21-962
TAX TYPE: PROPERTY TAX
TAX YEAR: 2020
DATE SIGNED: 3/31/2022
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL
RECUSED: J. FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH, Respondent.	**INITIAL HEARING ORDER** Appeal No. 21-962 Parcel No: ##### Tax Type: Property Tax Tax Year: 2020 Judge: Jensen

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, or via mail to Utah State Tax Commission, Appeals Division, 210 North 1950 West, CITY-2 City, Utah 84134.

Presiding:
Clinton Jensen, Administrative Law Judge

Appearances:
For Petitioner: REPRESENTATIVE FOR TAXPAYER, for the Taxpayer
For Respondent: No one appeared

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner (the "Taxpayer") brings this appeal from the decision of the COUNTY Board of Equalization (the "County"). This matter was scheduled before the Commission for a

Mediation Conference on October 13, 2021 in accordance with Utah Code Ann. §63G-4-102 et. seq. and Utah Administrative Rule R861-1A-32.

Notwithstanding notice of the Mediation Conference to the parties and instructions on how to appear by telephone if desired, the County failed to appear. The Commission attempted to reach a representative for the County by telephone, but the only representative available indicated that no County representatives with knowledge of this matter could be reached. Between the date set for the Mediation Conference and the date of this order, the County has not contacted the Commission to provide a reason for its lack of appearance at the Mediation Conference.

Utah Code Ann. §59-1-502.5(1) provides that "[a]t least 30 days before any formal hearing is held in response to a party's request for agency action, one or more tax commissioners or an administrative law judge designated by the commission shall hold an initial hearing." Similarly, Utah Administrative Rule R861-1A-23(1) provides that all matters before the Utah State Tax Commission "shall be . . . set for an initial hearing, a status conference, or a scheduling conference pursuant to R861-1A-26." Utah Administrative Rule R861-1A-23(2) provides that a "matter may be diverted to a mediation process pursuant to R861-1A-32 upon agreement of the parties and the presiding officer." Utah Administrative Rule R861-1A-32(1)(a) provides that the "parties may agree to pursue mediation any time before the formal hearing on the record."

Considering these statutes and rules as a whole, it is clear that a mediation before the Commission requires agreement of the parties. If there is no agreement to mediate a case, the matter shall be set for an initial hearing, status conference, or scheduling conference. Inasmuch as the County did not appear at the Mediation Conference, it did not agree to mediate the case.[1] Applying the requirements of Utah Code Ann. §59-1-502.5(1) that "the commission shall hold an initial hearing" and Utah Administrative Rule R861-1A-23(1) that all matters before the Utah State Tax Commission "shall be . . . set for an initial hearing, a status conference, or a scheduling conference," the most appropriate action in this case is for the Commission to hold an initial hearing because the representative for the Taxpayer appeared at the scheduled date and time for the mediation conference prepared to present information to the Commission in support of his requested value for the subject property. Based on this, the Commission converted the October 13, 2021 Mediation Conference to an Initial Hearing. In accordance with Utah Code Ann. §59-1-502.5(1), the Initial Hearing included receipt of "proffers of evidence, including testimony, documents, and other exhibits" from the Taxpayer at the initial hearing. In accordance with Utah

[1] The Commission notes that on October 4, 2021, a representative of the County signed a written mediation agreement. However, in addition to signing an agreement, mediation requires attendance of the parties. Based on this, the County did not ultimately agree to participate in mediation.

Administrative Rule R861-1A-9(6)(a), the Commission has also considered the "facts and evidence presented by a party that was submitted to the county board" as contained in the County Board of Equalization record in this matter.

The COUNTY Assessor's Office valued the subject property at $$$$$ as of the January 1, 2020 lien date. The County Board of Equalization sustained that value. At the initial hearing, the Taxpayer requested that the value of the subject property be reduced to $$$$$. The County did not appear at the hearing and thus did not make a valuation request at the hearing. The Taxpayer's representative indicated that he knew of no reductions in the subject property's assessed value on appeal for the 2017, 2018, or 2019 tax years. The County Board of Equalization record did not indicate any reductions in the subject property's assessed value on appeal for the 2017, 2018, or 2019 tax years and specifically indicated that there was no reduction in the subject property's assessed value on appeal for the 2019 tax year.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

> (1) All 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.

For property tax purposes, Utah Code Ann. §59-2-102(13) defines "[f]air market value" 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 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 Ann. §59-2-301.3 provides for assessment of real property subject to a low-income housing covenant as follows:

> (1) As used in this section:
> (a) "low-income housing covenant" means an agreement:
> (i) between:
> (A) the Utah Housing Corporation; and
> (B) an owner of real property upon which residential rental housing is located; and
> (ii) in which the owner described in Subsection (1)(a)(i)(B) agrees to limit the amount of rent that a renter may be charged for the residential rental housing; and

(b) "residential rental housing" means housing that:
(i) is used:
(A) for residential purposes; and
(B) as a primary residence; and
(ii) is rental property.
(2) A county assessor shall, in determining the fair market value of real property subject to a low-income housing covenant, take into account all relevant factors that affect the fair market value of the property, including:
(a) the information provided in Subsection (3); and
(b) any effects the low-income housing covenant may have on the fair market value of the real property.
(3) (a) Except as provided in Subsection (3)(b), to have a county assessor take into account a low-income housing covenant under Subsection (2), the owner of a property subject to a low-income housing covenant shall, by April 30 of each year, provide to the county assessor:
(i) a signed statement from the property owner that the project continues to meet the requirements of the low-income housing covenant;
(ii) a financial operating statement for the property for the prior year;
(iii) rent rolls for the property for the prior year; and
(iv) federal and commercial financing terms and agreements for the property.
(b) If the April 30 described in Subsection (3)(a) falls within the first 12 months after a low-income housing operation begins on the property, a property owner shall provide estimates of the information required by Subsections (3)(a)(ii) through (iv).
(4) If the owner of a property subject to a low-income housing covenant fails to meet the requirements of Subsection (3):
(a) the assessor shall:
(i) make a record of the failure to meet the requirements of Subsection (3); and
(ii) make an estimate of the fair market value of the property in accordance with Subsection (2) based on information available to the assessor; and
(b) subject to Subsection (5), the owner shall pay a penalty equal to the greater of:
(i) $$$$$; or
(ii) %%%%% of the tax due on the property for that year.
(5) (a) Only one penalty per year may be imposed per housing project subject to a low-income housing covenant.
(b) Upon making a record of the action, and upon reasonable cause shown, an assessor may waive, reduce, or compromise the penalty imposed under Subsection (4)(b).

A person may appeal a decision of a county board of equalization to the Commission, as provided in Utah Code Ann. §59-2-1006 as follows in pertinent part:

(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, or a tax relief decision

made under designated decision-making authority as described in Section 59-2-1101, 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 or entity with designated decision-making authority described in Section 59-2-1101.

(2) The auditor shall:

(a) file one notice with the commission;

(b) certify and transmit to the commission:

(i) the minutes of the proceedings of the county board of equalization or entity with designated decision-making authority for the matter appealed;

(ii) all documentary evidence received in that proceeding; and

(iii) a transcript of any testimony taken at that proceeding that was preserved; and

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of:

(i) the board of equalization as required by Section 59-2-1102; or

(ii) the entity with designated decision-making authority.

(3) In reviewing a decision described in Subsection (1), the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the assessment or order of the county board of equalization or entity with decision-making authority.

(4) In reviewing evidence submitted to the commission to decide an appeal under this section, the commission shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented;

(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 reviewing a decision described in Subsection (1), 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 %%%%% from the assessed value of comparable properties. . . .

The assessment of property after there has been a reduction in value is addressed in Utah Code Ann. §59-2-301.4, below, 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…

Utah Code Ann. §59-2-109 addresses the burden of proof in certain circumstances, as follows:

(1) As used in this section:
(a) "Final assessed value" means:
(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with Section 59-2-1004, the value given to the real property by a county board of equalization after the appeal;
(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:
(A) the commission, if the commission has issued a decision in the appeal; or
(B) a county board of equalization, if the commission has not yet issued a decision in the appeal; or
(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.
(b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by the county assessor in accordance with Subsection 59-2-1004(2)(c).
(c) "Qualified real property" means real property:
(i) that is assessed by a county assessor in accordance with Part 3, County Assessment;
(ii) for which:
(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with Section 59-2-1004 or the commission in accordance with Section 59-2-1006;

(B) as a result of the appeal described in Subsection (1)(c)(ii)(A), a county board of equalization or the commission gave a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(iii) that, between January 1 of the previous taxable year and January 1 of the current taxable year, has not been improved or changed beyond the improvements in place on January 1 of the previous taxable year.

(2) For an appeal involving the valuation of real property to the county board of equalization or the commission, the party carrying the burden of proof shall demonstrate:

(a) substantial error in:

(i) for an appeal not involving qualified real property:

(A) if Subsection (3) does not apply and the appeal is to the county board of equalization, the original assessed value;

(B) if Subsection (3) does not apply and the appeal is to the commission, the value given to the property by the county board of equalization; or

(C) if Subsection (3) applies, the original assessed value; or

(ii) for an appeal involving qualified real property, the inflation adjusted value; and

(b) a sound evidentiary basis upon which the county board of equalization or the commission could adopt a different valuation.

(3) (a) The party described in Subsection (3)(b) shall carry the burden of proof before a county board of equalization or the commission, in an action appealing the value of property:

(i) that is not qualified real property; and

(ii) for which a county assessor, a county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(b) For purposes of Subsection (3)(a), the following have the burden of proof:

(i) for property assessed under Part 3, County Assessment:

(A) the county assessor, if the county assessor is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(B) the county board of equalization, if the county board of equalization is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(ii) for property assessed under Part 2, Assessment of Property, the commission, if the commission is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(c) For purposes of this Subsection (3) only, if a county assessor, county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year:

(i) the original assessed value shall lose the presumption of correctness;

(ii) a preponderance of the evidence shall suffice to sustain the burden for all parties; and

(iii) the county board of equalization or the commission shall be free to consider all evidence allowed by law in determining fair market value, including the original assessed value.

(4) (a) The party described in Subsection (4)(b) shall carry the burden of proof before a county board of equalization or the commission in an action appealing the value of qualified real property if at least one party presents evidence of or otherwise asserts a value other than inflation adjusted value.

(b) For purposes of Subsection (4)(a):

(i) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof if the county assessor or county board of equalization presents evidence of or otherwise asserts a value that is greater than or equal to the inflation adjusted value; or

(ii) the taxpayer that is a party to the appeal has the burden of proof if the taxpayer presents evidence of or otherwise asserts a value that is less than the inflation adjusted value.

(c) The burdens of proof described in Subsection (4)(b) apply before a county board of equalization or the commission even if the previous year's valuation is:

(i) pending an appeal requested in accordance with Section 59-2-1006 or judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review; or

(ii) overturned by the commission as a result of an appeal requested in accordance with Section 59-2-1006 or by a court of competent jurisdiction as a result of judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review.

Utah Administrative Rule R861-1A-9(6)(a) provides that in hearing real property appeals, the Commission shall consider the facts and evidence presented to the Commission, "including facts and evidence presented by a party that was submitted to the county board."

In a proceeding before the Tax Commission, the burden of proof is generally on the petitioner to support its position. *See Nelson v. Bd. of Equalization of 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); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652; and *Fraughton v. Tax Commission*, 2019 UT App 6, 438 P.3d 961. To prevail in this case, Utah Code Ann. §59-2-109(2) provides that 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.[2]

[2] Had the County appeared before the Commission and requested a value for the subject property that was different than $$$$$, the County would have also had a burden of proof in this matter. However, because the County failed to appear before the Commission, the Commission assumes that the County is asking the

DISCUSSION

Legal and Factual Background

The Utah Constitution, Article XIII, Sec. 2 provides, "So that each person and corporation pays a tax in proportion to the fair market value of his, her or its tangible property, all tangible property in the state that is not exempt under the laws of the United States or under this Constitution shall be: (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law; and (b) taxed at a uniform and equal rate." Utah statutes implement the constitutional provision and provide that property tax is assessed on the basis of the property's "fair market value" as of January 1 of the tax year at issue in accordance with Utah Code Ann. §59-2-103. Utah Code Ann. §59-2-102 defines "[f]air market value" as the "amount for which property would exchange 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. §59-2-109 addresses the burden of proof in certain circumstances, including if the value of the subject property is a "qualified real property." There is no indication that the value of the subject property was reduced based on an appeal for the 2019 tax year. Therefore, the subject property is not considered "qualified real property" under Utah Code Ann. §59-2-109 for the 2020 tax year.

In accordance with Utah Code Ann. §59-2-301.4, the County is required to consider a valuation reduction that occurred in the three prior tax years when making a determination of the property's fair market value for the current tax year. The subject property's assessed value was not reduced for the 2017, 2018, or 2019 tax year. The Commission finds the "valuation reduction" provisions described in Utah Code Ann. §59-2-301.4 do not apply in this appeal because the value of the subject parcel was not reduced on appeal in the three prior tax years.

The subject property is a property subject to a low-income housing covenant ("LIHC property")[3] and is located at SUBJECT ADDRESS in CITY-1, Utah. It has ##### units in

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Commission to sustain the $$$$$ original assessed value and Board of Equalization value, and does not apply a burden of proof to the County in this matter.

[3] In the County Board of Equalization Record, the County cited Utah Code Ann. §59-2-301.3, but referred to the subject property as a low income housing tax credit property or "LIHTC." The Commission uses the term low-income housing covenant or "LIHC" to conform to the statutory definition in Utah Code Ann. §59-2-301.3(1)(a).

multiple buildings constructed in YEAR. It has ##### rentable square feet and a parcel size of ##### acres. It is construction class D and rental class B.

Taxpayer Information

In support of its request to reduce the 2020 value of the subject property to $$$$$, the Taxpayer presented an income approach based on actual income and expenses for the subject property. The Taxpayer's profit and loss statement for 2019 indicated actual income from January 1, 2019 to December 31, 2019 as follows:

Gross Scheduled Rent	$$$$$
Less Vacancies	$$$$$
Less Bad Debt	$$$$$
Less Concessions	$$$$$
Total Rental Income	$$$$$
Plus Misc/Other Revenue	$$$$$
Total Revenue	$$$$$

The Taxpayer's profit and loss statement for 2019 indicated actual expenses from January 1, 2019 to December 31, 2019 as follows:

Administrative Expenses	$$$$$
Marketing and Retention	$$$$$
Repairs and Maintenance	$$$$$
Turnover Expenses	$$$$$
Utilities	$$$$$
Real Property Taxes	$$$$$
Insurance	$$$$$
Total Operating Expenses	$$$$$

The Taxpayer deducted $$$$$ in total expenses from $$$$$ in total revenue to arrive at an actual 2019 net operating income of $$$$$. The Taxpayer capitalized the net operating income at a %%%%% capitalization rate to arrive at a requested rounded value of $$$$$.

The Taxpayer's representative explained that vacancy at the subject property was at market levels and that rents charged were commensurate with other similarly situated LIHC properties. He indicated that the subject property's management team was financially motivated to maximize rents and keep expenses at a minimum without causing excess vacancy. The Taxpayer's representative indicated that he had carefully reviewed the Taxpayer's income and expenses and found that neither had any unusually high or low numbers. He indicated that both revenues and expenses for 2019 were slightly higher than similar figures for 2018. He specifically indicated that he verified that the expense items did not include any capital expenditures. The Taxpayer's representative indicated that he had used a %%%%% capitalization rate because that was what the County had used in the past for a similar appeal.

County Information

Because the County did not appear, it did not present new information at the initial hearing. However, Utah Administrative Rule R861-1A-9(6)(a) provides that in hearing real property appeals, the Commission shall consider the facts and evidence presented to the Commission, "including facts and evidence presented by a party that was submitted to the county board." The County Board of Equalization record indicates that the County relied on an income approach based on actual income and expenses from the subject property.

The County Board of Equalization record indicates that the County relied on an entry in the Taxpayer's 2019 profit and loss statement indicating December 2019 gross scheduled rents for the subject property of $$$$$. The County multiplied this by 12 to arrive at annual scheduled rent for the subject property of $$$$$. From this, the County subtracted %%%% for vacancy, relying on market data from the Greater CITY-2 Area Multifamily Market – 2019 Review and 2020 Outlook, which shows vacancy in the CITY-1, Utah area of %%%%%. The County then added $$$$$ for miscellaneous and other income, which is a rounded version of the $$$$$ annual figure that the Taxpayer used for miscellaneous and other income. Starting with annual scheduled rent of $$$$$, deducting %%%%% vacancy, and adding $$$$$ for miscellaneous and other income, the County arrived at an effective gross income of $$$$$.

The County Board of Equalization record indicates that the County reviewed data from the COMPANY-1 and concluded that the Taxpayer's actual expenses were similar to those of similar LIHC properties in the market. Based on this, the County relied on the Taxpayer's actual expenses. However, rather than use real property tax as an item of expense, the County accounted for the expense of property tax as a load to the capitalization rate. Removing property tax expense from the Taxpayer's actual expenses, the County arrived at a rounded expense total of $$$$$.

In addition to deducting expenses, the County deducted $$$$$ per unit, or a total of $$$$$, for reserves. The County supported its reserve amount with information published by the COMPANY-1 for properties constructed in or after 2000.

Subtracting $$$$$ in expenses (not counting property taxes) and $$$$$ in reserves from an effective gross income of $$$$$, the County arrived at a net operating income of $$$$$. The County capitalized this at a loaded capitalization rate of %%%%% for a rounded capitalized value of $$$$$.

The County Board of Equalization record indicates that the County calculated its 5.96% capitalization rate by adding a %%%%% load for the effect of property tax to a base capitalization rate of %%%%%. In support of the %%%%% base capitalization rate, the County listed sales for four LIHC comparable properties as follows:

City	Sale Date	Year Built	No. of Units	Rental Class	CAP
CITY-3	DATE	YEAR	#####	B	%%%%%
CITY-4	DATE	YEAR	#####	B	%%%%%
CITY-2	DATE	YEAR	#####	B	%%%%%
CITY-5	DATE	YEAR	#####	A	%%%%%

The County calculated an average capitalization rate for these sales of %%%%%, which the County used to support a concluded capitalization rate of %%%%% before the addition of a tax load. For the %%%%% property tax load, the County started with the effective tax rate for 2019

of %%%%% and deducted the %%%%% primary residential exemption applicable to the subject property for a rounded tax load of %%%%%.

Commission Analysis

Although the parties reached different conclusions regarding the value of the subject property for the January 1, 2020 lien date, their valuation information is substantially similar. Both started with gross scheduled rent based on the Taxpayer's 2019 profit and loss statement. The Taxpayer used the 2019 year-end figure of $$$$$. The County used the December 2019 month-end figure of $$$$$ and multiplied it by 12 to arrive at annual scheduled rent for the subject property of $$$$$. The annual scheduled rent derived from multiplying the December 2019 figure by 12 is slightly higher than the full 2019 year scheduled rent. This would indicate that scheduled rents were increasing throughout the 2019 year. There is further support for this conclusion in the statement of the Taxpayer's representative that rents increased from 2018 to 2019. Because a potential buyer of the subject property would be using 2019 income to predict future scheduled rent, the December 2019 rent multiplied by 12 would more accurately reflect expected rents starting with the January 1, 2020 lien date. Based on this, there is good cause to find the County's scheduled rent amount of $$$$$ more persuasive than the Taxpayer's scheduled rent amount of $$$$$.

From gross scheduled rent, the Taxpayer deducted vacancy of $$$$$, bad debt of $$$$$, and concessions of $$$$$. These figures indicate a total vacancy and credit loss of $$$$$. This is %%%%% of the Taxpayer's annual scheduled rent figure of $$$$$. This rounds to the same %%%%% vacancy rate that the County used. There is good cause for the Commission to use a rounded %%%%% vacancy rate.

The Taxpayer listed total expenses of $$$$$. However, $$$$$ of that expense amount was attributable to taxes on the real property itself. It is typical to account for property taxes in the capitalization rate rather than as an expense.[4] Removing the property tax amount yields an expense amount of $$$$$. This rounds to the same $$$$$ expense that the County used. So long as the real property tax is recognized in the capitalization rate, there is good cause to use a rounded expense figure of $$$$$.

[4] See, e.g. Utah State Tax Commission Appeal No. 20-641. The cited case is among the previous Commission decisions available in a redacted format at https://tax.utah.gov/commission-office/decisions.

The Taxpayer did not make a deduction for reserves. The County used a reserve figure of $$$$$ per unit or $$$$$ for the subject property. The County supported its reserve deduction with data from the COMPANY-1. There is good cause to make a $$$$$ deduction for reserves.

The Taxpayer used a %%%%% capitalization rate. The only support for this capitalization rate was for the Taxpayer's representative to state that the County had used that rate in the past. The County used a total capitalization rate of %%%%%, which consisted of a %%%%% base rate and a %%%%% tax load. The County supported its %%%%% base rate with comparable sales that, like the subject property, were LIHC properties. The County provided calculations for its tax load and accounted for a %%%%% primary residential exemption applicable to the subject property. There is good cause to find the County's %%%%% total capitalization rate better supported and thus more persuasive than the %%%%% capitalization rate proposed by the Taxpayer.

For each step of the parties' income approaches to value, the County figures, as submitted to the County Board of Equalization and disclosed in the County Board of Equalization record, are more persuasive than the alternative figures provided by the Taxpayer. There is thus good cause to find that the County's $$$$$ value has better support in the information before the Commission. This $$$$$ figure is somewhat higher than the $$$$$ value set by the County Board of Equalization. The County did not appear at the initial hearing and thus did not request a value higher than the $$$$$ value set by the County Board of Equalization. There is good cause to find that the Taxpayer did not meet its burden of proof to show substantial error in the $$$$$ value set by the County Board of Equalization or to provide a sound evidentiary basis for a different value.

Clinton Jensen
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property was $$$$$ as of the January 1, 2020 lien date. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a

Formal Hearing. Such a request shall be mailed, or emailed, to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

or emailed to:

taxappeals@utah.gov

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

DATED this _____day of _____, 2022.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

RECUSED

Rebecca L. Rockwell
Commissioner

Jennifer N Fresques
Commissioner