

APPEAL # 23-699

TAX TYPE: PROPERTY TAX

TAX YEAR: 2022

DATE SIGNED: 2/27/2024

COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,</p> <p>Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 23-699</p> <p>Parcel No: #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2022</p> <p>Judge: Phan</p>
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This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. Pursuant to Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must send the response via email to taxredact@utah.gov, or via mail to Utah State Tax Commission, Appeals Division, 210 North 1950 West, Salt Lake City, Utah 84134.

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER'S REP-1, Attorney at Law

For Respondent: RESPONDENT'S REP-1, Deputy District Attorney

RESPONDENT'S REP-2, Commercial Appraiser COUNTY-1

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the COUNTY-1 Board of Equalization ("the County") pursuant to Utah Code §59-2-1006. This matter was argued in an Initial Hearing on December 4, 2023, in accordance with Utah Code Ann. §59-1-502.5. The County Assessor's Office originally valued the subject property at \$\$\$\$\$, as of the January 1,

2022 lien date. The County Board of Equalization reduced the value to \$\$\$\$\$. At the Initial Hearing before the Tax Commission, the Property Owner requested the value of the subject property be reduced to \$\$\$\$\$. The County requested that the value of \$\$\$\$\$ be sustained.

APPLICABLE LAW

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

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, "fair market value" is defined in Utah Code Ann. §59-2-102(13), as follows:

- (a) "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.
- (b) 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.

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

- (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:
 - (a) 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; and
 - (b) if the county assessor valued the property in accordance with Section 59-2-301.8 and the taxpayer intends to contest the value of personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8, submitting a signed statement of the personal property with the notice of appeal.

...
- (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 5% from the assessed value of comparable properties.

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, including a value based on a stipulation of the parties;
 - (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 the parties have entered a stipulation; or
 - (B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; 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 same as that term is defined in Section 59-2-1004.
 - (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) the appeal described in Subsection (1)(c)(ii)(A) resulted in 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, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not had a qualifying change.
 - (d) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:
 - (i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of the fair market value of the real property or \$20,000;
 - (ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or
 - (iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.
- (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.

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.

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-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); *Fraughton v. Tax Commission*, 2019 UT App 6, 438 P.3d 961 (Utah Ct. App. 2019); and *Patience LLC v. COUNTY-1 Board of Equalization*, 2021 UT App 4. 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 substantial error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes.

DISCUSSION AND ANALYSIS

I. General Information

The issue before the Tax Commission at this Initial Hearing is the Property Owner's appeal of the decision issued by the County Board of Equalization in regards to the assessed value of parcel no. ##### for property tax assessment purposes. The lien date at issue in this appeal is January 1, 2022. The value of the property had not been appealed for any of the three years preceding tax year 2022.

The subject property is located at ADDRESS-1. The subject property is ##### acres of land and is improved with an industrial flex building. The building was constructed in 2007 and the County has classified the building as having an effective age of 2013. The building has ##### square feet with a 1, ##### square foot office mezzanine. The building is %%% office and

has a story height of ##### feet. The subject property is divided into ##### rental units which are ##### square feet, ##### square feet and ##### square feet.

The parties explained that the subject property is part of an economic unit consisting of two parcels in total, the subject parcel and parcel ##### (“Parcel 019”). The value of Parcel ##### was not appealed and is just a small sliver of land, being only ##### acres in size. Most of the value for the economic unit is attributed to the subject parcel, and the County had assessed Parcel ##### at \$\$\$\$\$ for tax year 2022. The County Board of Equalization value determination had been a value of \$\$\$\$\$ for the economic unit and the County had subtracted \$\$\$\$\$ from this total value to arrive at a value of \$\$\$\$\$ for the subject parcel. The value attributed to Parcel ##### was not in dispute.

The subject parcel and Parcel ##### were sold on September 1, 2021, which is near the January 1, 2022 lien date at issue in this appeal. The County had concluded the purchase price was \$\$\$\$\$ for both parcels. The Property Owner proffered at this Initial Hearing that the purchase price had been \$\$\$\$\$ for both parcels. The County agreed that the property had been listed for sale, was exposed to the open market and the sale was an arm’s-length transaction. Both parties' arguments regarding the value of the subject property were based on the purchase price as a starting point. The issues presented at this hearing were the dispute regarding the purchase price amount and whether a time adjustment should be made to the purchase price to get to a value as of the January 1, 2022 lien date at issue. The Property Owner also argued that neighboring properties to the subject property were assessed at a lower value per square foot than the subject.

II. Property Owner’s Evidence

The Property Owner submitted the final settlement statement which showed that the total purchase price paid to the seller for the combined property had been \$\$\$\$\$. The closing statement showed that the settlement date and disbursement date of the sale was September 1, 2021. The Property Owner’s representative stated that this was the total amount that the buyer had paid for this property. He did indicate that the price may have originally been negotiated at \$\$\$\$\$ but it was renegotiated to the \$\$\$\$\$ to reflect the condition of the roof of the building. The Property Owner’s representative confirmed that at some point in time the purchaser had paid \$\$\$\$\$ to replace the roof of the subject property. However, at the hearing, the Property Owner's representative was not able to provide the date that the roof had been replaced, nor did he have the information to show if the replacement had occurred prior to the January 1, 2022 lien date or after the lien date.

The Property Owner’s representative argued that the value should be based on the September 1, 2021 purchase price and there should not be a time adjustment applied. He argued that an arm’s-length sale near the lien date should be the “gold standard” of determining the fair market value for a property and the sales price should be the default value. He argued that it should shift the burden of proof to the County, although he cited no statute, rule or case law to support this contention. He noted that the County had applied market appreciation for the time period from the sale date to the lien date, but it was the Property Owner’s representative’s argument that determining appreciation was “not a science, it was an art” and he argued even if the data showed an increase from one year to the next, the County had not shown that there was an increase in the last 4 months of the year. The Property Owner did not provide any real estate or appraisal publications, reports or studies regarding changes in the real estate market from January 1, 2021 to January 1, 2022. He did, however, provide a chart showing federal funds rates from 2018 to 2023. This chart showed an increase beginning roughly at the end of 2021 and becoming significant in 2022 after the lien date.

The Property Owner also made an equalization argument, stating that there were three buildings near the subject property that were valued much lower than the subject property. The representative for the Property Owner explained that the Property Owner was having to collect higher rent just to pay the taxes for the subject property. He provided an exhibit with a satellite photograph showing the location of the subject property and his three equalization comparables. One comparable was next door to the subject, one comparable was directly across the street from the subject and the final comparable was across the street and two properties away from the subject. The Property Owner provided a chart that contained only the following information about the three equalization comparables:

REDACTED TABLE

III. County's Evidence

The County submitted an Assessor’s Proposed Conference Record prepared by RESPONDENT’S REP-2, a commercial appraiser with COUNTY-1. This report had been prepared for the County Board of Equalization hearing. In the report, RESPONDENT’S REP-2 concluded that the best evidence of value for the subject property was the September 2021 sale price, time adjusted to the lien date at issue. RESPONDENT’S REP-2’s report stated that he “verified this sale for the Assessor’s Office and spoke with the owner as part of the verification process.” The County also provided a copy of the Real Property Transfer Survey regarding the sale of the subject property. This survey indicated the sale price was \$\$\$\$\$. In his report,

RESPONDENT'S REP-2 concluded from that verification that the sales price for the subject property had been \$\$\$\$\$. In the report he stated, "Given the aggressive nature of the industrial market sector over the past year it is important that the sale price be adjusted for market conditions (time)." His time adjustment for that 4 month period from the date of sale to the lien date was %%%%, which resulted in a value of \$\$\$\$\$ for the subject property after deducting the value of the associated parcel of \$\$\$\$\$. This was the value set by the County Board of Equalization.

The County also submitted a statement that indicated it was compiled from multiple local brokerage market reports, which stated in part:

For year-end 2021 (Tax Year 2022) - Overall, the industrial market with its high construction activity, low vacancy rates, record high achieved lease rates, preleasing commitments, low cap rates and record cost per square foot on investment sales in COUNTY-1 for 2021 is unprecedented. Price-weighted overall cap rates for industrial properties dropped 80 basis points (5.1% to 4.3%) from end of year 2020 to end of year 2021, with some transactions selling at sub 4 cap rates. Vacancy has fallen further to sub 2.0% overall and some reports stating vacancy is below 2.0% overall. Overall achieved average-first year lease rates grew 24.8% year over year, with bulk distribution and general-purpose buildings experiencing the strongest growth.

At the hearing, RESPONDENT'S REP-2 explained that the market increases in 2021 for industrial properties were "unprecedented." He stated that the County has a statistical department that provides time adjustments for sales and for leases, which he stated were not necessarily the same. RESPONDENT'S REP-2 indicated that the time adjustment he had used was based on sales information analyzed by the County's statistical department. He also stated that he had looked at some paired sales independently and they supported his time adjustment for this property, but he did not submit information regarding these paired sales for the hearing.

Regarding the three equalization comparables, RESPONDENT'S REP-2 stated that two were much older buildings, having been constructed in DATE and DATE, while the subject was constructed in DATE. Based on this, the County's position was that these buildings were not comparable to the subject. RESPONDENT'S REP-2 stated that the third comparable looked more similar to the subject property, but there was still a difference in condition between the two properties.

IV. Value Conclusion

The value of the subject property was not reduced based on an appeal for the 2021 tax year, therefore the subject parcel is not considered a "qualified real property" under Utah Code

Ann. §59-2-109 for the 2022 tax year. Additionally, 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 "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 for the 2019, 2020, or 2021 tax years. Only the Property Owner is requesting a value different from the value set by the County Board of Equalization. To prevail in this case, Utah Code §59-2-109(2) provides that the Property Owner must: 1) demonstrate that the subject property's current value contains substantial error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes.

The Property Owner argued at the hearing that evidence of a sale near the lien date should shift the burden of proof to the County. However, this is contrary to the case law and statute, which clearly places the burden of proof on the property owner. *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); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000); *Fraughton v. Tax Commission*, 2019 UT App 6, 438 P.3d 961 (Utah Ct. App. 2019); and *Patience LLC v. Salt Lake County Board of Equalization*, 2021 UT App 4. *See also* Utah Code Ann. §59-2-109. The County asked that the value remain as set by the County Board of Equalization and did not request a higher value. Therefore, the Property Owner's argument on this point is without merit and it is the Property Owner that has the burden to establish a sound evidentiary basis to support a value lower than the value set by the County Board of Equalization for the subject property.

Both parties have relied on a sale price from the Property Owner's purchase of the subject property near the lien date January 1, 2022. The Property Owner provided as evidence of the purchase price, the final settlement statement. The final settlement statement shows that the buyer paid \$\$\$\$\$ for the property. On the Property Transfer Survey, the Property Owner had listed \$\$\$\$\$ as the purchase price. From the information the parties submitted at this hearing, the difference seems to be that the final price was reduced to \$\$\$\$\$ due to the condition of the roof. Had the roof not been replaced prior to the lien date, \$\$\$\$\$ would be the correct starting point. However, the Property Owner has the burden of proof and did not establish that the roof replacement occurred after the lien date at this Initial Hearing. Therefore, it is appropriate for the Commission to consider the \$\$\$\$\$ as the starting point for the purchase price.

It is also appropriate to add a time adjustment for the four months between the purchase price and the January 1, 2022 lien date. The Commission takes administrative notice that the market value increase in industrial properties was unprecedented from January 1, 2021 to January 1, 2022 as there has been significant amounts of data and reports presented to the Commission that have shown this. The Property Owner has argued that the County has not shown how much, if any, of the increase occurred during the last four months of the year. However, the Property Owner has not provided any market data to establish that the County is in error on this point and it is the Property Owner that has the burden of proof in this proceeding. Therefore, based on the market value arguments, the Property Owner has not met the burden of proof to show error in the County's value.

Pursuant to Utah Code Sec. 59-2-1006, a property owner may appeal an assessment based on either fair market value or equalization. The Property Owner also made an equalization argument and asserted that three neighboring properties were assessed at a lower value per square foot. The Property Owner submitted very limited information regarding these equalization properties, providing only the location, the square footage and the assessed value for 2021 and 2022 to show the increase. The Property Owner did not provide any information about the characteristics of these properties to show whether they were comparable to the subject. Information was not provided regarding the age, grade of construction, condition, percentage of office finish, ceiling height and land to building ratio of the comparable properties. All of these characteristics affect market value. The Property Owner appeared to focus more on the percentage increase from the 2021 assessment to the 2022 assessment, with all properties increasing significantly, but the subject property increasing at a higher percentage.

The Property Owner has not provided evidence that meets the statutory requirement for a reduction based on equalization. Utah Code Subsection 59-2-1006(5) provides that the Commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if the issue of equalization is raised and “the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.” The statutory language does not provide for an equalization adjustment based on the percentage increase of other properties. Rather, equalization is based on the assessed value of the other properties as compared to the assessed value of the subject property. As the Court of Appeals recently explained in *Patience LLC v. Salt Lake County Board of Equalization*, 2021 UT App 4, ¶28, “The Utah Constitution states that ‘all tangible property in the State . . . shall be taxed at a uniform and equal rate’ in proportion to its fair market value. Utah Const. art. XIII, §2, cl. 1. Consistent with this constitutional mandate, a

property owner may seek adjustment of a property tax valuation if the assessment “stands apart from a group of undervalued comparable properties.” *Citing Mountain Ranch Estates v. Utah State Tax Comm’n*, 2004 UT 86, ¶ 15, 100 P.3d 1206. The court in *Patience* pointed out that “[a] taxpayer seeking equalization bears the burden of identifying comparable properties that deviate more than 5% from the valuation of the property.” *Id.* ¶29. Based on the court’s decision in *Patience*, a property owner must show a “group of undervalued comparables”¹ were assessed at values that deviated at least 5% from the subject property. The Property Owner did not meet this requirement because it failed to show a group of ‘comparable properties’ that were valued at least 5% less than the subject property. The Property Owner showed that three other properties nearby were valued differently from the subject, but did not show that these properties were actually comparable to the subject property. Therefore, the Property Owner has not established a basis for a reduction in value based on equalization.

The Property Owner bears the burden of proof to demonstrate that the subject property's current value contains substantial error and provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes. The Property Owner has not met that burden of proof in this matter and the value should remain as set by the County Board of Equalization.

Jane Phan
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, 2022 lien date. It is so ordered.

¹ *See also Mountain Ranch Estates v. Utah State Tax Comm’n*, 2004 UT 86, ¶16, in which the Court explained:

“Intentional and systematic undervaluations of property may violate the equal protection and due process rights of property owners not granted preferential treatment. See Allegheny Pittsburgh Coal Co. v. County Comm’n, 488 U.S. 336, 343 (1989) (holding that the Equal Protection Clause allows states to divide property into classes and assign a tax burden to the property as long as the divisions and burdens are neither arbitrary nor capricious) . . . The presence of multiple unfairly advantaged properties necessarily raises the suspicion of a potential inequality meriting a remedy. It is the nature of this inequality that section 59-2-1006(4) was enacted to address. Its protection may be fairly described as a statutory mechanism to implement the constitutional guarantee of uniform taxation.”

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 ____, 2024.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner