

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

ELMER C. PAUL,)	
)	
Appellant,)	CASE NO. 99R-67
)	
vs.)	
)	
NUCKOLLS COUNTY BOARD OF)	ORDER DISMISSING APPEAL
EQUALIZATION,)	FOR FAILURE TO APPEAR AND
)	FOR WANT OF PROSECUTION
)	
Appellee.)	
)	

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for a hearing on the merits of the appeal in the City of Hastings, Adams County, Nebraska, on the 14th day of August, 2000, pursuant to a Notice of Hearing issued the 13th day of March, 2000.

Elmer C. Paul ("Taxpayer") failed to appear at the hearing. The Nuckolls County Board of Equalization ("County") appeared through counsel, Timothy S. Schmidt, Nuckolls County Attorney. During the hearing, the Commission took judicial notice of certain information. Each of the parties was afforded the opportunity to present evidence and argument. The Commission also received all evidence which had been provided by the parties in accordance with the provisions of the Notice of Hearing.

Neb. Rev. Stat. §77-5018 (1998 Cum. 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, in compliance with that mandate, adopts the following as its final decision and order in this case:

FINDINGS OF FACT

From the pleadings and the evidence contained in the record before it, the Commission finds and determines as follows:

1. That Taxpayer is the owner of record of certain residential real property as legally described in the petition ("subject property").
2. That the County Assessor proposed valuing the subject property for purposes of taxation for tax year 1999 in the amount of \$41,145. (E1).
3. That Taxpayer timely protested that determination of value to the Nuckolls County Board of Equalization ("County") and requested that the assessed value be set in the amount of \$33,000. (E1).
4. That the County denied the protest and increased the assessed value of the subject property based on items of real property omitted from the record. That the County determined that the actual or fair market value of the subject property as of the assessment date was \$43,210. (E1).
5. That Taxpayer timely filed an appeal of that decision to the Commission.
6. That County was served with a Notice in Lieu of Summons, and duly answered that Summons.
7. That an Order for Hearing was issued in this case on the 13th day of March, 2000.
8. That an Affidavit of Service which appears in the records of the Commission establishes that a copy of the Order for Hearing was served on all parties.

9. That the Order for Hearing required the parties to exchange copies of all documentary, photographic, or other evidence on the opposing party, and to serve a copy of those exhibits on the Commission.
10. That the Taxpayer did not serve copies of any exhibits on the County or on the Commission.
11. That a Notice of Hearing was issued in this case on the 13th day of March, 1999, which set the case for a hearing on the merits of the appeal for the 14th day of August, 2000.
12. That an Affidavit of Service which appears in the records of the Commission establishes that a copy of the Notice of Hearing was served on all parties.
13. That Chapter 4, Title 442, Section 011.01 requires that, if the Taxpayer is a natural person, that person must appear at the hearing.
14. That the Notice of Hearing (Paragraph 3) states that if the Taxpayer fails to appear at the hearing the Commission may enter an order dismissing the case.
15. That the Commission called the above-captioned case for hearing on the merits in the City of Hastings, Adams County, Nebraska, on the 14th day of August, 2000.
16. That no one appeared on behalf of the Taxpayer at the hearing.
17. That County appeared at the hearing through counsel, with its witnesses, and was prepared to defend the decision of the Nuckolls County Board of Equalization.
18. That each of the parties was afforded an opportunity to present evidence and argument as required by Neb. Rev. Stat. §77-5015 (Reissue 1996).
19. That each of the parties was afforded an opportunity to cross-examine the witnesses as required by Neb. Rev. Stat. §77-5016(4) (1999 Supp.).

20. That from the record before the Commission, the Taxpayer has failed, neglected and refused to comply with the Order for Hearing and with substantive provisions of Title 442 and the Notice of Hearing.

CONCLUSIONS OF LAW

That the Commission must, and hereby does conclude as a matter of law that in light of Taxpayer's failure to appear in violation of Title 442, Nebraska Administrative Code, and for want of prosecution, that this appeal should be dismissed.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That this appeal is ordered dismissed with prejudice.
2. That Taxpayer's residential real property legally described as Pt of the SE 1/4 NE 1/4 of Section 11, Township 1, Range 7, Nuckolls County, Nebraska, shall be valued as follows for tax year 1999, as determined by the Nuckolls County Board of Equalization:

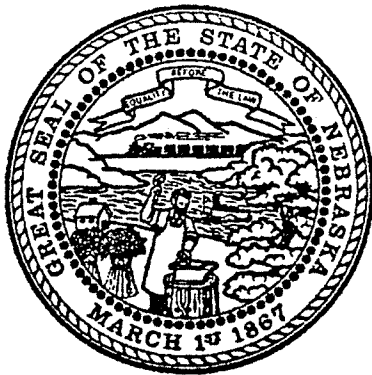
Land	\$ 3,540
Improvements	\$39,670
Total	\$43,210

3. That this decision, if no appeal is filed, shall be certified to the Nuckolls County Treasurer, and the Nuckolls County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).


4. That each party is to bear its own costs in this matter.
5. That this decision shall only be applicable to tax year 1999.

IT IS SO ORDERED.

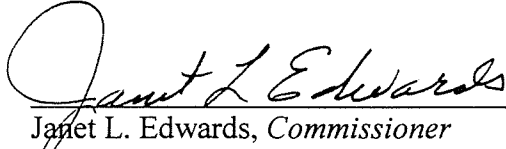
Dated this 17th day of August, 2000.



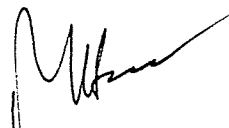
Seal



Mark P. Reynolds, *Chairman*



Janet L. Edwards, *Commissioner*



Robert L. Hans, *Commissioner*