Taxpayer's representative was particularly critical of the County's leases and sales on ADDRESS, noting that ADDRESS has high traffic counts and is becoming less industrial and has an increasing number of general commercial businesses.

The Taxpayer's representative argued that the County's information for the County's lease and sale comparable number 3 and the County's information for the County's sale and lease comparable number 5 indicated incorrect information for land to building ratio. The County's representative indicated that it would be necessary to look into this claim given that he had relied on information verified by the sales research team at the County.

The Taxpayer's representative questioned why the County did not use the Taxpayer's fifth lease comparable on ADDRESS given its proximity to the subject property. The County's representative indicated that he reviewed the sale and determined that it was a property involved in a 1031 exchange and leaseback and that these terms made the County consider the sale and lease invalid. The Taxpayer's representative questioned why the County did not use the Taxpayer's sixth sales comparable on ADDRESS given its proximity to the subject property. The County's representative indicated that the MONTH, 2019 sale date was well beyond the MONTH, 2018 lien date at issue in this case.

The Taxpayer's representative discussed the County's sales of leased properties, arguing that a sale with an existing lease would raise a purchase price. The parties agreed that a property selling with an above-market lease could increase the sale price of the property. They likewise agreed that a property selling with a below-market lease could decrease the sale price of the property. The County's representative indicated that he looked into the County's sale of a leased property and adequately adjusted for the lease.

The County's representative noted that the Taxpayer's second sale was a multi-tenant flex building and was thus dissimilar to the subject property. The County's representative noted that the Taxpayer's third sale was inferior in that it had multiple buildings and poor access. The County's representative noted that the Taxpayer's fourth sale had little to no exposure. The Taxpayer's representative responded to these criticisms by noting that the multi-tenant building in the Taxpayer's second building would, if anything, increase sale price over the single-occupant subject property.

The parties discussed differences in their treatment of land to building ratios. The County based its adjustments on land values for comparable industrial properties. The Taxpayer used a similar approach, but deducted %%% of the value of the land, explaining that there were situations in which additional land added little value based on property topography or layout.

<u>Commission Analysis</u>

The Commission considers the information presented in light of Utah law, which provides that a "protesting taxpayer is required not only to show substantial error or impropriety in the assessment, but also to provide a sound evidentiary basis upon which the Commission could adopt a lower valuation." *Fraughton v. Utah State Tax Comm'n*, 2019 UT App 6, ¶10 (quoting *Utah Ry. Co. v. Utah State Tax Comm'n* , 2000 UT 49, ¶ 6, 5 P.3d 652). The Commission first considers the parties' income approaches to value.

The parties reached different results regarding the applicable lease rate to apply to the subject property. The Taxpayer used an annual concluded rate per square foot of $$$$$. The County used an annual concluded rate per square foot of $$$$$. The Commission considers the Taxpayer's argument that the County's lease comparables on ADDRESS are artificially high based on a better location. If supported in the facts, this argument could rule out several of the County's lease comparables because five comparables are on ADDRESS while only one is on a street other than ADDRESS. Reviewing the County's data, it appears that the comparable on a street other than ADDRESS is toward the higher end of the County's comparable lease rates, both adjusted and unadjusted. Thus, there does not appear to be support in the information presented for the Taxpayer's argument that ADDRESS comparables lease at a premium.

The Commission considers the parties' different approaches to adjustment for land to building ratio. The Taxpayer is correct in noting that there are circumstances when topography or layout would tend to make additional land less valuable than it otherwise might be. However, the Taxpayer has not shown that the subject property or any of either party's comparables have topography or layout problems that would make land less valuable. If anything, the presence of a covered lumber shed on the subject property would tend to show that the Taxpayer is making good use of additional land for the storage of building materials. The Taxpayer reached conclusions about claimed errors in the County's land to building ratios for some of the County's comparables but did not provide data or facts to support those conclusions. Considering the totality of the information presented regarding land to building ratios, it appears that the Taxpayer may have understated the value of additional land present at the subject property and the Taxpayer's comparables. The methodology of adjusting for differences based on %%% of land value (as did the County) is a more persuasive approach than adjusting at %%% of land value (as did the Taxpayer). Adjusting additional land at %%% of its value rather than at %%% of its value would effectively double the Taxpayer's adjustment for land to building ratio on its lease comparables. This change alters the Taxpayer's net adjustments and adjusted values as follows:

Location/Exposure	%	%	%	-%	%
NNN Rate/Sq.Ft./Mo.	$	$	$	$	$

Physical Characteristics

Age/Condition Adjustment		%	%	-%	%	-%
Quality/Appeal Adjustment		%	-%	-%	%	%
Size Adjustment	#	# %	# %	# %	# %	# %
Ceiling Height Adjustment	#	# -%	# -%	# -%	# %	# -%
Office Finish/Amenities Adjustment	%	% -%	% %	% %	% %	% -%
Site Coverage Ratio Adjustment	%	%% %	% ~~%~~ %	% % %	% - ~~%~~ -%	- % -%
Amenity		%	%	%	%	%
Net Adjustment/Sq.Ft./Mo.		%	~~%~~ %	- ~~%~~ -%	~~%~~ %	- ~~%~~ - %
Adjusted Rate/Sq.Ft./Mo.		$	~~$~~ $	~~$~~ $	~~$~~ $	~~$~~ $

Considering all of the parties' lease comparables, the Commission notes that some are more similar to the subject property than others. As one measure of comparability, the Commission considers the absolute value of all of the adjustments required to account for differences between the subject property and the comparable properties to determine gross adjustments. Those requiring less in total adjustment are presumably more similar to the subject property. The parties' gross adjustments for their lease comparables are as follows:

Comparable Number	1	2	3	4	5
Taxpayer Gross Adjustments	%	%	%	%	%
County Gross Adjustments	%	%	%	%	%

Of the available lease comparables, the Taxpayer's first and fourth comparables stand out as similar to the subject property inasmuch as they required relatively little gross adjustment. Similarly, the County's first and fifth lease comparables had low gross adjustment and therefore may be considered similar to the subject property. The four comparables requiring the lowest gross adjustment have adjusted values per square foot per year as follows:

Comparable	Adjusted annual lease value per s.f.

Taxpayer Number 1	$
Taxpayer Number 4	$
County Number 1	$
County Number 5	$

These adjusted values have an average of $$$$$ per square foot per year and a median value of $$$$$ per square foot per year.

The Commission notes that use of gross adjustments assumes the adjustments are correct. Given the discrepancy between the County and the Taxpayer adjustments, this raises a concern that the assumption of correct adjustments may not be warranted. Additionally, there is a general concern using the magnitude of gross adjustments as the sole basis for determining comparability. Accordingly, the Commission makes further analysis to compare various aspects of the parties' lease comparables to consider their similarity to the subject property.

Considering the size of the parties' lease comparables, two of the Taxpayer's lease comparables (Taxpayer comparables 4 and 5) and three of the County's lease comparables (County comparables 2, 4, and 5) are within ##### square feet of the ##### square foot size of the subject property.

Considering land to building ratio of the parties' lease comparables is somewhat more challenging inasmuch as the Taxpayer listed site coverage percentage while the County listed land to building ratio. To simplify comparison, the Commission will convert the Taxpayer's figures from site coverage percentage to land to building ratio. After that conversion, one of the Taxpayer's lease comparables (Taxpayer comparable 1) and one of the County's lease comparables (County comparable 5) have land to building ratios within #### of the ### land to building ratio of the subject property. The next closest comparable is the Taxpayer's comparable 4, which has a land to building ratio within ##### of the ##### land to building ratio of the subject property.

Considering the office finish percentage of the parties' lease comparables, one of the Taxpayer's lease comparables (Taxpayer comparable 4) and two of the County's lease comparables (County comparables 1 and 3) are within %%% of the %%% office finish of the subject property. The next closest comparable is the Taxpayer comparable 3, which has an office finish percentage within %%% of the %%% office finish percentage of the subject property.

Considering the actual age of the parties' lease comparables, one of the Taxpayer's lease comparables (Taxpayer comparable 2) and three of the County's lease comparables (County comparables 2, 4, and 5) are within 5 years of the 1984 weighted year built of the subject property.

Considering the quality of the parties' lease comparables, two of the Taxpayer's lease comparables (Taxpayer comparables 4 and 5) and all of the County's lease comparables (County comparables 1, 2, 3, 4, and 5) have the same average quality as the subject property.

Considering the condition of the parties' lease comparables involves different sets of data because the Taxpayer dealt with condition by listing effective age while the County directly listed condition. Three of the Taxpayer's lease comparables (Taxpayer comparables 1, 2, and 4) have effective ages within 5 years the ##### year effective age of the subject property. All of the County's lease comparables (County comparables 1, 2, 3, 4, and 5) have the same average condition as the subject property.

Considering the clear height of the parties' lease comparables involves different sets of data because the Taxpayer listed ceiling height while the County listed story height. Four of the Taxpayer's lease comparables (Taxpayer comparables 1, 2, 4, and 5) have ceiling heights within ##### feet of the ##### foot ceiling height of the subject property. Three of the County's lease comparables (County comparables 1, 3, and 4) have story heights within ##### feet of the ##### foot story height of the subject property.

After considering the parties' comparables for similarity to the subject property, it appears that the County's lease comparables are, as a group, more similar to the subject property than the Taxpayer's lease comparables. All five of the County's lease comparables appear on four or more of the above lists of comparables with the greatest similarity to the subject property. Only one of the Taxpayer's comparables, its fourth comparable, has the distinction of appearing on four or more of the above lists of comparables with the greatest similarity to the subject property. The properties appearing on four or more of the above lists with the greatest similarity to the subject property, with their adjusted values, are as follows:

Comparable	Adjusted annual lease value per s.f.
Taxpayer Number 4	$
County Number 1	$
County Number 2	$
County Number 3	$
County Number 4	$
County Number 5	$

These adjusted values have an average of $$$$$ per square foot per year and a median value of $$$$$ per square foot per year. If the Commission were to disregard County Comparable 3 as an outlier, the remaining adjusted values have an average and a median value of $$$$$ per square foot per year.

Considering all available data for the most comparable lease comparables from both parties, there is good cause to reconcile the data to a value of $$$$$ per square foot per year.

The Commission next considers the parties' vacancy figures. The Taxpayer used a vacancy figure of %%%. The County used %%%. The Taxpayer noted that COUNTY industrial vacancy as of the end of 2017 was %%%%%. The Taxpayer noted %%% as a historical average of vacancy from 2011 to year-end 2017. The Taxpayer's appraiser considered these figures and concluded %%% vacancy. The County presented the same report, noting the year-end 2017 vacancy of %%%%%. However, the County noted that the report further segmented vacancies within COUNTY and had an even lower vacancy of %%% for the Central West submarket where the subject property is located. The County provided another published report, which segmented the COUNTY market into cities. This report indicated year-end 2017 industrial vacancy for CITY-2, where the subject property is located, of %%%. The same report indicated %%% vacancy indicated for all of COUNTY-1. It appears that, notwithstanding a longer term trend of higher vacancy in the years leading up to the 2018 year at issue in this case, an investor considering purchase of an industrial property in the CITY-2 area where the subject property is located would be more likely to anticipate a %%% vacancy than a %%% vacancy.

Both parties used %%% for management and reserve expense. There is good cause for the Commission to do likewise.

The parties differed in their capitalization rate. The Taxpayer used %%%. The County used 7.0%%%. The Taxpayer's comparables for capitalization rates had an average of %%%. The County's capitalization rate sales had a mean of %%% and a median of %%%. Because both parties' capitalization rate comparables included old sales, the Commission considers the sales closest to the January 1, 2018 lien date. Focusing on the Taxpayer's capitalization rate sales from 2017 yields an average capitalization rate of %%%. Including three additional sales from the first quarter of 2018 further lowers the average to %%%. The County's newest sale, and the only one with a sale date after 2015, had a sale date in August 2016 and sold with a capitalization rate of %%%. Considering the most recent capitalization rate sales, there is good cause to find a %%% capitalization rate a better indicator of the market on January 1, 2018 than a %%% rate.

The Commission considers the issue of the parties' adjustments for the (X) lumber shed and the lack of heat in some areas of the main warehouse. For the lumber shed, the Taxpayer reached a value of $$$$$ and provided details to show how it arrived at that figure using PROPERTY VALUATION data. The County reached a value for the lumber shed of $$$$$. The County indicated it did so using PROPERTY VALUATION data but did not provide details to show how it reached that value. The Taxpayer's $$$$$ value for the lumber shed is thus the better supported value of the two. The Taxpayer did not address the issue of lack of warehouse heat. The County made a $$$$$ deduction based on PROPERTY VALUATION data. The County did not provide detail to show how PROPERTY VALUATION information supported the $$$$$ figure but the Taxpayer did not provide anything to show otherwise. There is thus good cause for the Commission to use the $$$$$ figure.

Based on the most persuasive data presented, there is good cause to follow an income approach as follows:

Potential Gross Income

Market Rent: # Sq.Ft. x $ = $

Less: Vacancy and Collection Loss: -% ($)

Effective Gross Income $

Operating Expenses – Management and Reserves at 5%%%

($7,672)

Net Operating Income $

Capitalization Rate %

Income Approach to Value Indication $

Plus Three Sided Lumber Shed $

Deduction for no Heat in Warehouse -$

Total Value – Income Approach $

Considering the parties' sales comparison approaches to value, the Commission notes that the parties reached different results based on different comparables. The parties' adjustments were similar with the exception of the adjustments for land to building ratio. As was true for the income approaches to value, the Taxpayer adjusted for differences in land to building ratio at %%% of land value while the County adjusted at %%% of land value. As was true of the parties' income approaches to value, the Taxpayer has not provided basis to show that additional land at the subject property or any of the parties' comparables would have topography or layout problems that would diminish its value. As was true of the income approaches to value, there is good cause to accept the County's adjustments for differences in land to building ratio. This changes the Taxpayer's adjusted sales comparison values as follows:

Sales Price/Sq. Ft. Property Rights	$ %	$ %	$ %	$ -%	$ -%	$ %
Adjusted Price/Sq. Ft. Financing Terms	$ %	$ %	$ %	$ %	$ %	$ %
Adjusted Price/Sq. Ft. Conditions of Sale	$ %	$ %	$ %	$ %	$ %	$ %
Adjusted Price/Sq. Ft. Expenditures After Purchase	$ %	$ %	$ %	$ %	$ %	$ %
Adjusted Price/Sq. Ft.	$	$	$	$	$	$

Market (Time) Adj.	%	%	%	%		-%
Adjusted Price/Sq. Ft.	$	$	$	$	$	$

Location/Exposure	%	%	%	%	%	%

Physical Characteristics

Effective Age Adjustment	#	# -%	# %	# %	# %	# -%	# -%
Quality/Appeal Adjustment	X	X -%	X %	X %	X %	X -%	X -%
Size Adjustment	#	# %	# -%	# %	# %	# %	# %
Site Coverage Ratio Adjustment	%	% ~~%~~ %	% ~~%~~ %	% ~~-%~~ - %	% ~~%~~ %	% ~~%~~ %	% ~~%~~ %
Finish Percentage Adjustment	%	% %	% -%	% %	% %	% -%	% -%
Ceiling Height Adjustment		-%	%	-%	%	-%	-%
Amenity/Mezzanine		%	%	%	%	%	%
Other		%	%	%	%	%	%
Economic Characteristics		%	%	%	%	%	%
Use		%	%	%	%	%	%
Net Adjustments/Sq. Ft.		- ~~%~~ %	-% %	- ~~%~~ -%	~~%~~ %	- ~~%~~ -%	- ~~%~~ %
Adjusted Value/Sq. Ft.		~~$~~	~~$~~	~~$~~	~~$~~	~~$~~	~~$~~
Average Value/Sq. Ft.		~~$~~					
Median Value/Sq. Ft.		~~$~~					

As it did with the parties' lease comparables, the Commission considers the gross adjustments required to account for differences between the subject property and the comparables. The parties' gross adjustments for their lease comparables are as follows:

Taxpayer Gross Adjustments	%	%	%	%	%	%
County Gross Adjustments	%	%	%	%	%	

The range in gross adjustments for the parties' sales comparables is not as dramatic as it was for the lease comparables. The two lowest gross adjustment figures are both comparable sales presented by the County. Given the available data, as well as the same concerns the Commission previously indicated regarding discrepancy between the County and the Taxpayer adjustments and a general concern using the magnitude of gross adjustments as the sole basis for determining comparability, it would not be appropriate to ignore all of the Taxpayer's sales comparables simply because two of the County's comparables had low gross adjustments. Additionally, the differences in values per square foot among the eleven sales comparables are too great to support simply considering a mean or median value. Rather, the Commission considers a reconciliation of the parties' values based on an array from lowest to highest as follows:

Comparable	Indicated Value per Square Foot
Taxpayer Number 5	$
Taxpayer Number 3	$
Taxpayer Number 4	$
Taxpayer Number 2	$
Taxpayer Number 1	$
County Number 3	$
Taxpayer Number 6	$
County Number 5	$
County Number 2	$
County Number 4	$
County Number 1	$

Placing less emphasis on the extremes in the indicated values, both high and low, the Commission notes a relatively tight range in the middle of the data with indicated values per square foot of $$$$$, $$$$$, $$$$$, and $$$$$. These four values include two comparables from either party, indicating representation of both party's views. The four values have an average value per square foot of $$$$$.

Reconciling the available sales data to an indicated value of $$$$$ per square foot would indicate a value of $$$$$ for the ##### square feet of the subject property. Adding $$$$$ for a lumber shed and deducting $$$$$ for lack of heat in some areas of the warehouse would yield a value of $$$$$.

The $$$$$ value indicated by the most persuasive income approach information is slightly higher than the $$$$$ board of equalization value. The $$$$$ value indicated by the most persuasive sales comparison approach information is slightly lower than the $$$$$ board of equalization value. These figures thus support, rather than show error in, the board of equalization value. The information presented, taken as a whole, provides good cause to determine that the Taxpayer has not met the burden of proof to show error in the $$$$$ board of equalization value.

Clinton Jensen
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Tax Commission finds that the value of the subject property as of January 1, 2018 is $$$$$. It is so ordered.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file 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 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

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of __________________, 2021.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
Commissioner