

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

EMILIE JONUSAS,)		
)	CASE NO.	00C-310
Appellant,)		00C-311
)		00C-312
vs.)		
)	DOCKET ENTRY	
DOUGLAS COUNTY BOARD OF)	DISMISSING APPEAL	
EQUALIZATION,)	AT CLOSE OF APPELLANT'S CASE	
)		
Appellee.)		

The Nebraska Tax Equalization and Review Commission ("the Commission") called the above-captioned cases for a hearing on the merits of the appeals in the City of Lincoln, Lancaster County, Nebraska, on the 4th day of February, 2002, pursuant to a Notice of Hearing issued the 2nd day of November, 2001.

Emilie Jonusas ("the Taxpayer") did not appear at the hearing. The entities for which Emilie Jonusas filed the appeals [Omaha Nursing Home, Inc., in Case Number 00C-310; Southview Heights, Inc., doing business as Birchwood Heights, in Case Number 00C-311; and Sunridge Village, L.L.C., in Case Number 00C-312 ("the Taxpayers")] appeared through Richard Anzalone, Esq., an officer or director of each of the entities. The Douglas County Board of Equalization appeared through James R. Thibodeau, Deputy Douglas County Attorney. During the hearing, the Commission took statutory 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 (2001 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 received and heard certain evidence and argument. Thereafter it entered its Findings of Fact, Conclusions of Law, and a Final Order on the merits of the appeal on the record. Those matters, in substance, are set forth below:

**I.
PROCEDURAL FINDINGS OF FACT**

From the record, the Commission finds and determines as follows:

1. That the Taxpayers are the owners of record of certain commercial real property located in the City of Omaha, Douglas County, Nebraska ("the subject properties").
2. That the Douglas County Assessor ("the Assessor") proposed valuing the subject properties in the amounts shown below for purposes of taxation as of January 1, 2000 ("the assessment date"). (E1:2; E2:2; E3).

3. That the Commission ordered a seven percent increase to all commercial real property in Douglas County for tax year 2000. (*2000 Reports and Opinion of the Property Tax Administrator for Douglas County, Order Adjusting Values*).
4. That the seven percent increase was applied to each of the subject properties. (E7:2; E8:2; E9:2).
5. That the Taxpayers timely filed protests of the proposed valuations and requested that the subject properties be valued in the amounts shown below. (E16 and statements of counsel for the Taxpayers).

Case No.	Assessor	+7%	Taxpayer	County
00C-310	\$ 798,200	\$ 854,100	\$ 798,200	\$ 854,100
00C-311	\$1,844,500	\$1,973,600	\$1,844,500	\$1,973,600
00C-312	\$4,000,000	\$4,280,000	\$4,000,000	\$4,280,000

6. That the protest alleged that the properties were overvalued, and that they needed a "tax break."
7. That the County denied the protests. (E1:2; E2:2; E3).
8. That thereafter, the Taxpayers timely filed appeals of the County's decisions to the Commission. (Appeal Form).
9. That at the hearing before the Commission, the County objected to the Commission's receipt of Taxpayers' Exhibits 4, 5, and 6, based on relevance.

10. That the objection was sustained.
11. That the Taxpayers rested without adducing any other exhibits or testimony.
12. That the County moved to dismiss each of the pending appeals for failure to prove a *prima facie* case.
13. That the motion must be granted as a matter of law.

II.
CONCLUSIONS OF LAW

1. That the Commission has jurisdiction over the parties and the subject matter of these appeals.
2. That the prior years assessment is not relevant to the subsequent year's valuation. *DeVore v. Bd. Of Equal.*, 144 Neb. 351, 13 N.W.2d 451 (1944). *Affiliated Foods Coop v. Madison Co. Bd. Of Equal.*, 229 Neb. 605, 613, 428 N.W.2d 201,206 (1988). *Kohl's Dept. Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb.App. 809, _____ N.W.2d _____ (2002).
3. That "Based upon the applicable law, the Board need not put on any evidence to support its valuation of the property at issue unless the taxpayer establishes the Board's valuation was unreasonable or arbitrary." *Bottorf v. Clay County Bd.*

of Equalization, 7 Neb. App. 162, 168, 580 N. W. 2d 561, 566 (1998).

- 4. That if the Taxpayer fails to adduce competent or credible evidence to overcome the statutory presumption, the appeal must be dismissed. *Kohl's Dept. Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, _____ N.W.2d _____ (2002).

**III.
ORDER**

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

- 1. That each of the pending appeals be, and hereby are, dismissed with prejudice.
- 2. That therefore in Case Number 00C-310, the Taxpayer's commercial real property described in the records of the Douglas County Assessor's Office as Parcel ID 0810 2014 10 47, more commonly known as 4835 South 49th Street, Omaha, Douglas County, Nebraska, shall be valued as follows for tax year 2000, as determined by the Douglas County Board of Equalization:

Land	\$ 87,800
Improvements	\$766,300
Total	\$854,100

3. That in Case Number 00C-311, the Taxpayer's commercial real property described in the records of the Douglas County Assessor's Office as Parcel ID 2814 5005 20 47, more commonly known as 5110 South 49th Street, Omaha, Douglas County, Nebraska, shall be valued as follows for tax year 2000, as determined by the Douglas County Board of Equalization:

Land	\$ 43,100
Improvements	\$1,930,500
Total	\$1,973,600

4. That in Case Number 00C-312, the Taxpayer's commercial real property described in the records of the Douglas County Assessor's Office at Parcel ID 0488 6100 23, more commonly known as 13410 Blondo Street, Omaha, Douglas County, Nebraska, shall be valued as follows for tax year 2000, as determined by the Douglas County Board of Equalization:

Land	\$ 327,400
Improvements	\$3,952,600
Total	\$4,280,000

5. That any request for relief by any party not specifically granted by this order is denied.

6. That this decision, if no appeal is filed, shall be certified to the Douglas County Treasurer, and the Douglas County Assessor, pursuant to Neb. Rev. Stat. §77-5016(7) (2001 Supp.).
7. That this decision shall only be applicable to tax year 2000.
8. That each party is to bear its own costs in this matter.

IT IS SO ORDERED.

Dated this 5th day of February, 2002.



SEAL

Handwritten signature of Robert L. Hans in black ink.

Robert L. Hans, Commissioner

Handwritten signature of Susan S. Lore in black ink.

Susan S. Lore, Commissioner

Handwritten signature of Mark P. Reynolds in black ink.

Mark P. Reynolds, Chairman