

TAX TYPE: PROPERTY TAX – LOCALLY ASSESSED
TAX YEAR: 2011
DATE SIGNED: 2-25-14
COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO
EXCUSED: D. DIXON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 12-1397</p> <p>Parcel No. #####-2</p> <p>Tax Type: Property Tax/Locally Assessed Tax Year: 2011</p> <p>Judge: Jensen</p>
<p>TAXPAYER, Petitioner, vs. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, UTAH, Respondent.</p>	<p>Parcel Nos. #####-1 #####-3</p> <p>Tax Type: Property Tax/Locally Assessed Tax Year: 2011</p> <p>Judge: Jensen</p>

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:

Michael J. Cragun, Commissioner
Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE FOR TAXPAYER, for the Taxpayer, appearing by telephone
Respondent: RESPONDENT, for the County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on September 22, 2013. On the basis of the evidence and testimony presented at the hearing, the Tax Commission makes its:

FINDINGS OF FACT

1. TAXPAYER and TAXPAYER (collectively referred to as the “Taxpayer”) bring these appeals from decisions of the Salt Lake County Board of Equalization (“County BOE”) for the lien date January 1, 2011. As requested by the parties, the Commission heard both appeals under a single appeal number because the appeals present related ownership and identical issues.

2. The parcel numbers, addresses, property characteristics, board of equalization values, and the parties’ requested values are as follows:

Parcel No.	Address	Property Characteristics	County BOE Value	Taxpayer’s Proposed Value	County’s Proposed Value
##### (“PARCEL-1”)	ADDRESS-1	##### acres, RESTAURANT, & in-line retail stores	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
##### (“PARCEL-2”)	ADDRESS-2.	##### acres, grocery store, & gas/convenience store	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
##### (“PARCEL-3”)	ADDRESS-3	##### acres, retail stores, & (X) restaurant	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

3. The three parcels in the subject property are in the TAXPAYER’S Center near ##### South and STREET in CITY, Utah.

4. The Taxpayer does not contend that the three parcels in the subject property are assessed at greater than their fair market value. Rather the Taxpayer argues that the assessed values for each of the parcels in the subject property deviates 5% or more from the assessed values of comparable properties and that the parcels in the subject property should be equalized with the comparable properties.

5. The Taxpayer provided different equalization comparables for each of the parcels in the subject property. The Commission discusses the Taxpayer’s evidence for each of the three parcels separately.

PARCEL- 1

6. For purposes of this appeal, the Taxpayer accepted the County’s land value of \$\$\$\$ per square foot or a rounded value of \$\$\$\$ for the ##### acres in PARCEL-1.

7. The Taxpayer requested equalization of the value of the improvements on PARCEL-1, which included ##### square feet of commercial buildings built in YEAR, with the improvement values of comparable properties selected by the Taxpayer’s representative.

8. The Taxpayer did not present evidence regarding market value of the improvements to PARCEL-1, choosing to rely solely on an equalization theory.

9. In presenting the equalization theory, the Taxpayer did not compare PARCEL-1 to comparable improved properties. The Taxpayer chose three comparable properties, deducted land value, and requested equalization with the value of the improvements only.

10. The Taxpayer did not present neighboring comparables, but chose comparable properties several miles away from PARCEL-1.

11. The Taxpayer deducted the value of detached structures from the improvements on PARCEL-1 and the three comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Address	ADDRESS-1	ADDRESS-4	ADDRESS-5	ADDRESS-6
Parcel Number	PARCEL-1	#####	#####	#####
Assessed Market Value of Improvements	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Detached Structures	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Primary Improvement Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

12. The Taxpayer provided information for what the Taxpayer titled the “commercial section” for the improvements on PARCEL-1 and the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Class	C & D	C	C	C
Depreciation Grade	G	G	A	G
Tenant Appeal	A	A	G	G
Exterior Wall Type	BR	BL	BL	BL
Foundation	Y	Y	Y	Y
Perimeter	#####	#####	#####	#####
Stories	#####	#####	#####	#####
Street Height	#####	#####	#####	#####
Ground Floor Area	#####	#####	#####	#####
% Office	0	3	0	1
Year Built	YEAR	YEAR	YEAR	YEAR
Effective Year Built	YEAR	YEAR	YEAR	YEAR
Economic Life	#####	#####	#####	#####
Remaining Economic Life	#####	#####	#####	#####
Land Building Ratio	#####	#####	#####	#####
Rental Class	B	C	0	B

13. The Taxpayer provided information for what the Taxpayer titled the “commercial group” for the improvements on PARCEL-1 and the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Commercial Use	#####	#####	#####	#####
Commercial Use Description	RETAIL STORE	SHOP CENTER NBD	NBHD CENTER PAD	NBHD STORE PAD
Cost Grade	G	G	A	G
Inside Grade	G	G	A	G
Outside Grade	G	G	A	G
Overall Condition	G	G	G & VG	VG
Inside Condition	G	G	G & VG	VG
Outside Condition	G	G	G & VG	VG
Base Floor Area	#####	#####	#####	#####
Number of Floors	#####	#####	#####	#####
Total Floor Area	#####	#####	#####	#####
Lighting	G	G	A	A
Heating/Cooling Type 1	PU	PU	PU	PU
Heating/Cooling Type 2	0	0	0	0
Total Income Area	#####	#####	#####	#####
Total No. of Income U.	#####	#####	#####	#####
Average Inc. Unit Size	#####	#####	#####	#####
Percent Heated 1	#####	#####	#####	#####
Percent Heated 2	#####	#####	#####	#####
Percent Sprinklers	#####	#####	#####	#####
Rentable Square Footage	#####	#####	#####	#####
Number of Units	#####	#####	#####	#####

14. The Taxpayer made adjustments to the values of the improvements on the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Primary Improvement Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Total Adjustments - %	N/A	+ % % % %	+ % % % %	- % % % %
Total Adjustments - \$	N/A	\$\$\$\$	\$\$\$\$	-\$\$\$\$\$
Total Adjusted Value	N/A	\$\$\$\$	\$\$\$\$	\$\$\$\$

The Taxpayer provided these adjustment percentages as net percentages, but did not provide the individual adjustments that are represented in the final net figure.

15. After applying adjustments, the Taxpayer calculated the value per square foot of the improvements on the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Adjusted Value	N/A	\$\$\$\$	\$\$\$\$	\$\$\$\$
Adjusted Value Per Square Foot	N/A	\$\$\$\$	\$\$\$\$	\$\$\$\$
Comp. Weight	N/A	% % % %	% % % %	% % % %
Primary Improvement Equalized Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Per Square Foot	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

16. The Taxpayer added the value of detached structures on PARCEL-1 and the comparable properties back to the improvement value as follows:

	Subject	Comp #1	Comp #2	Comp #3
Replacement Cost New	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Replacement Cost New, Less Depreciation	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Total Improvement Equalized Value	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Per Square Foot	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

17. The Taxpayer added land value of \$\$\$\$ back to a requested value of \$\$\$\$ for improvements to arrive at a requested value of \$\$\$\$ for PARCEL-1 as follows:

Parcel No.	Value	Description	Year Built	Bldg. Sq./Ft	Price Per Bldg. Sq./Ft.	Acre	Price Per Acre	Price Per Sq./Ft. Land	Total Value/Bldg Sq./Ft.
#####-1	\$\$\$\$\$	TAXPAYER	YEAR	####	\$\$\$\$\$	####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
	\$\$\$\$\$	Neighborhood Shopping Center	YEAR	####	\$\$\$\$\$				
	\$\$\$\$\$	Land				####	\$\$\$\$\$	\$\$\$\$\$	

PARCEL-2

1. For purposes of this appeal, the Taxpayer accepted the County’s land value of \$\$\$\$ per square foot or a rounded value of f \$\$\$\$ or the ##### acres in PARCEL-2.

2. The Taxpayer requested equalization of the value of the improvements on PARCEL-2, which included ##### square feet in grocery store improvements and a gas/convenience store that is ##### square feet in size and does not have a car wash, with the improvement values of comparable properties selected by the Taxpayer’s representative.

3. The Taxpayer did not present evidence regarding market value of the improvements to PARCEL-2, choosing to rely solely on an equalization theory.

4. In presenting the equalization theory, the Taxpayer did not compare PARCEL-2 to comparable improved properties. The Taxpayer chose three comparable properties, deducted land value, and requested equalization with the value of the improvements only.

5. The Taxpayer did not present neighboring comparables, but chose comparable properties several miles away from PARCEL-2.

6. The Taxpayer deducted the value of detached structures from the improvements on PARCEL-2 and the three comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Address	ADDRESS-2	ADDRESS-7	ADDRESS-8	ADDRESS-9
Parcel Number	#####-2	#####	#####	#####
Assessed Market Value of Improvements	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Detached Structures	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Primary Improvement Value	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	-\$\$\$\$

7. The Taxpayer provided information for what the Taxpayer titled the “commercial section” for the improvements on PARCEL-2 and the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Class	D	C	C	C
Depreciation Grade	VG	A	A	G
Tenant Appeal	G	G	A	G
Exterior Wall Type	SO	BL	BL	BL
Foundation	Y	Y	Y	Y
Perimeter	#####	#####	#####	#####
Stories	#####	#####	#####	#####
Street Height	#####	#####	#####	#####
Ground Floor Area	#####	#####	#####	#####
% Office	#####	#####	#####	#####
Year Built	YEAR	YEAR	YEAR	YEAR
Effective Year Built	YEAR	YEAR	YEAR	YEAR
Economic Life	#####	#####	#####	#####
Remaining Economic Life	#####	#####	#####	#####
Land Building Ratio	#####	#####	#####	#####
Rental Class	B	B	B	B

8. The Taxpayer provided information for what the Taxpayer titled the “commercial group” for the improvements on PARCEL-2 and the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Commercial Use	590	590	590	590
Commercial Use Description	MARKET	MARKET	MARKET	MARKET
Cost Grade	G	A	G	G
Inside Grade	G	A	G	G
Outside Grade	G	A	G	G
Overall Condition	G	VG	A	G
Inside Condition	G	VG	A	G
Outside Condition	G	VG	A	G
Base Floor Area	#####	#####	#####	#####
Number of Floors	#####	#####	#####	#####
Total Floor Area	#####	#####	#####	#####
Lighting	A	F	A	G
Heating/Cooling Type 1	FA	PU	PU	PU
Heating/Cooling Type 2	O	0	SH	0
Total Income Area	#####	#####	#####	#####
Total Number of Income U.	#####	#####	#####	#####
Average Inc. Unit Size	#####	#####	#####	#####
Percent Heated 1	#####	#####	#####	#####
Percent Heated 2	#####	#####	#####	#####
Percent Sprinklers	#####	#####	#####	#####
Rentable Square Footage	#####	#####	#####	#####
Number of Units	#####	#####	#####	#####

9. The Taxpayer made adjustments to the values of the improvements on the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Primary Improvement Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	-\$\$\$\$
Total Adjustments - %	N/A	+%%%	+%%%	-%%%
Total Adjustments - \$	N/A	\$\$\$\$	\$\$\$\$	-\$\$\$\$
Total Adjusted Value	N/A	\$\$\$\$	\$\$\$\$	-\$\$\$\$

The Taxpayer provided these adjustment percentages as net percentages, but did not provide the individual adjustments that are represented in the final net figure.

10. After applying adjustments, the Taxpayer calculated the value per square foot of the improvements on the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Adjusted Value	N/A	\$\$\$\$	\$\$\$\$	-\$\$\$\$
Adjusted Value Per Square Foot	N/A	\$\$\$\$\$	\$\$\$\$	-\$\$\$\$
Comp. Weight	N/A	%%%	%%%	%%%
Primary Improvement Equalized Value	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	-\$\$\$\$
Per Square Foot	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	-\$\$\$\$

One of these comparables, comparable 3, reflected a negative value after the Taxpayer’s adjustments.

11. The Taxpayer added the value of detached structures on PARCEL-2 and the comparable properties back to the improvement value as follows:

	Subject	Comp #1	Comp #2	Comp #3
Replacement Cost New	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Replacement Cost New, Less Depreciation	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Total Improvement Equalized Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Per Square Foot	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

12. The Taxpayer’s three main comparables for PARCEL-2 did not have convenience stores or gas pumps that were present on PARCEL-2. To account for this, the Taxpayer brought in three additional convenience stores with gas pumps. These were entirely different properties than the Taxpayer’s main comparables for PARCEL-2. Like the Taxpayer’s main comparables, these were several miles away from the subject property. The Taxpayer’s comparables for the convenience store and gas station are as follows:

Convenience Store with Pumps Comparable Comparison Chart									
	Parcel No.	Square Feet	Address	Year Built	Bldg. Value	Bldg. Value/Sq./Ft.	Detached Structures	Primary Bldg. Value	Primary Bldg. Value/Sq./Ft.
C1:	#####	#####	ADDRESS-10	YEAR	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
C2:	#####	#####	ADDRESS-11	YEAR	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
C3:	#####	#####	ADDRESS-12	YEAR	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
S:	#####	#####	ADDRESS-2	YEAR				\$\$\$\$	\$\$\$\$

Using these additional comparables, the Taxpayer valued a convenience store and gas station on the subject property at \$\$\$\$\$.

13. The Taxpayer added land value of \$\$\$\$\$ and convenience store and gas station value of \$\$\$\$\$ to a requested value of \$\$\$\$\$ for improvements to arrive at a requested value of \$\$\$\$\$ for PARCEL-2 as follows:

Parcel No.	Value	Description	Year Built	Bldg. Sq./Ft.	Price Per Bldg. Sq./Ft.	Acres	Price Per Acre	Price Per Sq./Ft. Land	Total Value/ Bldg. Sq./Ft.
#####-2		TAXPAYER	YEAR	####	\$\$\$\$	#####	\$\$\$\$	\$\$\$\$	\$\$\$\$
	\$\$\$\$	Market	YEAR	####	\$\$\$\$				
	\$\$\$\$	Convenience Store w/ Pumps	YEAR	####	\$\$\$\$				
	\$\$\$\$	Land				#####	\$\$\$\$	\$\$\$\$	

PARCEL-3

1. For purposes of this appeal, the Taxpayer accepted the County’s land value of \$\$\$\$\$ per square foot or a rounded value of \$\$\$\$\$ for the ##### acres in PARCEL-3.

2. The Taxpayer requested equalization of the value of the improvements on PARCEL-3, which included ##### square feet of commercial buildings built in YEAR, with the improvement values of comparable properties selected by the Taxpayer’s representative.

3. The Taxpayer did not present evidence regarding market value of the improvements to PARCEL-3, choosing to rely solely on an equalization theory.

4. In presenting the equalization theory, the Taxpayer did not compare PARCEL-3 to comparable improved properties. The Taxpayer chose three comparable properties, deducted land value, and requested equalization with the value of the improvements only.

5. The Taxpayer did not present neighboring comparables, but chose comparable properties several miles away from PARCEL-3.

6. The Taxpayer deducted the value of detached structures from the improvements on PARCEL-3 and the three comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Address	ADDRESS-3	ADDRESS-13	ADDRESS-5	ADDRESS-6
Parcel Number	#####-3	#####	#####	#####
Assessed Market Value of Improvements	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Detached Structures	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Primary Improvement Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

7. The Taxpayer provided information for what the Taxpayer titled the “commercial section” for the improvements on PARCEL-3 and the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Class	C & D	D	C	C
Depreciation Grade	G & A	G	A	G
Tenant Appeal	A	G	G	G
Exterior Wall Type	BR	SO	BL	BL
Foundation	Y	Y	Y	Y
Perimeter	#####	#####	#####	#####
Stories	#####	#####	#####	#####
Street Height	#####	#####	#####	#####
Ground Floor Area	#####	#####	#####	#####
% Office	#####	#####	#####	#####
Year Built	YEAR	YEAR	YEAR	YEAR
Effective Year Built	YEAR	YEAR	YEAR	YEAR
Economic Life	#####	#####	#####	#####
Remaining Economic Life	#####	#####	#####	#####
Land Building Ratio	#####	#####	#####	#####
Rental Class	B	B	B	B

8. The Taxpayer provided information for what the Taxpayer titled the “commercial group” for the improvements on PARCEL-3 and the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Commercial Use	#####	#####	#####	#####
Commercial Use Description	RETAIL STORE	NBHD STORE PAD	NBHD CENTER PAD	NBHD STORE PAD
Cost Grade	G & A	G	A	G
Inside Grade	G & A	G	A	G
Outside Grade	G & A	G	A	G
Overall Condition	G	VG	G & VG	VG
Inside Condition	G	VG	G & VG	VG
Outside Condition	G	VG	G & VG	VG
Base Floor Area	#####	#####	#####	#####
Number of Floors	#####	#####	#####	#####
Total Floor Area	#####	#####	#####	#####
Lighting	G & A	G	A	A
Heating/Cooling Type 1	PU	PU	PU	PU
Heating/Cooling Type 2	0	0	0	0
Total Income Area	#####	#####	#####	#####
Total Number of Income U.	#####	#####	#####	#####
Average Inc. Unit Size	#####	#####	#####	#####
Percent Heated 1	%% % %	%% % %	%% % %	%% % %
Percent Heated 2	%% % %	%% % %	%% % %	%% % %
Percent Sprinklers	%% % %	%% % %	%% % %	%% % %
Rentable Square Footage	#####	#####	#####	#####
Number of Units	#####	#####	#####	#####

9. The Taxpayer made adjustments to the values of the improvements on the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Primary Improvement Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Total Adjustments - %	N/A	-%%%%	+%%%	-%%%%
Total Adjustments - \$	N/A	-\$\$\$\$\$	\$\$\$\$	-\$\$\$\$\$
Total Adjusted Value	N/A	\$\$\$\$	\$\$\$\$	\$\$\$\$

The Taxpayer provided these adjustment percentages as net percentages, but did not provide the individual adjustments that are represented in the final net figure.

10. After applying adjustments, the Taxpayer calculated the value per square foot of the improvements on the comparable properties as follows:

	Subject	Comp #1	Comp #2	Comp #3
Adjusted Value	N/A	\$\$\$\$	\$\$\$\$	\$\$\$\$
Adjusted Value Per Square Foot	N/A	\$\$\$\$	\$\$\$\$	\$\$\$\$
Comp. Weight	N/A	%%%	%%%	%%%
Primary Improvement Equalized Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Per Square Foot	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

11. The Taxpayer added the value of detached structures on PARCEL-3 and the comparable properties back to the improvement value as follows:

	Subject	Comp #1	Comp #2	Comp #3
Replacement Cost New	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Replacement Cost New, Less Depreciation	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Total Improvement Equalized Value	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Per Square Foot	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

12. The Taxpayer added land value of \$\$\$\$ back to a requested value of \$\$\$\$ for improvements to arrive at a requested value of \$\$\$\$ for PARCEL-3 as follows:

Parcel No.	Value	Description	Year Built	Bldg . Sq./F t.	Price Per Bldg. Sq./Ft.	Acres	Price Per Acre	Price Per Sq./Ft. Land	Total Value/ Bldg. Sq./Ft.
#####-3	\$\$\$\$	TAXPAYER	YEAR	####	\$\$\$\$	####	\$\$\$\$	\$\$\$\$	\$\$\$\$
	\$\$\$\$	Neighborhood Shopping Center	YEAR	####	\$\$\$\$				
	\$\$\$\$	Land				####	\$\$\$\$	\$\$\$\$	

County Evidence

14. The County provided the assessed values of comparable properties for the major types of improvements on the subject property. It provided evidence on market properties near the subject property as follows:

Markets									
Parcel	Address	Year Built	Sq./Ft.	Lease Rate	Vac.	Exp.	Cap	Price Per Sq./Ft.	
#####	ADDRESS-14	YEAR	####	\$\$\$\$	%%	%%	%%	\$\$\$\$	STORE-1
#####	ADDRESS-15	YEAR	####	\$\$\$\$	%%	%%	%%	\$\$\$\$	STORE-2
#####	ADDRESS-16	YEAR	####	\$\$\$\$	%%	%%	%%	\$\$\$\$	STORE-3
#####	ADDRESS-17	YEAR	####	\$\$\$\$	%%	%%	%%	\$\$\$\$	STORE-4

15. The County provided evidence on the assessed values of convenience store properties near the subject property as follows:

Convenience Store								
Parcel	Address	Year Built	Sq.Ft	Bldg. Value	Land Value	Total Value	Price Per Sq./Ft.	Comments
#####	ADDRESS-14	YEAR	####	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	
#####	ADDRESS-18	YEAR	####	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	BUSINESS-1; 4% Neg. Eco. Adj.
#####	ADDRESS-19	YEAR	####	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	BUSINESS-2; 4% Neg. Eco. Adj.
#####	ADDRESS-20	YEAR	####	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	BUSINESS-3; SF Includes ##### SF Carwash
#####	ADDRESS-21	YEAR	####	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	BUSINESS-4; 4% Neg. Eco. Adj. SF Includes Restaurant

16. The County provided evidence on the assessed values of in-line space near the subject property as follows:

In-Line Space											
Parcel	Address	Year Built	Sq./Ft .	# of Ten	Avg. Size	Lease Rate	Vac.	Exp.	Cap.	Price Per Sq./Ft.	Comment
#####	ADDRESS-22	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	Neg.# %
#####	ADDRESS-22	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	Neg. #%
#####	ADDRESS-23	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	Neg. #%
#####	ADDRESS-24	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	Neg. #%
#####	ADDRESS-25	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	
#####	ADDRESS-26	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	
#####	ADDRESS-27	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	Neg. #%
#####	ADDRESS-28	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	
#####	ADDRESS-29	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	
#####	ADDRESS-30	YEAR	####	###	####	\$\$\$\$	%	%	%	\$\$\$\$	

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17. The County provided evidence on the assessed values of (X) restaurants near the subject property as follows:

Area 28 (X) Restaurants										
Parcel	Address	Year Built	Sq./Ft.	Lease Rate	Vac	Exp	Cap	Price Per Sq./Ft.	Grd	Cdn
#####	ADDRESS-23	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	A	G
#####	ADDRESS-31	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	VG	VG
#####	ADDRESS-32	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	A	G
#####	ADDRESS-33	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-34	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-35	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-36	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	A
#####	ADDRESS-37	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-38	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	VG
#####	ADDRESS-38	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	VG
#####	ADDRESS-39	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-40	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-40	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	VG	VG
#####	ADDRESS-41	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-42	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-43	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	A
#####	ADDRESS-44	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-45	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	A	G
#####	ADDRESS-46	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	VG
#####	ADDRESS-47	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	A	G
#####	ADDRESS-48	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	VG
#####	ADDRESS-49	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-50	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	VG
#####	ADDRESS-51	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-52	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	VG
#####	ADDRESS-53	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-53	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	G
#####	ADDRESS-54	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	VG	G
#####	ADDRESS-55	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	E
#####	ADDRESS-56	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	VG
#####	ADDRESS-57	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	E
#####	ADDRESS-58	YEAR	#####	\$\$\$\$	%%	%%	%%	\$\$\$\$	G	E

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 provide 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(12).

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”

Any party requesting a value different from the value established by the county board of equalization has the burden to establish that the market value of the subject property is other than the value determined by the county board of equalization.

To prevail, a party requesting a value that is different from that determined by the county board of equalization must (1) demonstrate that the value established by the county board of equalization contained error, and (2) provide the Commission with a sound evidentiary basis for changing the value established by the county board of equalization to the amount proposed by the party. *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997), *Utah Power & Light Co. v. Utah State Tax Commission*, 590 P.2d. 332 (Utah 1979).

Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board. In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if: (a) the issue of equalization of property values is raised; and (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties. Utah Code Ann. §59-2-1004(4). The evidence required for adjustment on the basis of equalization under Utah Code Ann. Sec. 59-2-1004(4) is a showing that there has been an “intentional and systematic undervaluation” of property that results in “preferential treatment” to the property owners receiving the lower valuations. *Mountain Ranch Estates v. Utah State Tax Comm’n*, 2004 UT 86, ¶ 16.

CONCLUSIONS OF LAW

The Taxpayer’s comparable properties, selected in locations primarily miles away from the subject property, do not evidence a pattern of “intentional and systematic undervaluation” that results in “preferential treatment” to the property owners receiving the lower valuations as set forth in *Mountain Ranch Estates v. Utah State Tax Comm’n*, 2004 UT 86, ¶ 16. At best, the Taxpayer’s evidence shows that a limited number of properties, somewhere miles away, have a single component of value that is less than a single component of value in the overall value of the subject property. The County has presented evidence that properties closer to the subject property, improved in manners similar to the subject property, have values similar to the value of the subject property. These comparables are closer to and

more similar to the subject property than the Taxpayer's comparables. They support a pattern since they are selected on the basis of proximity to the subject property rather than being hand-selected to show some attribute without regard to how close they are to the subject property.

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 an evidentiary basis to support a new value. In this matter, the Taxpayer separated land values from improvements and compared various components separately. In *Appeal No. 09-3842*,¹ the Commission stated that "we do not disagree that a single component of an assessment, e.g. improvement, land, or site improvements might be compared independently." However, in that appeal, the property at issue may have been assessed using the cost approach, where values had been determined for the land and the improvements separately with individual valuation methodologies. The Commission discussed *Appeal No. 09-3842* in another decision, *Appeal No. 09-3838*, wherein the Commission made additional comments about separate equalization arguments for land and improvements. The Commission stated that it "is unaware of any appraisal principle that would allow for an improvement to be compared with other improvements, and then allow for comparisons of land based on different improved properties." The Commission also stated that "[i]f a party cannot find comparable properties for land and improvements, it may be extremely difficult to make an equalization argument." Furthermore, the Commission noted that the Taxpayer only had three equalization comparables and stated that "[i]t is difficult to establish that properties are not equalized based on a limited number of comparables."

The Commission has previously rejected the equalization methodology on which the Taxpayer relies in this case. Further, the Taxpayer's comparables are dissimilar in key factors that would have an impact on the value of a property. Considering the evidence presented, the Taxpayer has not shown that the value should be reduced on an equalization basis, and the Board of Equalization value should be sustained.

Clinton Jensen
Administrative Law Judge

¹ This decision, as well as many other prior Tax Commission decisions, are available for review in a redacted format at tax.utah.gov/commission-office/decisions.

AND ORDER

On the basis of the foregoing, the Tax Commission finds sustains the values of the subject property as determined by the board of equalization for the lien date of January 1, 2011. It is so ordered.

DATED this ____ day of _____, 2014.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit in accordance with Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §§59-1-601 and 63G-4-401 et. seq.