

APPEAL# 24-1198
TAX TYPE: PROPERTY TAX
TAX YEAR: 2023
DATE SIGNED: 02/25/2026
COMMISSIONER: J. VALENTINE, R. ROCKWELL AND J. DEEDS
EXCUSED: J. FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p>Petitioner,</p> <p>v.</p> <p>BOARD OF EQUALIZATION OF COUNTY-1 COUNTY, STATE OF UTAH,</p> <p>Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal No. 24-1198</p> <p>Parcel No: #####</p> <p>Tax Type: Property Tax</p> <p>Tax Year: 2023</p> <p>Judge: Phan</p>
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This order may contain confidential "commercial information" as defined in Utah Code Ann. §59-1-404. "Commercial information" may be subject to disclosure restrictions as provided in Utah Code Ann. §59-1-404 and Utah Administrative Rule R861-1A-37. Utah Administrative Rule R861-1A-37(7) provides that the Tax Commission may publish this decision, in its entirety, unless the property taxpayer that provided the commercial information indicates to the Tax Commission in writing the specific commercial information that the property taxpayer wants protected. A request to protect commercial information shall be sent no later than 30 days after the issuance of this order to one or more of the following: taxredact@utah.gov or Utah State Tax Commission, Appeals Unit, 210 North 1950 West, Salt Lake City, Utah 84134.

Presiding:

Rebecca L. Rockwell, Commissioner
Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER'S REP-1, Property Owner, TAXPAYER
For Respondent: RESPONDENT'S REP-1, Commercial Appraiser, COUNTY-1 County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on June 23, 2025, in accordance with Utah Code Ann. §59-2-1006 and §63G-4-201 et seq. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

I. General Information

1. The issue before the Tax Commission at the Formal Hearing is Petitioner’s (“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.

2. The lien date at issue in this appeal is January 1, 2023.

3. The County Assessor originally set the market value of the subject property at \$\$\$\$\$, for tax year 2023. The County Board of Equalization upheld that value. At the Formal Hearing, the Property Owner requested a market value of \$\$\$\$\$ for the subject property and the County requested that its value of \$\$\$\$\$ be upheld.

4. The subject property is ##### acres of land improved with a residential apartment building. The property is located at ADDRESS-1, CITY-1, Utah. The building was constructed in YEAR. There are ##### studio apartment units in the subject building and one retail space with ##### square feet. The studio apartment units average only ##### square feet. There is no parking on the subject property. The only amenities for the apartment units are a shared laundry area and a secured area for bike storage. The County has graded the building as Construction Class D, with a construction quality of average. The County lists the condition of the building as excellent. The County’s assessed value of the subject property was based on the subject property being a rental Class A property. The subject property is near the COMPANY-1 public transportation line, which travels between the UNIVERSITY-1 and downtown CITY-1.

5. The value of the subject property was appealed for tax year 2022 and the appeal resulted in a reduction in value for that year. For tax year 2022, the value had originally been set at \$\$\$\$\$, and the Property Owner appealed the value to the County Board of Equalization, which upheld that value. The Property Owner then appealed the County Board of Equalization's decision to the Utah State Tax Commission and the Tax Commission reduced the value to \$\$\$\$\$.¹ There had been no changes to the

¹ See *Findings of Fact, Conclusions of Law, and Final Decision, Appeal No. 22-1878 (2/5/2023)*. This decision analyzed an appraisal submitted by the Property Owner and market value information from the parties to determine the appropriate rent rate, expenses and capitalization rate for the subject property, given its unique characteristics, in reaching this conclusion of value. The Commission concluded a lease rate of \$\$\$\$\$ per unit per month as of January 1, 2022.

subject property between January 1, 2022 and January 1, 2023. The County agreed that for tax year 2023, the subject property was a qualified real property and had an inflation adjusted value of \$\$\$\$\$\$.

II. Property Owner’s Evidence

6. The Property Owner’s representative explained at the hearing that when he constructed the subject property, the city required that the building have the small commercial space, but that due to the fact that the building has no parking, he has been unable to lease the commercial space, so it has been vacant with no income. He stated that the subject building has only “micro” studio units and the building is on a very small lot. He stated that there is no off street parking and the building has no amenities, except for a shared laundry facility. He also stated that he pays for the water, sewer, gas and basic internet service, while the tenants pay for their own electricity. He stated that because there is no parking, most of the tenants are students who are able to get around on public transportation and he provides some secure bike storage on the subject property.

7. As evidence, the Property Owner submitted a rent roll, rent information, some sales comparables and the income statement from the subject property for the year ending MONTH DATE, YEAR.

8. The rent roll provided was undated, but all leases on the rent roll had start dates in 2022, the rent ranged from \$\$\$\$\$ to \$\$\$\$\$ per month, per unit, and the average rent was \$\$\$\$\$ per month per unit.²

9. The Property Owner submitted an excerpt from a study titled “CITY-1 Apartment Market Rent Study” (“Study”). The excerpt from the Study provided the average rent for seven apartment buildings with small apartment units. The excerpt from the Study did not provide the date or dates for which the average rents were determined for these properties. The Study showed a rent rate of \$\$\$\$\$ per unit per month for the subject property, while the rent roll showed the average rent was \$\$\$\$\$ per month per unit for the subject property. All the other properties had more amenities than the subject. The excerpt from the Study indicated the following:³

	Subject	One	Two	Three	Four	Five	Six	Seven
	SUBJECT	SUBJECT-1	SUBJECT-2	SUBJECT-3	SUBJECT-4	SUBJECT-5	SUBJECT-6	SUBJECT-7
Address	STREET-1	STREET-2	STREET-3	STREET-4	STREET-5	STREET-6	STREET-7	STREET-8
Year Built	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR
Units	#####	#####	#####	#####	#####	#####	#####	#####
Amenities ⁴	Lan	Ct,Lan	FC,Po,Lan	F, WD	FC,Po,HT CH,CP	B,FC,Lan Ct,CP	B,FC,HT, WD,CH,Ct	B,FC,Po HT,WD,CH

² BOE Hearing Record, PDF #7.

³ BOE Hearing Record, PDF #7.

⁴ The Study provided the following explanation of the abbreviations for the amenities: F=furnished; B=balcony; FC=fitness center; Po=pool; HT=hot tub; WD=washer/dryer; CH=club house; Ct=courtyard; Lan=on-site laundry; and CP=covered parking.

Occupancy	%%%%%%%%	N/A	N/A	N/A	%%%%%%%%	%%%%%%%%	CP	CT,CP
Avg Rent	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
SqFt	#####	#####	#####	#####	#####	#####	#####	#####

10. The Property Owner’s income statement for the period MONTH DATE, YEAR to MONTH DATE, YEAR showed \$\$\$\$ in total income. The Property Owner prepared an income approach from the net income on this statement as follows:⁵

Income (PGI)	
Pet Rent Income	\$\$\$\$
Rent Income	\$\$\$\$
Repairs Reimbursement Income	\$\$\$\$
Total Income	\$\$\$\$
Expense	
Repairs & Maintenance	\$\$\$\$
Property tax	\$\$\$\$
Homeowner insurance	\$\$\$\$
Legal and Professional Expense - Other	\$\$\$\$
Property Management	\$\$\$\$
Supplies (Maintenance)	\$\$\$\$
Cleaning Expense	\$\$\$\$
Leasing - Commissions Expense	\$\$\$\$
Inspection Expense	\$\$\$\$
Landscaping Expense	\$\$\$\$
Utilities	\$\$\$\$
Total Expense	\$\$\$\$
Net Operating Income	
Income approach (CBRE YEAR class A: %% CAP rate)	\$\$\$\$
Value/Unit	\$\$\$\$

11. The Property Owner also submitted three comparable sales, but noted that they were not very good comparisons because the subject property had only micro studios with no parking and the comparables had much larger one and two-bedroom units with parking. Therefore, the Property Owner stated the most weight should be given to the income approach. His comparable sales were the following:⁶

	Subject	One	Two	Three
Address	STREET-1	STREET-9	STREET-10	STREET-11
City	CITY-1	CITY-2	CITY-3	CITY-4
Acres	#####	#####	#####	#####
Year Built	YEAR	YEAR	YEAR	YEAR
#Units	#####	#####	#####	#####
Average Sqft	#####	#####	#####	#####

⁵ BOE Hearing Record, PDF #8.

⁶ BOE Hearing Record, PDF #9.

Studio	#####	#####	#####	#####
1 bedroom	#####	#####	#####	#####
2 bedroom	#####	#####	#####	#####
Construction Class	Wood/Frame	Mason/Wall	Mason/Wall	Mason/Wall
Rental Class	A	C	C	C
Amenities	Lan/Poor	Lan/Bal/Fair	Lan /Bal/Fair	Lan /Bal/Fair
Parking	0	14	12	11
Sale Date		DATE	DATE	DATE
Sale Price		\$\$\$\$	\$\$\$\$	\$\$\$\$
Value/Unit		\$\$\$\$	\$\$\$\$	\$\$\$\$
Per sqft price		\$\$\$\$	\$\$\$\$	\$\$\$\$

Average sale per sqft	\$\$\$\$ (subject one and three only)
Estimated value per unit per sqft	\$\$\$\$
Estimated value of the building	\$\$\$\$

12. The Property Owner also provided an excerpt of a published study titled “National Multifamily Cap Rate Trends by Class” (“Cap Rate Study”). This Cap Rate Study examined national averages and not CITY-1 City averages. It showed the national trend of capitalization rates for rental Class A properties dipping below %%%% in YEAR, and increasing to near %%%% in 2023.⁷ However, the excerpt of the Cap Rate Study provided did not clearly show at which point during each year the capitalization rate low and high were achieved.

13. During the hearing, the County’s representative asked the Property Owner about a Trust Deed that was recorded against the property for \$\$\$\$ on MONTH DATE, YEAR. The Property Owner testified at the hearing that there had not been an appraisal or loan for this amount from a bank or financial institution. He stated that the Trust Deed was filed against the property for purposes of asset protection.

III. County’s Evidence

14. At the hearing, the County’s representative requested that the original assessed/County BOE value of \$\$\$\$ be upheld for tax year 2023, which is a higher value than the inflation adjusted value of \$\$. The County’s representative submitted an income approach at the hearing. In the income approach, the County separated the potential rental income from the apartment units and the small retail space. The County’s representative stated that for the rent for the apartment units the County used the lease rate of \$\$\$\$ per unit per month that the Tax Commission had concluded appropriate in its decision for the subject property for tax year YEAR. The County’s income approach was the following:⁸

	Apartments	Retail	Total Building
Rentable Square Feet	##### SF	##### SF	##### SF
Rent Per SF/Unit for Apts)	\$\$\$\$	\$\$\$\$	

⁷ Petitioner’s Exhibit 1.

⁸ Respondent’s Exhibit A, pg. 9.

Potential Gross Income	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Vacancy Percent	%%%%	%%%%	%%%%
Vacancy Amount	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Miscellaneous Income	\$\$\$\$\$		\$\$\$\$\$
Effective Gross Income	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Expense Percent	%%%%	%%%%	%%%%
Expense Amount	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Net Operating Income	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Overall Cap Rate	%%%%	%%%%	%%%%
Effective Tax Rate	%%%%		
Total Cap Rate	%%%%	%%%%	%%%%
Value By Income Approach	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Income Value (Rounded)	\$\$\$\$\$		
Net Value Per Rentable Square Foot		\$\$\$\$\$	

15. The County did not provide any evidence regarding rent rates for the studio apartment units or the retail space. The County provided evidence regarding the capitalization rate. The County had applied a %%%% capitalization rate to the subject property for the apartment space. In the County’s analysis, the County’s representative stated that the subject property was a Class A rental because it was new and due to its location. He provided an excerpt from the CBRE US Cap Rate Survey H2 YEAR, which indicated investors were saying capitalization rates for the second half of YEAR, for Class A stabilized apartments in CITY-1 City, were from %%%% to %%%%. He also provided an excerpt from The Greater CITY-1 Area Multifamily Market report YEAR Review from CBRE, which indicated that YEAR the average capitalization rate for Class A rental properties was %%%% and for Class B rental properties was %%%%.⁹

16. In addition, the County’s representative provided numerous capitalization rate comparables for both Class A and Class B apartment sales in COUNTY-1 County. However, most of these sales were from YEAR or early in YEAR. Of the few comparables from YEAR or early 2023, none of these had unit sizes as small as the subject and several were from areas outside of CITY-1 City. The County’s comparables that sold nearest the lien date were the following:¹⁰

Address	Units	Sale Date	Avg. Unit SF	Year Built	Effective Yr. Blt.	Cap Rate	Class
STREET-12, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%	A
STREET-13, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%	A
STREET-14, CITY-2	#####	DATE	#####	YEAR	YEAR	%%%%	A
STREET-15, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%	A
STREET-16, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%	A
STREET-17, CITY-2	#####	DATE	#####	YEAR	YEAR	%%%%	A
STREET-18, CITY-2	#####	DATE	#####	YEAR	YEAR	%%%%	A
STREET-19, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%	A
STREET-20, CITY-3	#####	DATE	#####	YEAR	YEAR	%%%%	B
STREET-21, CITY-4	#####	DATE	#####	YEAR	YEAR	%%%%	B

⁹ Respondent’s Exhibit A, pgs. 5-6.

¹⁰ Respondent’s Exhibit A, pg. 7.

STREET-22, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%%	B
STREET-23, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%%	B
STREET-24, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%%	B
STREET-25, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%%	B
STREET-26,CITY-3	#####	DATE	#####	YEAR	YEAR	%%%%%	B
STREET-27, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%%%	B
Avg	%%%%%						
Med	%%%%%						
Low	%%%%%						
High	%%%%%						

17. The County used a %%%% vacancy rate in its income approach for the apartment units. The County explained the reason for using this vacancy rate in its exhibit as follows:¹¹

COUNTY-1 County’s apartment market has seen an increase in vacancy the past couple of years in the face of ongoing supply waves and slower leasing velocity. This is especially noticeable in the Downtown CITY-1 City submarket. However, the stabilized vacancy rate is not necessarily a reflection of the actual vacancy the property is experiencing at a given time, nor is it necessarily a reflection of the actual average vacancy in the market for a particular property at a given time (although both are factors of the stabilized vacancy rate). Rather, the stabilized vacancy is the estimated vacancy for a property over a given holding period. Considering the subject’s characteristics, a %%%% stabilized vacancy factor is considered well supported by long-term vacancy averages seen in published market data.

18. For other income and expenses, the County used \$\$\$\$ per unit, which included reserves, and %%%% for management.

IV. Value Conclusion

19. As discussed in more detail in the Conclusions of Law, because the subject property is a qualified real property for tax year 2023, and both parties are asking for a value that is different from the inflation adjusted value, Utah Code Ann. §59-2-109(4)(b) provides that each of the parties must: 1) demonstrate substantial error in the inflation adjusted value; and 2) provide a sound evidentiary basis upon which the party's proposed value could be adopted. Upon considering the evidence submitted in this matter, neither party has shown substantial error in the inflation adjusted value.

20. Both parties have valued the subject property based on an income approach, although the Property Owner’s value was based on actual income and the County’s value was based on potential income. Both parties concluded a very similar effective gross income. The primary differences between the parties’ approaches that affected value were the capitalization rate and the treatment of the retail space. The Property Owner did not include any income for the retail space, because it had not been leased. This method basically values this space as if it does not exist or would never have any value. The County had accounted for the retail space in its income approach, although the County might have made a

¹¹ Respondent’s Exhibit A, pg. 4.

rent loss deduction.

21. The Property Owner used a % capitalization rate and the County used a % capitalization rate. The Property Owner provided only a nationwide study on capitalization rates, which showed nationwide rates had dipped until they hit the lowest point in YEAR and then started increasing significantly into 2023. The issue is that the lien date in this appeal is January 1, 2023, which was sometime after the low and before the peak in 2023. The County provided numerous capitalization rate comparables from apartment sales. However, of all the sales there were only three that occurred in the last half of YEAR and two that occurred in the first two months of 2023. The average capitalization rate from these five sales had been % . If arrayed based on sale date, these five sales show an increasing capitalization rate based on time of sale as follows:

Address	Units	Sale Date	Avg Unit SF	Year Built	Effit Yr Blt	Cap Rate	Class
STREET-28, CITY-4	#####	DATE	#####	YEAR	YEAR	%%%	B
STREET-29, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%	B
STREET-30, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%	A
STREET-31, CITY-3	#####	DATE	#####	YEAR	YEAR	%%%	B
STREET-32, CITY-1	#####	DATE	#####	YEAR	YEAR	%%%	B

22. Considering this information, the weight of the evidence supports a capitalization rate of % % as of the January 1, 2023 lien date, and if applied in the County’s income approach, it would result in a value near the inflation adjusted value. If a capitalization rate of % % were applied to the Property Owner’s income approach and some consideration was made for the retail space so that it was not valued at zero into perpetuity, the value is again near the inflation adjusted value. The weight of the evidence supports the inflation adjusted value and neither party has established error in that value. The value of the subject property should be reduced to the inflation adjusted value of \$\$\$\$\$.

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 a 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 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.

For a qualified real property proceeding before the Tax Commission, Utah Code Ann. §59-2-109(4)(b) provides that the burden of proof is not only on the county where the county proposes a value that is greater than the subject property's inflation adjusted value, but that the burden of proof is also on the taxpayer where the taxpayer proposes a value that is less than the property's inflation adjusted value. To prevail in this case, Subsection 59-2-109(2) provides that each of the parties must: 1)

demonstrate substantial error in the inflation adjusted value; and 2) provide a sound evidentiary basis upon which the party's proposed value could be adopted.

CONCLUSIONS OF LAW

1. The Utah Constitution, Article XIII, Sec. 2 provides, “So that each person and corporation pays a tax in proportion to the fair market value of his, her, or its tangible property, all tangible property in the state that is not exempt under the laws of the United States or under this Constitution shall be: (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law; and (b) taxed at a uniform and equal rate.”

2. Utah statutes implement the constitutional provision and provide that property tax is assessed on the basis of the property’s “fair market value” as of January 1 of the tax year at issue pursuant to Utah Code Sec. 59-2-103. “Fair market value” is defined by statute as 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.” *See* Utah Code Sec. 59-2-102. Therefore, to determine the fair market value of the subject property as of the lien date at issue in this appeal, the Tax Commission must consider what the subject property would have sold for on that date.

3. The subject property is a “qualified real property” as that is defined at Utah Code Ann. §59-2-109(1)(c) for the 2023 tax year. To be considered a “qualified real property” the property owner must have appealed the valuation for the previous taxable year, the appeal must have resulted in a final assessed value that was lower than the assessed value, and the assessed value for the current taxable year must be higher than the inflation adjusted value. In addition, there must not have been a “qualifying change” as that is defined at Utah Code Ann. §59-2-109(1)(d). All these factors were met and the parties agreed that this is a qualified real property for tax year 2023. The inflation adjusted value of the subject property is \$5,747,956.

4. For a qualified real property proceeding before the Tax Commission, Utah Code Ann. §59-2-109(4)(b) provides that the burden of proof is not only on the county where the county proposes a value that is greater than the subject property's inflation adjusted value, but that the burden of proof is also on the taxpayer where the taxpayer proposes a value that is less than the property's inflation adjusted value. To prevail in this case, Subsection 59-2-109(2) provides that each of the parties must: 1) demonstrate substantial error in the inflation adjusted value; and 2) provide a sound evidentiary basis upon which the party's proposed value could be adopted. For the reasons stated in the Findings of Fact, substantial error in the inflation adjusted value has not been established by either party.

Based on these Findings of Fact and Conclusions of Law, the value of the subject property should be reduced as noted in the Findings of Fact to the inflation adjusted value for the lien date at issue in this appeal.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the fair market value of the subject parcel as of the January 1, 2023 lien date, is \$\$\$\$\$. The County Auditor is to adjust the records accordingly. It is so ordered.

DATED this ____ day of ____, 2026.

John L. Valentine
Commission Chair

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

John T. Deeds
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 pursuant to 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 et seq. and §63G-4-401 et seq.