

**BEFORE THE NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

HOOPER HEALTH CARE, INC.)
)
)
Appellant,)
)
v.)
)
DODGE COUNTY BOARD)
OF EQUALIZATION,)
)
Appellee.)

CASE NO. 97R-160

DOCKET ENTRY
AFFIRMING DECISION
OF APPELLEE

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for hearing on the merits in the City of Fremont, Dodge County, Nebraska, on the 17th day of June, 1998, pursuant to a Notice of Hearing issued the 31st day of March, 1998.

Appellant appeared through an officer of the corporation. Appellee appeared through the Dodge County Attorney. During the hearing, the Commission took judicial notice of certain information, and each of the parties was afforded the opportunity to present evidence and argument. Each party was also afforded the opportunity to cross-examine witnesses of the opposing party as required by law.

Neb. Rev. Stat. §77-5018 (1997 Supp.), requires that every final decision and order entered by the Commission which is adverse to a party be stated in writing or on the record and be accompanied by findings of fact and conclusions of law. The Commission, after receiving the exhibits and hearing evidence and argument, entered its Findings of Fact, Conclusions of Law, and a Final Order on the merits of the appeal in this case, which were in substance as follows:

FINDINGS OF FACT

From the record, the Commission found and determined as follows:

- I. That Appellant is the owner of record of certain commercial real property as described in the petition in this case.
- II. That Appellant timely filed a protest of the assessed value of its property for tax year 1997.
- III. That the basis for the protest was the allegation that valuation of the building is not supported by the Cost Approach and the valuation of the land is not supported by comparable sales.
- IV. That the County Assessor proposed valuing the property at \$642,680 for the purposes of taxation.
- V. That the Appellant requested that the property be valued at \$551,000 for purposes of taxation.
- VI. That the Appellee granted the protest in part, and lowered the assessed value for tax year 1997 to \$563,755.
- VII. That Appellant thereafter timely filed an appeal of that decision to the Commission.
- VIII. That Taxpayer purchased the subject property in 1991 for \$640,000 which included personal property. That Taxpayer closed in and finished two porches into liveable area at a cost not available for the record.
- IX. That using Arbor Manor as a comparable property without adjusting for age, size, quality, condition and other appropriate characteristics does not meet required professional appraisal methods as prescribed by the Uniform Standards of Professional Appraisal

Practice or the standards of the International Association of Assessing Officers.

- X. That County's worksheet showing the Marshall-Swift Cost Approach was calculated using a 1989 Edition of the Marshall-Swift Cost Manual, which results in a lower base cost figure and final value.
- XI. That the Means Costing Service is not the approved manual or required manual to be used by County Assessors. Marshall Swift is the required Cost Manual prescribed by the Property Tax Administrator in Regulation 40-003.04 in Title 316, Chapter 40.
- XII. Further that the assessed value of the subject property for tax year 1997 is supported by the evidence.
- XIII. That insufficient evidence has been adduced to establish that the decision of the Appellee was unreasonable or arbitrary.

CONCLUSIONS OF LAW

- I. That the Commission has jurisdiction over the parties and the subject matter of this appeal.
- II. That the Commission is required by Neb. Rev. Stat. §77-1511 (Reissue 1996) to affirm the decision of the Appellee unless evidence is adduced establishing that the action of the Appellee was unreasonable or arbitrary.
- III. That based on the record before the Commission, insufficient evidence has been adduced to establish that the action of the Appellee in this case was unreasonable or arbitrary.
- IV. That the Appellant has failed to establish by a preponderance of the evidence that the decision of the Dodge County Board of Equalization was unreasonable or arbitrary.

- V. That the Commission must, therefore, and hereby does conclude as a matter of law that the decision of the Dodge County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$563,755 for tax year 1997 was neither unreasonable nor arbitrary.
- VI. Further that the decision of the Dodge County Board of Equalization must be affirmed.

ORDER

- I. That the order of the Dodge County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$563,755 is affirmed.
- II. That Appellant's real property legally described as Lots 13 through 21, Grandview Heights, Village of Hooper, Dodge County, Nebraska, shall be valued as follows for tax year 1997:

Land	\$ 20,325
Improvements	\$453,430
Total	\$563,755

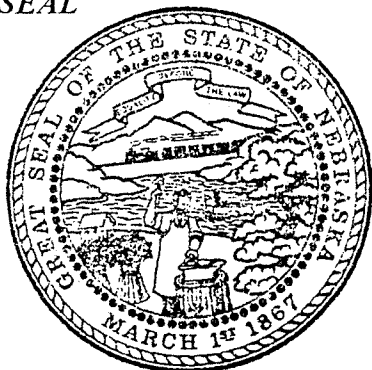
- III. That this decision, if no appeal is filed, shall be certified within thirty days to the Dodge County Treasurer, and the Dodge County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
- IV. That this decision shall only be applicable to tax year 1997.


V. That each party is to bear its own costs in this matter.

The above and foregoing Findings of Fact, Conclusions of Law, and Order were approved by a quorum of the Commission, and entered of record on the 16th day of June, 1998, and are therefore deemed to be the Order of Commission in this case, pursuant to Neb. Rev. Stat. §77-5005. (Reissue 1996).

Signed and sealed this 16th day of June, 1998.

SEAL





Mark P. Reynolds, Chairman