

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

ROSEWOOD VILLA, INC.,

Appellant,

v.

OTOE COUNTY BOARD
OF EQUALIZATION,

Appellee.

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Case No. 97R-440

DOCKET ENTRY

The Commission called the above-captioned case for hearing on the merits in the City of Nebraska City, Otoe County, Nebraska, on the 3rd day of December, 1997, pursuant to a Notice of Hearing issued the 20th day of October, 1997.

Appellant appeared personally and through counsel. Appellee appeared through counsel. During the hearing, the Commission took judicial notice of certain information, and each of the parties was allowed to present evidence and cross-examine witnesses of the opposing party. Thereafter the parties rested, and the Commission heard closing statements from the parties.

Neb. Rev. Stat. §77-5018 (Reissue 1996), as amended by 1997 Neb. Laws, L. B. 397 (1997 Session), 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, therefore, after hearing the evidence, receiving the exhibits and hearing argument, entered its Findings of Fact, Conclusions of Law, and a final order on the record. The substance of that action is as follows:

FINDINGS OF FACT

- I. That Appellant is the owner of record of certain commercial real property as described in the petition in the instant 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 the property was not valued for assessment by use of standard appraisal manuals taking into consideration construction, age, condition, obsolescence and depreciation.
- IV. That the County Assessor proposed valuing the property as follows:

Total	\$ 82,520
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- V. That the Appellant requested an assessed value for tax purposes as follows:

Total	\$ 47,715
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- VI. That the Appellee denied the protest.
- VII. That Appellant^(s) thereafter timely filed an appeal of that decision to the Tax Equalization and Review Commission.
- VIII. That the property record card indicates three mobile homes but testimony indicated only one mobile home located on this parcel.
- IX. That the property has not been accorded any further depreciation since valued in 1985.
- X. That both the age and the effective age of the subject property requires a total depreciation of 55 percent (55%), considering location and functional obsolescence.
- XI. That the comparable motel in Nebraska City shows a 55 percent (55%) depreciation factor in 1987.

- XII. That the assessed value of the subject property for tax year 1997 is not supported by the evidence adduced by Appellee.
- XIII. That evidence has been adduced to establish that the decision of the Appellee was unreasonable and arbitrary.

CONCLUSIONS OF LAW

- I. That based on the record before the Commission, the Commission must, and hereby does, conclude as a matter of law that the decision of the Otoe County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$86,135 for tax year 1997 was both unreasonable and arbitrary.
- II. That the decision of the Otoe County Board of Equalization to deny Appellant's request to reduce the assessed valuation to \$47,715 was both unreasonable and arbitrary.
- III. That therefore the decision of the Otoe County Board of Equalization must be reversed.

ORDER

- I. That the order of the Otoe County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$86,135 is reversed.
- II. That Appellants' real property legally described in the petition, Otoe County, Nebraska, shall be valued as follows for tax year 1997:

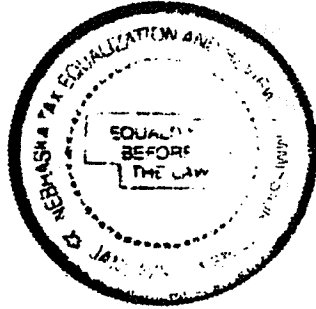
Land	\$ 10,215
Improvements	\$ 50,210
Total	\$ 60,425

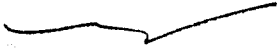
- III. That this decision, if no appeal is filed, shall be certified within thirty days to the Otoe County Treasurer, and the Otoe County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1997).
- IV. That each party is to bear its own costs in this matter.

The above and foregoing were entered on the record on the 3rd day of December, 1997.

DATED this 18th day of December, 1997.

SEAL





Mark P. Reynolds, Chairman