

APPEAL # 24-1206

TAX TYPE: PROPERTY TAX

TAX YEAR: 2023

DATE SIGNED: 03/10/2026

COMMISSIONERS: J. VALENTINE, R. ROCKWELL, J. FRESQUES AND J. DEEDS

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BEFORE THE UTAH STATE TAX COMMISSION

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<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><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 24-1206</p> <p>Parcel Nos: ##### &amp; #####</p> <p>Tax Type: Property Tax/Locally Assessed</p> <p>Tax Year: 2023</p> <p>Judge: Halverson</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](mailto:taxredact@utah.gov) or Utah State Tax Commission, Appeals Unit, 210 North 1950 West, Salt Lake City, Utah 84134.**

**Presiding:**

Rebecca L. Rockwell, Commissioner  
Shannon Halverson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER'S REP-1, Taxpayer's Representative  
For Respondent: RESPONDENT'S REP-1, Appraiser, COUNTY-1 County

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on July 1, 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

1. The issue before the Tax Commission at the Formal Hearing is the fair market values of Parcel Nos. ##### and ##### for the 2023 tax year, with a lien date of January 1, 2023. The subject parcels are owned by COLLEGE-1 and the COMPANY-1 (“Petitioner” or “Taxpayer”).

2. The subject parcels’ original assessed values, Board of Equalization values, Taxpayer’s requested values, and County’s requested values for the 2023 tax year are as follows:<sup>1</sup>

<b>Parcel No.</b>	<b>2023 Original Assessed Value</b>	<b>2023 Board of Equalization Value</b>	<b>Taxpayer Requested Value</b>	<b>County Requested Value</b>
#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
#####	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
<b>Total Combined Value</b>	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

3. The subject parcels include a ##### acre lot that is improved with three office/warehouse buildings located at STREET-1 in CITY-1.<sup>2</sup> The County’s records indicate that Building A is an office warehouse building that was constructed in YEAR and has ##### rentable square feet on the main floor with no mezzanine.<sup>3</sup> The County classifies Building A’s construction class as Class C, construction grade as average, and condition as average.<sup>4</sup> Building A has %%% office space and a warehouse story height of ##### feet.<sup>5</sup> The County’s records indicate that Building B is an office warehouse building that was constructed in YEAR and has ##### rentable square feet on the main floor with ##### square feet of office mezzanine.<sup>6</sup> The County classifies Building B’s construction class as Class S, construction grade as average, and condition as average.<sup>7</sup> Building B has %%% office space and a warehouse story height of

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<sup>1</sup> Pleadings.

<sup>2</sup> Respondent’s Exhibit R-1, PDF pgs. 18-19.

<sup>3</sup> Respondent’s Exhibit R-1, PDF pg. 18.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Respondent’s Exhibit R-1, PDF pg. 19.

<sup>7</sup> *Id.*

##### feet.<sup>8</sup> The County’s records indicate that Building C is an office warehouse building that was constructed in YEAR and has ##### rentable square feet on the main floor with ##### square feet of office mezzanine.<sup>9</sup> The County classifies Building C’s construction class as Class C, construction grade as average, and condition as average.<sup>10</sup> Building C has %%% office space and a warehouse story height of ##### feet.<sup>11</sup> The County’s records indicated that the rentable square footage of the improvements totals ##### square feet.<sup>12</sup> However, the Taxpayer’s submitted information indicated that the rentable square footage of the improvements totaled ##### square feet.

4. Parcel No. ##### includes the value of the land, which is owned by TAXPAYER, an exempt entity, but is leased to COMPANY-1., through a ground lease entered into on MONTH DATE, YEAR for a term of ##### years.<sup>13</sup> Parcel No. ##### includes the value of the improvements, in which the ownership of the improvements was transferred from TAXPAYER to COMPANY-1, through a Quit Claim Deed.<sup>14</sup> The County’s information indicated that the subject parcels were valued as an economic unit based on an income approach analysis, and the land value, which is included in Parcel No. ##, was subtracted from the determined value of the entire economic unit to arrive at the improvement value included in Parcel No. ##.

5. The subject parcels were assessed as one parcel in prior years, which was Parcel No. ##. For the 2023 tax year, two separate parcels were created for the subject property. The assessed value of Parcel No. ## was not appealed, and, therefore, not reduced on appeal for the YEAR or YEAR tax year.<sup>15</sup> The assessed value of Parcel No. ## was reduced on appeal for the YEAR tax year.<sup>16</sup> The subject parcels’ valuation history is as follows:<sup>17</sup>

Tax Year	Original Assessed Value	BOE Value	Tax Commission Value
YEAR	\$\$\$\$	N/A	N/A
YEAR	\$\$\$\$	N/A	N/A
YEAR	\$\$\$\$	\$\$\$\$	\$\$\$\$

6. The parties’ signed stipulation for the YEAR tax year indicated that the reason for the reduction for the YEAR tax year was based on a land value of \$\$\$\$ per square foot and

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Respondent’s Exhibit R-1, PDF pg. 19.

<sup>12</sup> Respondent’s Exhibit R-1, PDF pg. 18.

<sup>13</sup> Respondent’s Exhibit R-1, PDF pg. 20; Petitioner’s Exhibit P-E, PDF pgs. 54-96.

<sup>14</sup> *Id.*

<sup>15</sup> Respondent’s Exhibit R-3.

<sup>16</sup> Petitioner’s Exhibit P-A, PDF pg. 3; Respondent’s Exhibit R-3.

<sup>17</sup> *Id.*

the highest and best use of the land as multi-family.<sup>18</sup> The stipulation indicated that continued use of the buildings is considered an interim use as apartments are planned.<sup>19</sup> The County’s submission indicated that the computed inflation adjusted values for the 2023 tax year are \$\$\$\$ for Parcel No. ##### and \$\$\$\$ for Parcel No. #####.<sup>20</sup>

7. The Taxpayer’s representative stated at the Formal Hearing that the COMPANY-1 pays an annual lease payment of \$\$\$\$ on an absolute net basis to lease the ground.<sup>21</sup>

8. The Taxpayer’s representative submitted an income approach analysis that was computed as follows to support the Taxpayer’s requested values:<sup>22</sup>

Potential Gross Income \$\$\$\$/sf x ##### sf	\$\$\$\$
Vacancy: %%%%	(\$\$\$\$)
Effective Gross Income	\$\$\$\$
Operating Expenses: %%%%	(\$\$\$\$)
Net Operating Income	\$\$\$\$
Capitalization Rate	%%%
Stabilized Capitalized Income	\$\$\$\$
Additional Land Contribution (##### acres)	\$\$\$\$
Combined Price Estimate Conclusion	\$\$\$\$
Price Estimate Conclusion/SF	\$\$\$\$

9. The Taxpayer’s representative used a market lease rate of \$\$\$\$ per square foot in the Taxpayer’s submitted income approach analysis. The Taxpayer’s submission included the following information regarding the two leases that were signed near the lien date to fully occupy the subject property’s improvements:<sup>23</sup>

Tenant	Lease Date	Building	Square Feet	Annual Rent	Rent/SF
COMPANY-2	DATE	A	#####	\$\$\$\$	\$\$\$\$
COMPANY-3	DATE	B&C	#####	\$\$\$\$	\$\$\$\$
Total			#####	\$\$\$\$	\$\$\$\$

<sup>18</sup> Petitioner’s Exhibit P-B, PDF pg. 13.

<sup>19</sup> Petitioner’s Exhibit P-B, PDF pg. 13.

<sup>20</sup> Respondent’s Exhibit R-3.

<sup>21</sup> Petitioner’s Exhibit P-A, PDF pgs. 3-4, Petitioner’s Exhibit P-E, PDF pgs. 54-96.

<sup>22</sup> Petitioner’s Exhibit P-A, PDF pgs. 7-10.

<sup>23</sup> Petitioner’s Exhibit P-A, PDF pg. 4.

10. The Taxpayer’s submission included extracts from the two lease agreements with the tenants within the subject property.<sup>24</sup> The Taxpayer’s submission indicated that the initial lease rate for COMPANY-3 was \$\$\$\$ per square foot on a triple net basis and escalated to \$\$\$\$ per square foot in MONTH of YEAR.<sup>25</sup> The Taxpayer’s submission indicated that one reason for COMPANY-3 lease rate being slightly higher than the lease rate for COMPANY-2 is because COMPANY-3 occupies buildings B & C, which each contain jib cranes, whereas COMPANY-2 occupies building A, which does not report having jib cranes.<sup>26</sup> The Taxpayer’s representative noted that each lease agreement included free rent for the first three months and argued that the net effective rents for those rental rates should be calculated. The Taxpayer’s submission included the following adjustments to the rental rates for the tenants within the subject property:<sup>27</sup>

Tenant	Lease Date	Original Rate	Net Effective Rate	Time Adjustment	Time Adjusted Rate
COMPANY-2	DATE	\$\$\$\$	\$\$\$\$	%%%%	\$\$\$\$
COMPANY-3	DATE	\$\$\$\$	\$\$\$\$	%%%%	\$\$\$\$
<b>Average</b>					\$\$\$\$

11. The Taxpayer’s submission included the following comparable leases to further support the Taxpayer’s determined market lease rate for the subject property:<sup>28</sup>

	Comp #1	Comp #2	Comp #3	Comp #4	Comp #5	Comp #6	Comp #7
Address	STREET-2	STREET-3	STREET-4	STREET-5	STREET-6	STREET-7	STREET-8
Main Parcel #	#####	#####	#####	#####	#####	#####	#####
Year Built	YEAR	YEAR-YEAR	YEAR-YEAR	YEAR-YEAR	YEAR	YEAR	YEAR
Grade	Average	Average	Average	Average	Average	Average	Average
Overall Condition	Average	Average	Average	Average	Average	Average	Average
Leased SF	#####	#####	#####	#####	#####	#####	#####
Start Date	DATE	DATE	DATE	DATE	DATE	DATE	DATE
Lease Type	NNN	NNN	NNN	NNN	NNN	NNN	NNN
Lease Rate	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Time Adjust	%%%%	%%%%	%%%%	%%%%	%%%%	%%%%	%%%%
Time Adj Rate	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

12. The time adjusted lease rates of the Taxpayer’s comparable leases ranged from \$\$\$\$ per square foot to \$\$\$\$ per square foot, with a mean of \$\$\$\$ per square foot and a median

<sup>24</sup> Petitioner’s Exhibit P-D, PDF pgs. 21-26.  
<sup>25</sup> Petitioner’s Exhibit P-A and P-D, PDF pgs. 4-5, 25.  
<sup>26</sup> Petitioner’s Exhibit P-A, PDF pg. 4.  
<sup>27</sup> Petitioner’s Exhibit P-A, PDF pg. 5.  
<sup>28</sup> *Id.*

of \$\$\$\$ per square foot.<sup>29</sup> The Taxpayer's submission asserted that the two time adjusted leases within the subject property are reflective of market lease rates for the subject buildings because they are both newer leases that were signed near the lien date.<sup>30</sup> The Taxpayer's submission noted that the average time adjusted lease rate for these two tenants is \$\$\$\$ per square foot on a triple net basis.<sup>31</sup> The Taxpayer's representative indicated that he is recommending a rounded market lease rate of \$\$\$\$ per square foot on a triple net basis for the subject property.

13. The Taxpayer's representative used a %%% vacancy rate in the income approach analysis and noted that the County used that same vacancy rate in the County's original valuation and submitted income approach analysis.

14. The Taxpayer's representative used an expense rate of %%% of effective gross income in the Taxpayer's income approach analysis and indicated that is typical for properties leased on a triple-net basis. The Taxpayer's representative indicated that this expense rate was used also by the County in the County's original valuation and submitted income approach analysis.

15. The Taxpayer's representative used a capitalization rate of %%% in the Taxpayer's submitted income approach analysis. The Taxpayer's submission included the following market reports to support that determined capitalization rate: the CoStar market report reported industrial capitalization rates of %%% in CITY-2 as of the fourth quarter of YEAR, and the Newmark market report reported an overall average industrial capitalization rate of %%% in CITY-2 as of the first quarter of 2023.<sup>32</sup> The Taxpayer's submission indicated that capitalization rates rose dramatically in the second half of YEAR because interest rates also rose dramatically during the same period.<sup>33</sup> The Taxpayer's representative noted that the CoStar report and the Newmark report show the correlation between rising interest rates and rising capitalization rates that occurred in YEAR. The Taxpayer's submission noted that the Federal Reserve first started acting in MONTH of YEAR to curb inflation and increased the federal funds rate from a range of %%% to %%% in the beginning of YEAR to a range of %%% to %%% by the end of YEAR.<sup>34</sup>

16. The Taxpayer's representative noted that the increase in the federal funds rate also had a material impact on treasury yields, which he indicated is the main index for pricing commercial mortgages. The Taxpayer's submission included a history of the U.S. ##### Year

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<sup>29</sup> Petitioner's Exhibit P-A, PDF pg. 5.

<sup>30</sup> *Id.*

<sup>31</sup> Petitioner's Exhibit P-A, PDF pg. 5.

<sup>32</sup> Petitioner's Exhibit P-A, PDF pg. 6.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

Treasury Yield.<sup>35</sup> The Taxpayer’s representative noted that the U.S. ##### Year Treasury Yield hovered around %%%% throughout YEAR, and, in the spring of YEAR as the Federal Reserve began raising the federal funds rate, the ##### Year Treasury Yield also began increasing and ended YEAR at %%%%.<sup>36</sup> He argued that the increase in the interest rates has a direct influence on the capitalization rates.

17. The Taxpayer’s submission included the following quote from PERSON-1 :<sup>37</sup>

The Federal Reserve actions to curb inflation have had an impact on the cost of capital, greatly impacting lending rates. Capitalization rates hit historic lows in early second quarter YEAR, which most investors recognize as an inflection point. Since then, investment rates began their current upward trajectory, in lockstep with the Fed’s rate hikes. Based on the preceding, in our view higher interest rates put upward pressure on capitalization rates, which directly impacts values.

18. The Taxpayer’s submission also included the following industrial sales to further support the capitalization rate used in the Taxpayer’s income approach analysis and the Taxpayer’s requested values for the subject properties:<sup>38</sup>

	Subject	Comp #1	Comp #2	Comp #3	Comp #4	Comp #5	Comp #6
Address	STREET-9	STREET-10	STREET-11	STREET-12	STREET-13	STREET-14	STREET-15
Main Parcel #	#####	#####	#####	#####	#####	#####	#####
Year Built	YEAR-YEAR	YEAR	YEAR-YEAR	YEAR	YEAR	YEAR	YEAR
Grade	Average	Good	Average	Average	Average	Average	Average
Condition	Average	Good	Average	Average	Average	Average	Average
Square Feet	#####	#####	#####	#####	#####	#####	#####
Sale Price		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Sale Date		DATE	DATE	DATE	DATE	DATE	DATE
Cap Rate			%%%	%%%			
Price/SF		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

19. The Taxpayer’s representative indicated that the average capitalization rate of the Taxpayer’s submitted comparable sales was %%%% and noted that the County’s original building card used a %%%% capitalization rate to value the subject property. He argued that based on the market reports and the capitalization rates of the Taxpayer’s submitted comparable industrial sales, the Taxpayer’s concluded capitalization rate of %%%% is supported.

20. The Taxpayer’s representative stated that the stabilized capitalized income conclusion based on the Taxpayer’s submitted income approach analysis was \$\$\$\$\$. He indicated that there is additional land associated with the subject property that adds contributory value. He

<sup>35</sup> Petitioner’s Exhibit P-A, PDF pg. 7.

<sup>36</sup> Petitioner’s Exhibit P-A, PDF pg. 7.

<sup>37</sup> *Id.*

<sup>38</sup> Petitioner’s Exhibit P-A, PDF pg. 6.

noted that the site of the subject property totals ##### acres. He noted that the assessed land value for the ##### acres is \$\$\$\$\$, which equates to a value of \$\$\$\$\$ per square foot. He noted that the subject property's zoning is classified as "School" because it is owned by TAXPAYER based on both the County data and the CITY-1 Zoning map. He indicated that both parties agree that ##### acres of the ##### acres is additional, unimproved land. He noted that it is located on the northern and eastern elevations of the site of the subject property. He noted that based on a value of \$\$\$\$\$ per square foot for the additional land, the contributory land value of the ##### acres would be \$\$\$\$\$. However, he argued that the following factors should be considered when determining the contributory value of the additional land: the additional land is located at the back of the property; it is landlocked with access only through the existing site and improvements; and future development is impacted by a right-of-way easement, which runs through the site.<sup>39</sup>

21. The Taxpayer's representative also noted there is a right of way easement, which he indicated impacts the future developability of the site. The Taxpayer's submission included a copy of the right-of-way easement and maps showing the location of the easement on the subject property.<sup>40</sup> He stated that the easement covers "a right-of-way ##### feet in width and ##### feet in length for the construction, reconstruction, operation, maintenance, repair, replacement, and removal of electric power transmission, distribution and communication lines and reasonably required accessories and appurtenances thereto."<sup>41</sup> He indicated that construction within the easement boundaries requires approval from the grantor and improvements are limited to a maximum height of ##### feet.<sup>42</sup>

22. The Taxpayer's representative stated that as of the January 1, 2023 lien date, the additional land was leased to COMPANY-4 ("COMPANY-4") and COMPANY-5 ("COMPANY-5") as yard space with both leases signed in the latter half of YEAR.<sup>43</sup> He indicated that COMPANY-4 leases ##### acres at \$\$\$\$\$ per month and Surefire leases ##### acres at \$\$\$\$\$ per month, which he stated yields an annual potential gross income of \$\$\$\$\$ for the additional land.<sup>44</sup> He indicated that if that income is capitalized using the 2023 Building Card ratios, which includes a %%% vacancy rate, a %%% expense ratio, and a %%% capitalization rate, it results in a rounded capitalized income of \$\$\$\$\$ or a value of \$\$\$\$\$ per

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<sup>39</sup> Petitioner's Exhibit P-A, PDF pg. 8.

<sup>40</sup> Petitioner's Exhibits P-A and P-C, PDF pgs. 8-9, 15-19.

<sup>41</sup> Petitioner's Exhibit P-A, PDF pg. 9.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

square foot.<sup>45</sup> He noted that is below the subject property’s 2023 assessed land value of \$\$\$\$\$ per square foot.

23. The Taxpayer’s submission included seven comparable land sales to further support the land value for the subject property.<sup>46</sup>

	Subject	Comp #1	Comp #2	Comp #3	Comp #4	Comp #5	Comp #6	Comp #7
Address	STREET-3	STREET-17	STREET-18	STREET-19	STREET-20	STREET-21	STREET-22	STREET-23
City	CITY-1	CITY-2	CITY-3	CITY-2	CITY-3	CITY-4	CITY-5	CITY-4
Main Parcel #	#####	#####	#####	#####	#####	#####	#####	#####
Acres	#####	#####	#####	#####	#####	#####	#####	#####
Zoning	School	M-1	C-2	M-1	C-2	C-N	CC	M-U
Sale Date	N/A	DATE	DATE	DATE	DATE	DATE	DATE	DATE
Sale Price	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Price/SF	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

24. The adjusted sale prices of the Taxpayer’s submitted comparable land sales ranged from \$\$\$\$\$ per square foot to \$\$\$\$\$ per square foot, with a mean and median of \$\$\$\$\$ per square foot. He noted that this is below the subject property’s assessed land value of \$\$\$\$\$ per square foot. However, he stated that his recommendation is that the 2023 assessed land value of \$\$\$\$\$ for the additional ##### acres of additional land be used in determining the subject property’s value. He noted that despite the limitations associated with developing the subject property, he did not feel that there was sufficient evidence to demonstrate that a lower land value is supported for the subject property. He indicated that a contributory land value of \$\$\$\$\$ was used in the Taxpayer’s income approach analysis.

25. The County’s representative expressed concern with the Taxpayer’s comparable land sales. He indicated that the subject property’s zoning was School when classes were being held at the site. However, he stated that currently the subject property’s zoning is a transit oriented development (“TOD”) zone, which is designed to maximize multi-family, high density living. He stated that he does not believe that the Taxpayer’s comparable land sales are representative of multi-housing and TOD zoning in that area. He argued that the land is worth more than the value determined using an income approach analysis.

26. The Taxpayer’s representative argued that both the County’s records and the CITY-1 zoning map indicate that the zoning designation for the subject property is School. He noted that a land value of \$\$\$\$\$ per square foot was recommended by the County and noted that

<sup>45</sup> *Id.*

<sup>46</sup> Petitioner’s Exhibit P-A, PDF pg. 9.

if that value is applied to the entirety of the site, it would result in a value of \$\$\$\$\$, which is less than the Taxpayer’s price estimate recommendation.

27. The County’s representative stated that the County’s position is based on the appeal of the subject property’s assessed value for the YEAR tax year and the inflation adjusted value that was calculated based on the final assessed value for the YEAR tax year. He stated that because the parcels were separated, two inflation adjusted values were calculated based on the increases in value for the two different property types. He indicated that, for the improvements on Parcel No. #####, the inflation adjusted value is \$\$\$\$\$, which was adjusted at %%% and was based on the increase in value for storage warehouse properties. He stated that the inflation adjusted value for the land on Parcel No. ##### is \$\$\$\$\$, which he noted is higher than the original assessed value of \$\$\$\$\$ for Parcel No. #####. Thus, he argued that because the inflation adjusted value for Parcel No. ##### is higher than the original assessed value for that parcel it is not a qualified real property. He noted that the increase in value for vacant land was %%%.

28. The County’s representative stated that the County is requesting that the original assessed value for Parcel No. ##### be sustained and the value for Parcel No. ##### be reduced to the inflation adjusted value of \$\$\$\$\$. He argued that the power lines that run through the property will not have as large an impact on the developability of the property as may be argued. He asserted that other apartment complexes have been built around power lines in the past. He argued that the land is worth more than the assessed value of \$\$\$\$\$ per square foot and the County’s asserted value of \$\$\$\$\$ per square foot. He noted that the County’s combined requested value is an %%% increase from the prior year.

29. The County’s submission included an income approach analysis that was computed as follows:<sup>47</sup>

Potential Gross Income \$\$\$\$\$/sf x ##### sf	\$\$\$\$\$
Vacancy: %%%	(\$\$\$\$\$)
Effective Gross Income	\$\$\$\$\$
Operating Expenses: %%%	(\$\$\$\$\$)
Net Operating Income	\$\$\$\$\$
Capitalization Rate	%%%
Income Approach Value	\$\$\$\$\$
Additional Land Value (##### acres)	\$\$\$\$\$
Overall Value of Economic Unit	\$\$\$\$\$

<sup>47</sup> Respondent’s Exhibit R-1, PDF pgs. 28-29.

30. The County used a market lease rate of \$\$\$\$ per square foot in the County’s submitted income approach analysis. The County’s submission included the following comparable leases to support that determined market lease rate for the subject parcels:<sup>48</sup>

	Comp No. 1	Comp No. 2	Comp No. 3	Comp No. 4	Comp No. 5
Parcel No	#####	#####	#####	#####	#####
City	CITY-3	CITY-2	CITY-1	CITY-1	CITY-1
Use	#####- Off Whse	#####- Off Whse	#####- Off Whse	#####- Off Whse	#####- Off Whse
Const. Class	C-Masonry	C-Masonry	C-Masonry	C-Masonry	C-Masonry
Cost Grade	Avg	Avg	Avg	Avg	Avg
Pct Office	%%%%%%%%%	%%%%%%%%%	%%%%%%%%%	%%%%%%%%%	%%%%%%%%%
Story Height	#####’	#####’	#####’	#####’	#####’
LtB Ratio	#####	#####	#####	#####	#####
Year Built	YEAR	YEAR	YEAR	YEAR	YEAR
Eff. Yr Built	YEAR	YEAR	YEAR	YEAR	YEAR
Rentable Area - SF	#####	#####	#####	#####	#####
Lease Date	DATE	DATE	DATE	DATE	DATE
Lease Rate/SF	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Time Adj.	%%%%%%%%%	%%%%%%%%%	%%%%%%%%%	%%%%%%%%%	%%%%%%%%%
Time Adj. Rate/SF	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

31. The time adjusted lease rates of the County’s comparable leases ranged from \$\$\$\$ per square foot to \$\$\$\$ per square foot, with an average of \$\$\$\$ per square foot and a median of \$\$\$\$ per square foot.<sup>49</sup> The County’s information indicated that based on the subject’s location, age, condition, and size, the time-adjusted leases within the subject, which are adjusted to \$\$\$\$ and \$\$\$\$ per square foot, are considered to be the most reflective of a market rate for the subject.<sup>50</sup>

32. The County used a %%%%%%%%% vacancy rate in the income approach analysis and noted that the Taxpayer used that same vacancy rate in the Taxpayer’s submitted income approach analysis.<sup>51</sup>

33. The County used an expense rate of %%%%%%%%% of effective gross income in the County’s income approach analysis and noted that the same expense rate was used by the Taxpayer in the Taxpayer’s submitted income approach analysis.<sup>52</sup>

<sup>48</sup> Respondent’s Exhibit R-1, PDF pg. 26.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

34. The County used a capitalization rate of %%% in the County’s submitted income approach analysis. The County’s submission included the following four sales of office warehouse and storage warehouse properties in COUNTY-1 County to support that determined capitalization rate:<sup>53</sup>

Use	City	Tenancy	Sale Date	RSF	Year Built	Eff. Yr. Built	Cap Rate %
STRG WHSE	CITY-2	Multi	DATE	#####	YEAR	YEAR	#####
STRG WHSE	CITY-3	Multi	DATE	#####	YEAR	YEAR	#####
STRG WHSE	CITY-6	Single	DATE	#####	YEAR	YEAR	#####
OFF WHSE	CITY-2 (NW)	Multi	DATE	#####	YEAR	YEAR	#####

35. The County’s submission also included the COUNTY-1 County Industrial Report for Q4 YEAR published by Newmark that reported an overall average capitalization rate of %%% and an average capitalization rate of %%% for Class B industrial properties to further support the County’s determined capitalization rate of %%%.<sup>54</sup>

36. The County concluded a land value of \$\$\$\$ or \$\$\$\$ per square foot for the additional contributory land associated with the subject property. The County’s submission included the following five time adjusted comparable land sales to support that determined value:<sup>55</sup>

	Subject	One	Two	Three	Four	Five
Address	STREET-3	STREET-24	STREET-25	STREET-26	STREET-27	STREET-28
City	CITY-1	CITY-1	CITY-7	CITY-8	CITY-1	CITY-1
Size-SF	114,434	163,382	86,684	132,422	8,712	31,400
Size-Acres	#####	#####	#####	#####	#####	#####
Zoning	School	CC	MU	M-G-C	RM	CC
Shape	R	I	R	R	R	R
Topography	L	L	L	L	L	L
Lot Location	IN	IN	CR	IN	IN	IN
Land Access	A	G	A	A	F	A
Sale Information						
Sale Date		DATE	DATE	DATE	DATE	DATE
Property Rights		Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Adj. Sale Price		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Price/SF		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$
Adjustments						
Market Conditions		%%%	%%%	%%%	%%%	%%%
Adj. Price/SF		\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$	\$\$\$\$

<sup>53</sup> Respondent’s Exhibit R-1, PDF pgs. 26-27.

<sup>54</sup> Respondent’s Exhibit R-1, PDF pg. 27.

<sup>55</sup> Respondent’s Exhibit R-1, PDF pg. 28.

37. The adjusted sale prices of the County's submitted comparable land sales ranged from \$\$\$\$ per square foot to \$\$\$\$ per square foot, with an average of \$\$\$\$ and a median of \$\$\$\$ per square foot.<sup>56</sup> The County concluded an indicated rate of \$\$\$\$ per square foot, which, multiplied by the site square footage of #####, results in a rounded value of \$\$\$\$ for the additional land associated with the subject property.<sup>57</sup>

38. The County's representative argued that there is a highest and best use question at the core of this appeal.

39. The Taxpayer's representative expressed concern that the County applied a different adjustment to the land parcel and the improvement parcel in computing the inflation adjusted values for the subject parcels. He argued that although the subject property has been divided into two separate parcels, the subject parcels should be treated as an economic unit. He argued that is important because the subject property received a reduction in value in YEAR. He asserted that the same %%% inflation adjustment percentage should be applied to each parcel in computing the inflation adjusted values for the subject parcels. He noted that both parties are not disputing the land value for Parcel No. #####. He argued that the inflation adjusted value should be calculated for the combined parcels as an economic unit. However, he noted that he is not requesting that the subject property's value be reduced to the inflation adjusted value.

40. The Taxpayer's representative argued that he disagrees with the County's argument that the highest and best use of the subject parcels is as vacant land. He noted that the County's comparable land sales indicated a value of \$\$\$\$ per square foot, which, if applied to the entire site, results in a value of \$\$\$\$\$. He argued that there is still a higher value in the subject parcels' existing use as an industrial property. He stated that is demonstrated by what the COMPANY-1 has been doing with the subject parcels. He stated that they acquired the ground lease and the rights to the improvements and initially considered the subject property for a multi-family housing development. However, he stated that building a multi-family housing development is cost prohibitive right now in the market. He stated that the right of way easement as well as the current costs of construction make it cost prohibitive. He stated there is not more value attributed to the land than its current use. He noted that both of the lease terms for the leases within the subject property were ##### month lease terms. He argued that the COMPANY-1 own actions show that the highest and best use of the subject property as of the January 1, 2023 lien date was not redevelopment and noted that long term leases were signed for the subject property.

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<sup>56</sup> Respondent's Exhibit R-1, PDF pg. 28.

<sup>57</sup> *Id.*

41. The Taxpayer's representative argued that the Taxpayer's concluded market lease rate is supported by the time adjusted leases within the subject property and the Taxpayer's submitted comparable market leases. He argued that the preponderance of the evidence in both the market lease rate and the capitalization rate conclusion are in the Taxpayer's favor. He argued that the preponderance of the evidence on the capitalization rate that most closely approximates the lien date is the Taxpayer's concluded capitalization rate. He further argued that the rise in interest rates has a significant impact on the capitalization rate and market data prior to the rise in interest rates is not relevant because it is all prior to the rise in interest rates. He argued that the rising interest rates had a material impact on capitalization rates. He argued that the preponderance of the evidence demonstrates that there is substantial error in the County's recommendation regarding the capitalization rate. He argued that a preponderance of the evidence also demonstrates that there is substantial error in the County's asserted market lease rate.

42. The County's representative stated that the inflation adjusted values were not known until after the subject property's prior year appeal was resolved through a stipulation agreement. He noted that the Utah Code provides that the inflation adjusted value cannot be appealed. He stated that the County believes that is what is being done in this appeal. He argued that the Taxpayer's information is using industrial information, which he argued is considered an interim use as of the January 1, 2023 lien date. He stated that the County is requesting that the subject property's assessed value for Parcel No. ##### be reduced to the inflation adjusted value of \$\$\$\$\$.

Commission Factual Analysis

43. In this appeal, each party provided an income approach to value analysis to support their requested values for the subject property.

44. The Taxpayer's income approach analysis for the subject property was calculated using a market lease rate of \$\$\$\$ per square foot and a rentable square footage of ##### square feet, a stabilized vacancy rate of %%%%, an amount calculated as %%%% of the subject property's effective gross income for operating expenses, and a capitalization rate of %%%% to conclude a rounded capitalized value of \$\$\$\$ for the subject property. The Taxpayer's income approach analysis added a contributory land value of \$\$\$\$ for the ##### acres of additional land to conclude a total combined requested value of \$\$\$\$ for the subject parcels.

45. The County's income approach analysis for the subject property was calculated using a market lease rate of \$\$\$\$ per square foot and a rentable square footage of ##### square feet, a stabilized vacancy rate of %%%%, an amount calculated as %%%% of the subject property's effective gross income for operating expenses, and a capitalization rate of %%%% to

conclude a capitalized value of \$\$\$\$\$ for the subject property. The County's income approach analysis added a contributory land value of \$\$\$\$\$ for the ##### acres of additional land to conclude a total combined value of \$\$\$\$\$ for the subject parcels. However, the County's representative requested that the Commission sustain the original assessed value of \$\$\$\$\$ for Parcel No. ##### and reduce the value for Parcel No. ##### to the inflation adjusted value of \$\$\$\$\$, for a combined total value of \$\$\$\$\$ for the subject parcels.

46. The primary differences between the Taxpayer's income approach analysis and the County's income approach analysis were the market lease rates used for the subject property, the capitalization rate used by each party, and the value of the contributory land.

47. The Taxpayer's submitted income approach analysis used a market lease rate of \$\$\$\$\$ per square foot for the subject property and a rentable square footage of ##### square feet. The Taxpayer submitted a rent roll for the subject property, which showed that the contract rents were \$\$\$\$\$ per square foot and \$\$\$\$\$ per square foot within the subject property and noted that those leases were recently signed on MONTH DATE, YEAR and MONTH DATE, YEAR. The Taxpayer's representative adjusted those rates for the three months of free rent that were given and for time. The adjusted rates were \$\$\$\$\$ and \$\$\$\$\$ per square foot with an average of \$\$\$\$\$ per square foot. The Taxpayer's submission also included seven time adjusted comparable leases that included the two leases within the subject property to further support the Taxpayer's determined market lease rate. The comparable leases ranged from \$\$\$\$\$ to \$\$\$\$\$ per square foot, with a mean of \$\$\$\$\$ per square foot and a median of \$\$\$\$\$ per square foot. The Taxpayer's representative argued that the rental rates within the subject property should be given primary weight.

48. The County used a market lease rate of \$\$\$\$\$ per square foot for the subject property and a rentable square footage of ##### square feet. The County submitted five time adjusted comparable leases to support that determined market lease rate. The time adjusted lease rates of the County's comparable leases ranged from \$\$\$\$\$ per square foot to \$\$\$\$\$ per square foot, with an average of \$\$\$\$\$ per square foot and a median of \$\$\$\$\$ per square foot.

49. The Commission notes that, based on the Taxpayer's submitted rent roll, there was one lease signed in YEAR within the subject property and another that was signed at the end of YEAR. The Commission finds that the contract rents within the subject property should be given weight and finds that, based on the Taxpayer's adjustments made to those lease rates, a market lease rate of \$\$\$\$\$ is supported for the subject property. Furthermore, the Commission finds that the Taxpayer's comparable leases support the Taxpayer's determined market lease rate and notes that the Taxpayer's asserted market lease rate is within the range of the County's

comparable leases as well. Thus, the Commission finds that the available information taken as a whole demonstrates that a market lease rate of \$\$\$\$ per square foot is supported for the subject property. Furthermore, the Commission finds that the Taxpayer's rent roll demonstrates that the Taxpayer's asserted rentable square footage for the subject property is supported.

50. Another area of dispute between the parties in calculating the income approach for the subject property is the Taxpayer's asserted capitalization rate of %%% as compared to the County's asserted capitalization rate of %%%. Based on the County's building card, the subject parcels were originally valued using a %%% capitalization rate, and the Taxpayer used that capitalization rate in his submitted income approach analysis and submitted six comparable industrial sales to support that capitalization rate, one of which sold on MONTH DATE, YEAR with a capitalization rate of %%% and another that sold on MONTH DATE, YEAR with a capitalization rate of %%%. The County asserted a lower capitalization rate of %%% and submitted four comparable storage or office warehouse sales in COUNTY-1 County with sale dates that ranged from MONTH of YEAR through MONTH of YEAR. The capitalization rates of those comparable sales ranged from %%% to %%%, the average capitalization rate of those comparable sales was %%%, and the median was %%%. The County's submission also included the COUNTY-1 County Industrial Report for Q4 YEAR published by Newmark that reported an overall average capitalization rate of %%% and an average capitalization rate of %%% for Class B industrial properties. However, the Taxpayer noted that the federal funds rate increased from a range of %%% to %%% in the beginning of YEAR to a range of %%% to %%% by the end of YEAR and indicated that rate increase had a material impact on treasury yields and commercial mortgages. The Taxpayer's representative argued that the increase in the commercial mortgage rates had a direct influence on the capitalization rates and argued that capitalization rates increased dramatically in the second half of YEAR. The Taxpayer's representative submitted a CoStar market report, which reported industrial capitalization rates of %%% in CITY-2 as of the fourth quarter of YEAR, and a Newmark market report, which reported an overall average industrial capitalization rate of %%% in CITY-2 as of the first quarter of YEAR, to further support that assertion. The Commission finds that the Taxpayer's comparable sale that occurred in MONTH of YEAR, as well as the market reports that include market data near the January 1, 2023 lien date, demonstrate that capitalization rates increased significantly in the second half of YEAR and demonstrate that a capitalization rate of %%% is supported for the subject property.

51. The final area of dispute was the contributory value of the additional ##### acres of land. The Taxpayer asserted a contributory land value of \$\$\$\$ or \$\$\$\$ per square foot, while

the County asserted a contributory land value of \$\$\$\$\$ or \$\$\$\$\$ per square foot. The Taxpayer submitted seven unadjusted comparable land sales to support the Taxpayer's asserted land value. The unadjusted sale prices of the Taxpayer's submitted comparable land sales ranged from \$\$\$\$\$ per square foot to \$\$\$\$\$ per square foot, with a mean and median of \$\$\$\$\$ per square foot, and the sale dates ranged from MONTH DATE, YEAR to MONTH DATE, YEAR. Furthermore, he asserted that the value of the additional land is impacted because the additional land is located at the back of the property, it is landlocked with access only through the existing site and improvements, and future development is impacted by a right-of-way easement, which runs through the site. The County asserted a land value of \$\$\$\$\$ per square foot for the additional land and submitted five time-adjusted comparable land sales to support the County's determined value for the additional land. The adjusted sale prices of the County's submitted comparable land sales ranged from \$\$\$\$\$ per square foot to \$\$\$\$\$ per square foot, with an average of \$\$\$\$\$ and a median of \$\$\$\$\$ per square foot. The sale dates of the County's comparable land sales ranged from MONTH DATE, YEAR to MONTH DATE, YEAR. The Commission finds that the Taxpayer's comparable land sales are more persuasive evidence of the contributory value of the land given the limitations associated with land noted by the Taxpayer's representative. The Commission notes that the County's representative argued that the highest and best use of the subject property may be as multi-family vacant. However, the Commission notes that if the land were valued based on highest and best use at \$\$\$\$\$ per square foot as asserted by the County, the total resulting value would be \$\$\$\$\$, which is below both parties' requested values. Furthermore, the Taxpayer has entered into long-term five year leases with both tenants, which demonstrates the Taxpayer's intent to continue the existing use of the subject property. Thus, the Commission finds that the Taxpayer's lower asserted value of \$\$\$\$\$ or \$\$\$\$\$ per square foot is supported.

#### 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.

In a proceeding before the Tax Commission, the burden of proof is generally on the petitioner to support its position. *See Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000); *Fraughton v. Tax Commission*, 2019 UT App 6, 438 P.3d 961 (Utah Ct. App. 2019); and *Patience LLC v. Salt Lake County Board of Equalization*, 2021 UT App 4. To prevail in this case for Parcel No. 15-36-402-038-6001, Utah

Code Ann. §59-2-109(2) provides that the petitioner must: 1) demonstrate that the subject property's current value contains substantial error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes.

However, 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 or equal to 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 for Parcel No. #####, Utah Code Ann. §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, “[s]o 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 Ann. §59-2-103. “Fair market value” is defined in Utah Code Ann. §59-2-102 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.”

3. Utah Code Ann. §59-2-109 addresses the burden of proof in certain circumstances, including if a property is a “qualified real property.” Subsections 59-2-109(1)(c) and 59-2-1004(1)(e) provide that a property is a “qualified real property” if the following requirements are met: the property's value was reduced in the appeal process for the prior tax year; the property's assessed value for the current year is higher than its inflation adjusted value; and between the prior year's lien date and the current year's lien date, the property has not had a qualifying change as defined in Utah Code Ann. §59-2-109(1)(d). In this appeal, the Taxpayer appealed the valuation of the subject property for the YEAR tax year to the COUNTY-1 County Board of Equalization and the Utah State Tax Commission in accordance with Utah Code Ann. §59-2-1006, and, as a result of that appeal, the final assessed value of that parcel was reduced

below the YEAR original assessed value. The subject property's original assessed value for the YEAR tax year was \$\$\$\$\$. The Taxpayer appealed that value to the Board of Equalization and the Commission, and the subject property's YEAR assessed value was reduced to \$\$\$\$\$ on appeal to the Commission. However, the subject property was divided into two parcels for the 2023 tax year. The County computed the inflation adjusted value as \$\$\$\$\$ for Parcel No. ##### and \$\$\$\$\$ for Parcel No. ##### for the 2023 tax year. The original assessed value of Parcel No. ##### for the 2023 tax year was \$\$\$\$\$, which is greater than the 2023 inflation adjusted value of \$\$\$\$\$. However, the original assessed value of Parcel No. ##### was \$\$\$\$\$, which is less than the 2023 inflation adjusted value of \$\$\$\$\$. The subject parcels have not had a qualifying change as defined in Utah Code Ann. §59-2-109(1)(d) between January 1, YEAR and January 1, 2023.<sup>58</sup> The Commission finds that Parcel No. ##### is a qualified real property for the 2023 tax year. However, the Commission finds that Parcel No. ##### is not a qualified real property because Parcel No. #####'s original assessed value was below that parcel's inflation adjusted value for the 2023 tax year.

4. During the Formal Hearing, the Taxpayer's representative asserted that the County's computation of the inflation adjusted values was not correct because the County applied a different appreciation factor to each parcel. Utah Code Ann. §59-2-1004(2)(c)(i) requires the county assessor to calculate the inflation adjusted value of a qualified real property by changing the final assessed value for the previous taxable year by the median property value change. Utah Code Ann. §59-2-1004(1)(c) defines "median property value change" as "the midpoint of the property value changes for all real property that is: (i) of the same class of real property as the qualified real property; and (ii) located within the same county and within the same market area as the qualified real property." Although the Taxpayer's representative expressed concern regarding the County's calculation of the inflation adjusted values and the use of a separate appreciation factor for each parcel in that calculation, the Commission finds that the Taxpayer's representative may not appeal the County's inflation adjusted value calculation pursuant to Utah Code Ann. §59-2-1004(2)(c)(iii), which provides that "[a] person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property."

5. In accordance with Utah Code Ann. §59-2-301.4, the County is required to consider a valuation reduction that occurred in the three prior tax years when making a determination of a property's fair market value for the current tax year. The "valuation reduction"

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<sup>58</sup> The Commission notes that although division of the subject parcels into two separate parcels may have resulted in a change in the legal description, it is not clear whether the increase in the combined value of the subject parcels was attributable solely to the change in the legal description of the subject parcels.

provisions described in Utah Code Ann. §59-2-301.4 apply in this matter because the value of the subject property was reduced on appeal for the YEAR tax year. Utah Code Ann. §59-2-301.4(2) requires the county assessor to 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." The Commission notes that the stipulation agreement for the YEAR tax year indicated that the reason for the valuation reduction was based on a land value of \$\$\$\$ per square foot and a highest and best use of the land as multi-family. The stipulation agreement indicated that the income approach was also given some consideration, which included analysis of the most recent leases that have been signed, and noted that the continued use of the buildings is considered to be an interim use as apartments are planned. The Commission finds that the assessor adequately considered the reasons for the YEAR tax year reduction in this appeal and whether those reasons continued to influence the fair market value of the property.

6. For Parcel No. #####, the Taxpayer has the burden of proof and must: 1) demonstrate that the value set by the County Board of Equalization contains substantial error; and 2) provide the Commission with a sound evidentiary basis for reducing the value to the amount proposed. However, neither party disputed the original assessed/Board of Equalization value of Parcel No. #####. Thus, the Commission finds that the Taxpayer has not demonstrated substantial error in the Board of Equalization value and has not provided a sound evidentiary basis for reducing the value and finds that the value of Parcel No. ##### should be sustained.

7. 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 or equal to 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. In this appeal, the County is proposing a value of \$\$\$\$ for Parcel No. #####, which is equal to the inflation adjusted value of \$\$\$\$ and the Taxpayer is proposing a value of \$\$\$\$ for the subject parcel, which is less than the inflation adjusted value of \$\$\$\$\$. Thus 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. After reviewing the evidence submitted by the Taxpayer and the evidence submitted by the County, the weight of the evidence indicates that the parties have shown substantial error in the inflation adjusted value for Parcel No. ##### at issue in this appeal.

8. The Taxpayer’s representative submitted the subject property’s rent roll and an income approach analysis to support the Taxpayer’s requested value. The County submitted an income approach analysis and a sales comparison analysis to support their requested value. The Commission finds that the Taxpayer’s submissions and arguments are sufficient to demonstrate that the Taxpayer’s lower requested value is supported. The Commission finds that the parties’ submissions taken as a whole are sufficient to demonstrate substantial error in the subject property’s original assessed/Board of Equalization value. Thus, the Commission finds that for the reasons stated in the Commission’s Findings of Fact, the evidence, taken as a whole, supports a change in value from the original assessed/Board of Equalization value.

9. The Commission finds that the value of Parcel No. ##### should be sustained and the value of Parcel No. ##### should be reduced to \$\$\$\$ for the 2023 tax year.

Shannon Halverson  
Administrative Law Judge

**DECISION AND ORDER**

Based on the foregoing, the Commission finds the values of the subject parcels as of the January 1, 2023 lien date are as follows:

<b>Parcel No.</b>	<b>Value</b>
#####	\$\$\$\$
#####	\$\$\$\$

The Auditor is hereby ordered to adjust its 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.