

18-553  
TAX TYPE: PROPERTY TAX  
TAX YEAR: 2017  
DATE SIGNED 9/12/19  
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS

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BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF SUBJECT COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 18-553</p> <p>Parcel No. SUBJECT PARCEL</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2017</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](mailto:taxredact@utah.gov), or via mail to Utah State Tax Commission, Appeals Division, 210 North 1950 West, CITY-2 City, Utah 84134.**

**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: REPRESENTATIVE FOR TAXPAYER-1, Representative NAME-1, Appraiser

For Respondent: REPRESENTATIVE FOR RESPONDENT-1, Deputy SUBJECT COUNTY District Attorney  
REPRESENTATIVE FOR RESPONDENT-2, Supervisor, SUBJECT COUNTY Assessor's Office  
REPRESENTATIVE FOR RESPONDENT-3, from the SUBJECT COUNTY Assessor's Office  
REPRESENTATIVE FOR RESPONDENT-4, from the SUBJECT COUNTY Assessor's Office

STATEMENT OF THE CASE

Petitioner (“Property Owner”) brings this appeal from the decision of the SUBJECT COUNTY Board of Equalization pursuant to Utah Code §59-2-1006. This matter was argued in an Initial Hearing on June 13, 2019, in accordance with Utah Code Ann. §59-1-502.5. The SUBJECT COUNTY Assessor’s Office valued the subject property at \$\$\$\$ as of the January 1, 2017 lien date, which the Board of Equalization (“the County”) sustained. At the hearing, the Taxpayer requests the value of the subject property be reduced to \$\$\$\$\$. The County asks that the Commission uphold the \$\$\$\$\$ value.

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, “fair market value” is defined in Utah Code Ann. §59-2-102(13), 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.

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, 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...
- (3) In reviewing the county board’s decision, 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.
- (4) In reviewing evidence submitted to the commission by or on behalf of an owner or a county, the commission shall consider and weigh:
  - (a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county;
  - (b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

- (c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and
  - (d) if submitted, other evidence that is relevant to determining the fair market value of the property.
- (5) In 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.

To address situations where there was a reduction in value on a property the Utah Legislature adopted Utah Code §59-2-301.4 which provides:

- (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 . . .
- (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 the by the assessor that is made known on the appeal; and
  - (b) whether the reasons for the valuation reduction continue to influence the fair market value of the property.
- (3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

In a proceeding before the Tax Commission, the burden of proof is generally on the petitioner to support its position. To prevail in this case, the petitioner must: 1) demonstrate that the subject property's current value contains error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes. *See Nelson v. Bd. Of Equalization of SUBJECT COUNTY*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996); and *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 46, 5 P.3d 652 (Utah 2000).

#### DISCUSSION

The subject property, parcel no. SUBJECT PARCEL is located approximately at SUBJECT ADDRESS in CITY-1, UT. It is a #####-acre parcel zoned for manufacturing. The parcel is improved as an owner occupied TAXPAYER property. Included in the buildings are a

showroom, office space, warehouse space and truck repair and servicing areas. The building was built in 2007 and totals ##### square feet. The building is of Class C concrete block construction. The office/showroom/parts store areas total ##### square feet; the service garage areas that includes drive thru truck repair bays total ##### square feet; and storage warehouse areas total ##### square feet. The finished area of the building, which includes the office/showroom/parts store area, is estimated to be 32% of the building size. The site improvements include asphalt paved parking and drive areas, concrete walkways and landscaping. There is also a fuel storage tank onsite. The site coverage ratio is 9.42%.

Although the subject property is #####-acres in size, it has only one point of access, which is the only egress/ingress. The subject is adjacent to the intersection between WORDS REMOVED. For this reason, there is good visibility to the freeway, but it is also bounded on two sides by the on/off ramps for the freeways. The subject does have the one access for ingress/egress, but much of the remaining, highly irregularly shaped parcel is separated from public road frontage by other parcels or abuts the freeway ramps. There is ##### acres of land that is undeveloped and not currently used by the Property Owner. According to the Property Owner, about ##### of these acres are wetlands. Because of the limited ingress/egress it appears this section could not be separated off and sold separately as it has no access, so it is surplus land.

The Property Owner has submitted an appraisal in support of its requested value which had been prepared by NAME-1, MAI, of BUSINESS-1. NAME-1 prepared a cost approach, an income approach and a sales comparison approach and from these concluded that the fee simple, as is, value of the subject property as of January 1, 2017, was \$\$\$\$\$. In his reconciliation of the three approaches, NAME-1 gave the most weight to his sales comparison approach, which he noted is heavily relied on for owner occupied properties, such as the subject.

NAME-1' conclusion from his cost approach had been \$\$\$\$\$. In estimating a value from the cost approach, he developed a land value from vacant land sales and a depreciated improvement cost from the actual costs per square foot to construct properties he argued were similar. His conclusion from the vacant land sales was that the market value of the land was \$\$\$\$\$. His land sales comparable are as follows:

	Subject	Sale #1	Sale #2	Sale #3	Sale #4	Sale #5
Address	SUBJECT ADDRESS	ADDRESS-1	ADDRESS-2	ADDRESS-3	ADDRESS-4	ADDRESS-5
City	CITY-1	CITY-1	CITY-2	CITY-2	CITY-2	CITY-2
Parcel	SUBJECT PARCEL	PARCEL-1	PARCEL-2	PARCEL-3	PARCEL-4	PARCEL-5
Sale Date	-	5/2/16	4/26/16	8/24/17	4/6/17	4/5/17

Sale Price	-	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Acres	#####	#####	#####	#####	#####	#####
Shape	Irregular	Rectangular	Near Rect.	Rectangular	Near Rect.	Near Rect.
Topography	Near Level	Near Level	Near Level	Near Level	Near Level	Near Level
St. Orienta.	Interior	Interior	Interior	Interior	Interior	Interior
Zoning	M	M	M-1	M-1	M-1	M-1
Price Sq./Ft.		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Time Adj.		2%	2%	-2%	-1%	-1%
Location Adj.		10%	-5%	10%	5%	10%
Size Adj.		-10%	-5%	-10%	-5%	-5%
Shape Adj.		-10%	-10%	-10%	-10%	-10%
Net Value		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Average Value Price Sq./Ft.			\$\$\$\$			
##### sq.ft. x \$\$\$\$= \$\$\$\$						Rounded To: \$\$\$\$

For the depreciated costs of the improvements, NAME-1 developed his cost per square foot from three other WORDS REMOVED that he argued were similar to the subject and for which he had the cost information. He explained the reason for using this information instead of Marshall Valuation Services, which is a typical cost source, as follows:<sup>1</sup>

The structure is a concrete tilt-up that is most similar to office/warehouse or distribution buildings and yet the ground level service doors are not typical of those improvement types. Marshall Valuation Service does not provide an example that is directly similar to the subject. Rather than try to interpolate between the various base costs associated with the subject, using cost comparables from the local market is the preferred method.

NAME-1 stated his cost comparables each had showroom areas, office areas, retail parts areas and warehouse storage areas. These cost comparable properties were a ##### square foot building constructed for WORDS REMOVED in 2009 at a cost of \$\$\$\$ per square foot, a ##### square foot building constructed for WORDS REMOVED in 2013 at a cost of \$\$\$\$ per square foot, and a ##### square foot building constructed for WORDS REMOVED in 2016 at a cost of \$\$\$\$ per square foot. NAME-1 time adjusted these costs and concluded a cost new for the subject of \$\$\$\$ per square foot. His cost approach conclusion is summarized as follows:

<u>Improvement Replacement Cost</u>		
Construction Cost:	##### sq./ft. x \$\$\$\$	\$\$\$\$
Developer Profit:	0%	\$0
Total Replacement Cost		\$\$\$\$
<u>Depreciation</u>	25%	<u>(\$\$\$\$)</u>
Depreciated Improvement Cost		\$\$\$\$
Land Valuation		\$\$\$\$
Indicated Cost Approach Value		\$\$\$\$
Rounded to		\$\$\$\$

<sup>1</sup> Bess Appraisal, Petitioner’s Exhibit 5, pg. 37.

The subject property is owner occupied. For his income approach, NAME-1 determined a market lease rate for the subject property, which was \$\$\$\$ per square foot per month or \$\$\$\$ per square foot per year, by relying on comparable leases. His lease comparables, appraisal adjustments and lease conclusions are as follows:

	Subject	Lease #1	Lease #2	Lease #3	Lease #4	Lease #5
Address	SUBJECT ADDRESS	ADDRESS-6	ADDRESS-7	ADDRESS-8	ADDRESS-9	ADDRESS-10
Parcel	SUBJECT PARCEL	PARCEL-6	PARCEL-7	PARCEL-8	PARCEL-9	PARCEL-10
City	CITY-1	CITY-2	CITY-2	CITY-2	CITY-2	CITY-2
Expense Basis	Triple Net	Mod. Gross	Triple Net	Triple Net	Triple Net	Triple Net
Lease Date	Current	9/30/16	1/1/17	6/1/17	7/1/17	12/1/16
Leased Sq./Ft.	#####	#####	#####	#####	#####	#####
Acres	#####	#####	#####	#####	#####	#####
L/B Ratio	10.62	5.77	13.74	8.26	9.84	15.36
Site Ratio	9.42%	17.33%	7.28%	12.10%	10.16%	6.51%
Finish %	32%	13%	8%	43%	38%	36%
Year Built	2007	1974	1997-99	1997-2008	1997,08,17	2007
Construction	Concrete	Brick/Metal	Concrete	Brick/Metal	Brick/Metal	Brick/Metal
Eff. Age	10	30	15	15	10	8
Ceiling Height	25	17	22	28	22	24
Time Adj.		1%	0%	-2%	-2%	0%
Location Adj.		-10%	0%	5%	-5%	10%
Adj. Lease Rate		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Age/Condition	10	30	15	15	10	8
Adjustment		20%	5%	5%	0%	-2%
Quality/Appeal	Average	Average	Average	Average	Average	Average
Adjustment		5%	0%	5%	5%	5%
Size	#####	#####	#####	#####	#####	#####
Adjustment		-15%	-5%	-18%	-15%	-20%
Ceiling Height	25	17	22	28	22	24
Adjustment		8%	3%	-3%	3%	0%
Office Finish %	32%	13%	8%	43%	38%	36%
Adjustment		6%	7%	-4%	-2%	-1%
Site Ratio	9.42%	17.33%	7.28%	12.10%	10.16%	6.51%
Adjustment		16%	-7%	5%	2%	-10%
Net Adj./Sq./Ft./Mo.		40%	3%	-10%	-7%	-28%
Adj. Rate/Sq./Ft./Mo.		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Average/Sq./Ft./Mo.		\$\$\$\$				

To estimate other factors in the income approach, NAME-1 looked at market information, including a market study by BUSINESS-2 regarding vacancy rates. He determined

the appropriate vacancy and collection loss rate was 6%. For expenses, he used the typical 3% for management and 2% for reserves used on triple net leases. His capitalization rate was determined from industrial sales comparables. He noted that because the subject was a large, single tenant property and had some less than typical characteristics, the risks were increased as compared to an average property. The average capitalization rate from the 14 cap rate comparables he provided was 6.93%. NAME-1 chose 7.50% for the subject. Using all of these factors, NAME-1's income approach is summarized as follows:

<u>Potential Gross Income</u>		
Renovated Building	##### sq./ft. x \$\$\$\$\$ x 12 =	\$\$\$\$\$
Less: Vacancy & Collection Loss:	-6.0%	(\$\$\$\$\$)
<u>Effective Gross Income</u>		\$\$\$\$\$
<u>Operating Expenses</u>		
Management	3%	(\$\$\$\$\$)
Reserves	2%	(\$\$\$\$\$)
<u>Total Operating Expenses</u>		(\$\$\$\$\$)
<u>Net Operating Income</u>		\$\$\$\$\$
Capitalization Rate		7.50%
Income Approach to Value Indication		\$\$\$\$\$
Rounded To		\$\$\$\$\$

NAME-1 also used a sales comparison approach, which was the approach for which he placed the most weight when reconciling his values. For this approach, he considered six comparable sales and made appraisal adjustments for the differences to determine a value for the subject property. NAME-1's Improved Sales Summary & Adjustment Grid is the following:

	Subject	Comp #1	Comp #2	Comp #3	Comp #4	Comp #5	Comp #6
Address	SUBJECT ADDRESS	ADDRESS -11	ADDRESS -12	ADDRESS -13	ADDRESS-14	ADDRESS -15	ADDRESS -16
City	CITY-1	CITY-2	CITY-2	CITY-2	CITY-2	CITY-2	CITY-2
Parcel	SUBJECT PARCEL	PARCEL-11	PARCEL-12	Various	PARCEL-13	PARCEL-14	PARCEL-15
Size	#####	#####	#####	#####	#####	#####	#####
Acres	#####	#####	#####	#####	#####	#####	#####
L/B Ratio	10.62	4.52	4.24	3.25	14.16	20.64	5.99
Site Ratio	9%	22.13%	23.58%	30.79%	7.06%	4.84%	16.70%
Sales Price	-	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Property Rights	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Year Built	2007	1986	1980	1955-1997	1970-93	1970-85	1984
Clear Height	25	20	26	20	28	19	18
Office Ratio	32%	15%	45%	7%	51%	5%	17%
Eff. Age	10	25	30	35	25	25	25
Construction	Concrete	Concrete	Concrete	Concrete	Block/Metal	Concrete	Block
Sale Date	-	2/1/17	10/21/16	7/28/14	10/1/14	6/26/15	1/4/13
Quality	Average	Average	Average	Average	Average	Average	Average
Time Adj.		0%	0%	8%	7%	5%	12%

Location Adj.		-5%	-10%	-10%	10%	10%	-10%
Eff. Age	10	25	30	35	25	25	25
Adjustment		15%	20%	25%	15%	15%	15%
Quality	Average	Average	Average	Average	Average	Average	Average
Adjustment		0%	0%	0%	5%	0%	0%
Size	#####	#####	#####	#####	#####	#####	#####
Adjustment		-25%	-15%	0%	-15%	-20%	-15%
Site Ratio	9.42%	22.13%	23.58%	30.79%	7.06%	4.84%	16.70%
Adjustment		13%	22%	52%	-10%	-25%	17%
Finish %	32%	15%	45%	7%	51%	5%	17%
Adjustment		3%	-2%	6%	-4%	5%	4%
Ceiling Height	25	20	26	20	28	19	18
Adjustment		5%	0%	5%	-3%	6%	7%
Other		-24%	0%	0%	0%	0%	0%
Net Adj. Sq./Ft.		-18%	15%	78%	-2%	-9%	18%
Adj. Value Sq./Ft.		\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Average Value Sq./Ft.		\$\$\$\$\$		Median Value Sq./Ft.		\$\$\$\$\$	

Based on the comparable sales, NAME-1 concluded the fee simple market value for the subject was \$\$\$\$\$ per square foot or \$\$\$\$\$. The sales comparison value was the lower of his three approaches, with the cost approach value being \$\$\$\$\$ and the income approach value being \$\$\$\$\$. NAME-1 did place the most weight on his sales comparison approach.

The County did not prepare its own formal appraisal to submit for this hearing. It did, however, provide appraisal information that more than supported the value set by the County Board of Equalization for the subject property of \$\$\$\$\$. This included a cost approach based on the actual cost to construct the subject building as well as a comparable sales indicator. In addition, the County offered an appraisal that it had obtained through discovery and that had been prepared for the subject property effective as of May 21, 2015 for WORDS REMOVED. That appraisal had concluded a value as of that date of \$\$\$\$\$. The County also provided cost information on the actual costs to build other TAXPAYER Properties.

For its cost approach, the County developed the value of the land based on vacant land comparables. The County’s land value conclusion was \$\$\$\$\$ per square foot or \$\$\$\$\$, which was higher than NAME-1’s land value conclusion of \$\$\$\$\$ per square foot or \$\$\$\$\$. The sales the County relied on and the County’s appraisal adjustments for the differences between the land sales and the subject are the following:

	Subject	Sale #1	Sale #2	Sale #3	Sale #4	Sale #5	Sale #6	Sale #7
Address	SUBJECT ADDRESS	ADDRESS-17	ADDRESS-5	ADDRESS-4	ADDRESS-18	ADDRESS-19	ADDRESS-20	ADDRESS-21
City	CITY-1	CITY-2	CITY-2	CITY-2	CITY-2	CITY-2	CITY-1	CITY-1
Size	#####	#####	#####	#####	#####	#####	#####	#####
Acres	#####	#####	#####	#####	#####	#####	#####	#####

Zoning	M	CG	M-1	M-1	M-1	CG	M	M
Utilities	Y,P	Y,P	Y,P	Y,P	Y,P	Y,P	Y,P	Y,P
Shape	I	R	I	I	R	R	IR	IR
Topography	L	L	L	L	L	L	L	L
Lot Location	IN	CR	IN	CS	IN	CR	CR	CR
Land Access	G	A	A	A	A	A	A	A
Sale Date		10/12/17	4/5/17	4/6/17	4/25/16	6/9/15	7/1/15	5/15/14
Property Rights		Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Sale Price		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Price/SF		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Market Conditions Adj.		1%	2%	2%	4%	7%	7%	11%
Location Adj.		5%	10%	10%	5%	5%	10%	5%
Size Adj.		0%	0%	0%	0%	-5%	0%	0%
Zone Adj.		-5%	0%	0%	0%	-5%	0%	0%
Shape/Topography Adj.		-11%	-11%	-11%	-11%	-11%	-11%	-11%
Net Adj.		-11%	-1%	-1%	-6%	-16%	-1%	-6%
Gross Adj.		21%	21%	21%	16%	26%	21%	16%
Adj. Price/SF		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Indicated Rate	\$\$\$\$	Square Feet	#####	Indicated Value	\$\$\$\$	Rounded Value	\$\$\$\$	

The County had reached a higher land value conclusion at \$\$\$\$ per square foot than had NAME-1 for the Property Owner at \$\$\$\$ per square foot. However, three of the comparables were used by both the County and NAME-1 and the difference appears to be due to appraisal adjustments. The County’s comparable 2, at ADDRESS-5 sold for \$\$\$\$ per square foot. The County adjusted that to \$\$\$\$ for the subject and NAME-1’s adjustments indicated \$\$\$\$\$. Some of the difference was due to a size adjustment made by NAME-1 and not by the County. The County’s comparable 3, located at ADDRESS-4 had sold for \$\$\$\$ per square foot. The County’s adjusted value was \$\$\$\$ and NAME-1’s adjusted value was \$\$\$\$\$. The County’s comparable 4, located at ADDRESS-2 had sold for \$\$\$\$ per square foot. The County adjusted this one to \$\$\$\$ and NAME-1 adjusted to \$\$\$\$\$. Neither party placed much weight on their cost approaches.

The County used the original building costs of the subject to develop its cost new minus depreciation value for the improvements, which it added to its land value for its cost approach. The County had obtained this information from the Property Owner, after the County had requested the information in discovery and then filed a Motion to Compel, which was granted. Based on the analysis of the actual costs to construct the building the County concluded the original cost was \$\$\$\$\$. This was a cost per square foot of \$\$\$\$\$, which is nearly double NAME-1’s cost per square foot of \$\$\$\$\$. The County’s cost approach is summarized as follows:

Original Building Costs		\$\$\$\$
Adjustments of Current Date Jan. 1, 2017		
Developer’s Profit	3%	\$\$\$\$
Depreciation	-22.50%	-\$\$\$\$\$

Inflation	22.40%	\$\$\$\$
Revised Building Costs		\$\$\$\$
Current Land Value	\$\$\$\$/sf	
Updated Cost		\$\$\$\$

The County was critical of NAME-1’s cost per square foot to construct the buildings, which NAME-1 had concluded was only \$\$\$\$ per square foot, about half the costs paid by the Property Owner to construct the subject building. In addition to the cost information for the subject building, to rebut NAME-1’s \$\$\$\$ per square foot cost, the County provided the cost information from the Property Owner’s other WORDS REMOVED located in Utah and STATE-1. This additional information indicated that the \$\$\$\$ used by NAME-1 was about half of what the Property Owner spent on constructing its buildings. This suggests that if NAME-1’s \$\$\$\$ per square foot was representative of typical WORDS REMOVED, the subject building was superior in grade and quality. The other TAXPAYER properties had the following costs:

	Cost/Sq./Ft.	Year Built
Actual Cost TAXPAYER – CITY-1	\$\$\$\$	2007
Actual Cost TAXPAYER – CITY-3, UT	\$\$\$\$	2015
Actual Costs Addition TAXPAYER – STATE-1	\$\$\$\$	2016

After reviewing the cost information, although the County may ultimately have been a little high on its land value, the biggest difference is the cost per square foot to construct the improvements. Even if the land value was adjusted downward to what NAME-1 had indicated in his appraisal, when added to the County’s depreciated costs for the improvements the value would still be significantly higher than the assessed value. The County has provided evidence to indicate that NAME-1’s costs of \$\$\$\$ which he obtained from the construction of other properties, is far below the cost of the subject building and the actual costs of the subject building indicate a value for the subject significantly higher than the County’s assessed value and Board of Equalization value of \$\$\$\$.

The County also considered a comparable sales approach, which also reached a conclusion of \$\$\$\$\$, higher than the \$\$\$\$ set by the County. The County’s analysis on the comparable sales was different in that the County estimated the land value for the comparables and subtracted that out to determine a value per square foot for the building, which the County concluded to be \$\$\$\$ per square foot or \$\$\$\$ for the improvements. The County then added the subject land value at \$\$\$\$ per square foot or \$\$\$\$ to the building value. The County’s sales comparables and its adjustments are as follows:

	Subject	Comp #1	Comp #2	Comp #3	Comp #4
Property Name	TAXPAYER	PROPERTY-1	PROPERTY-2	PROPERTY-3	PROPERTY-4
Address	SUBJECT ADDRESS	ADDRESS-22	ADDRESS-14	ADDRESS-23	ADDRESS-24
City	CITY-1	CITY-1	CITY-2	CITY-2	CITY-2
County	CITY-2	CITY-2	CITY-2	CITY-2	CITY-2
Sale Price		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Sale Date		2/15/19	10/30/14	5/2/14	4/30/13
Acres	#####	#####	#####	#####	#####
Zoning	M	M	M-1	M-1	M-1
Bldg. Size	#####	#####	#####	#####	#####
Year Built	2007	1998	1982	2000	2001
Price/Sq./Ft.		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Est. Price/SF Land	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Price/SF Exc. Land		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Time Adj.		-1.1%	2.2%	2.6%	3.6%
Bldg. Size	#####	#####	#####	#####	#####
Const. Quality	Good/Ave. C	Average C	Fair C/S	Average S	Good/Ave. C
Eff. Age	9	16	30	16	13
Office Finish	32%	8%	40%	33%	40%
Bldg. Height	25	24	24	22	23
L/B Ratio	10.62	13.98	15.39	27.56	10.44
B/L Ratio	9	7	6	4	10
Utility	Good	Good	Average	Average	Good
Size Adj.		-3.5%	-8%	-7.6%	-8.2%
Constr. Adj.		15%	35%	30%	0%
Condition Adj.		3.5%	10.5%	3.5%	2%
Office Finish Adj.		24%	-8%	-1%	-8%
Bldg. Height Adj.		0.5%	0.5%	1.5%	1%
B/L Ratio Adj.		-1.7%	-2.4%	-8.5%	0.1%
Total Adj.		37.8%	27.6%	17.9%	-13.1%
Adj. Price/Sq./Ft.		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Est. Value Bldg.					\$\$\$\$
Land Value					\$\$\$\$
Total Value					\$\$\$\$
Rounded					\$\$\$\$

Both parties had used some sales that occurred in 2013 or 2014, significantly predating the lien date at issue in this appeal. Both parties had made date of sale adjustments indicating that values for this type of property were increasing from 2013 and 2014 up to the lien date at issue in this appeal, which was January 1, 2017. Neither the Property Owner, nor the County's

comparable sales were very similar to the subject. There were differences in size of buildings, size of land, age and condition. The Property Owner has not shown that it is has provided better sales comparables.

In addition to its own valuation information, the County provided an appraisal of the subject property, which it had obtained from the Property Owner through discovery. This appraisal had been prepared at the request of a bank and not for purposes relating to a property tax appeal. The fee appraisers who had prepared the appraisal were NAME-2, Certified General Real Estate Appraiser, NAME-3, Certified General Real Estate Appraiser, and NAME-4, Licensed Real Estate Appraiser of BUSINESS-3 (“BUSINESS-3 Appraisal”). The BUSINESS-3 Appraisal had been prepared as stated in the letter of transmittal “to develop an opinion of the market value as is of the fee simple interest in the property.” The appraisal conclusion effective as of May 21, 2015 was \$\$\$\$\$. Although the effective date of this appraisal did predate the lien date at issue in this appeal by more than one and a half years, both the County and the Property Owner’s appraisers had made time adjustments in their sales comparison approaches indicating the market was appreciating, not depreciating. Therefore, this appraisal also supported a value higher than the County’s assessed value as of the lien date of January 1, 2017.

The evidence submitted in this matter was that the costs per square foot for the subject building and more recent costs for other TAXPAYER buildings were significantly higher than the County’s assessed value, there were sales that supported the assessed value and an independent appraisal that the County had obtained through discovery that also more than supported the County’s assessed value. Given the weight of this evidence, the Property Owner has not demonstrated error in the valuation set by the County Board of Equalization.

The Property Owner did point out at the hearing that the subject property had been the subject of prior reductions in value. For tax year 2013, the assessed value of \$\$\$\$\$ was appealed to the Utah State Tax Commission and assigned Appeal 14-894. The Tax Commission reduced the value to \$\$\$\$\$. For tax year 2014, the assessed value of \$\$\$\$\$ was appealed to the County Board of Equalization and a stipulation reached in that appeal to reduce the value to \$\$\$\$\$. For tax year 2015, the original assessed value of \$\$\$\$\$ was appealed to the County Board of Equalization and the value reduced to \$\$\$\$\$.

The County stated at the hearing that it did not have the actual costs to construct the subject building for its assessments in these prior years. The County had obtained the cost information and the BUSINESS-3 Appraisal later. For the subject tax year, tax year 2017, prior to the Initial Hearing the County had served discovery requests on the Property Owner to obtain the cost information for the subject property. The Property Owner objected to providing that

information and a Motion to Compel was filed by the County. After reviewing the parties' submissions on the discovery issue and Motion to Compel, the Tax Commission issued its Order Granting Motion to Compel on October 9, 2018, requiring the Property Owner to provide the cost information. The cost information indicated that the Property Owner did spend more on the subject building, and other TAXPAYER buildings it had constructed more recently in Utah and STATE-1, than was reflected in the County's prior valuations. Although there may be some obsolescence or costs that may not be recovered on a subsequent sale of the property, the cost does indicate a higher end property in grade, which would sell for more than a lower grade or average building. So although there had been a valuation reduction for tax years 2014 and 2015, which occurred within three years before the January 1, 2017 lien date at issue in this appeal, the actual cost information of the subject building, the cost information from the other more recently constructed TAXPAYER buildings, as well as the BUSINESS-3 Appraisal were all additional information about the property that was previously unknown or unaccounted for by the County at its prior values. To address situations where there has been a reduction in value, the Utah Legislature adopted Utah Code §59-2-301.4 which, although does not prohibit the County from increasing the assessed value after a valuation reduction, does provide some factors to consider when there has been a valuation reduction. Utah Code §59-2-301.4(2) provides that that when assessing the fair market value of property subject to a valuation reduction, a county assessor shall consider "any additional information about the property that was previously unknown or unaccounted for by the assessor that is made known on the appeal . . ." It goes on to state at subsection (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 this appeal, it is appropriate for the Tax Commission to now take this new information into account and the information does support at least the value set by the County Board of Equalization. The value should remain as set by the County Board of Equalization for the tax year at issue in this appeal.

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, 2017 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  
CITY-2 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 \_\_\_\_\_, 2019.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Lawrence C. Walters  
Commissioner