

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

FRANK R. KREJCI,	)	
	)	
Appellant,	)	CASE NO. 97R-54
	)	
vs.	)	
	)	
SARPY COUNTY BOARD OF EQUALIZATION,	)	DOCKET ENTRY AFFIRMING DECISION OF APPELLEE
	)	
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 Lincoln, Lancaster County, Nebraska, on the 22<sup>nd</sup> day of September, 1998, pursuant to a Second Amended Notice of Hearing issued the 10<sup>th</sup> day of August, 1998.

Taxpayer appeared personally. County appeared through counsel. 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:

1. That Taxpayer is the owner of record of certain commercial 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 1997 in the amount of \$3,640,620.
3. That Taxpayer timely filed a protest of that determination of value to the Sarpy County Board of Equalization ("County").
4. That the basis for the protest was the allegation that the property was overvalued.
5. That the Taxpayer requested that the property be valued at \$2,950,000 for purposes of taxation.
6. That the County denied the protest.
7. That Taxpayer thereafter timely filed an appeal of that decision to the Commission.
8. That Taxpayer's witness testified that the vacancy rate for the subject property was 4,200 square feet (for 1996), which represents 6.4% of the total area of the improvements. Taxpayer's witness also testified that expenses (for 1996) were \$1.00 per square foot, or \$65,262. The County used a market vacancy rate of 5%, and an expense ratio of 15%.
9. That the subject property consists of certain land and buildings which were leased to businesses of varying size, and which offer a variety of products and services.
10. That calculating the value of the subject property using the Income Approach, based on Taxpayer's actual figures available from the record, results in a higher value than that value as determined by the County.

11. That neither the Taxpayer nor his witness would offer an opinion of the fair market value of the subject property.
12. That the County used all three professionally accepted appraisal approaches to value in determining the assessed value of the subject property: the Cost Approach; the Income Approach; and the Sales or Market Comparison Approach. That County gave the Income Approach the most weight in determining the assessed value of the subject property for tax year 1997.
13. Further that the assessed value of the subject property for tax year 1997 is supported by the evidence.
14. That insufficient evidence has been adduced to establish that the decision of the County was unreasonable or arbitrary.

**CONCLUSIONS OF LAW**

1. That the Commission has jurisdiction over the parties and the subject matter of this appeal.
2. That the Commission is required by Neb. Rev. Stat. §77-1511 (Reissue 1996) to affirm the decision of the County unless evidence is adduced establishing that the action of the County was unreasonable or arbitrary.
3. That based on the record before the Commission, insufficient evidence has been adduced to establish that the action of the County in this case was unreasonable or arbitrary.

- 4. That the Taxpayer has failed to establish by a preponderance of the evidence that the decision of the Sarpy County Board of Equalization was unreasonable or arbitrary.
- 5. That the Commission must, therefore, and hereby does conclude as a matter of law that the decision of the Sarpy County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$3,640,620 for tax year 1997 was neither unreasonable nor arbitrary.
- 6. Further that the decision of the Sarpy County Board of Equalization must be affirmed.

**ORDER**

- 1. That the order of the Sarpy County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$3,640,620 is affirmed.
- 2. That Taxpayer's real property legally described as Lot 2A4A and Lot 2A7A, Willow Brook Addition to the City of LaVista, Sarpy County, Nebraska, more commonly known as part of Brentwood Square, shall be valued as follows for tax year 1997:

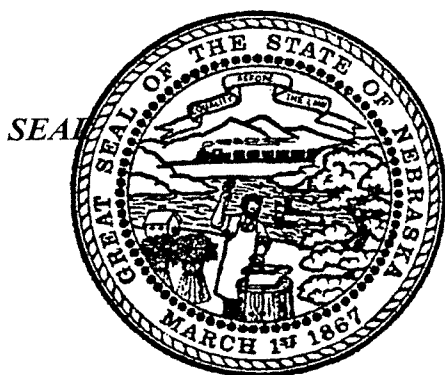
Land	\$ 792,837
Improvements	\$2,847,783
Total	\$3,640,620


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

5. 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 22nd day of September, 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 23<sup>rd</sup> day of September, 1998.



  
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*Mark P. Reynolds, Chairman*