

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

GARY E. WOLKEN,)	
)	CASE NO. 00A-193
Appellant,)	00A-194
)	00A-195
vs.)	
)	
MADISON COUNTY BOARD OF)	ORDER DISMISSING APPEAL
EQUALIZATION,)	FOR FAILURE TO APPEAR
)	AND FOR WANT OF
Appellee.)	PROSECUTION
)	

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 Norfolk, Madison County, Nebraska, on the 27th day of June, 2001, pursuant to a Notice of Hearing issued the 13th day of March, 2001.

Gary E. Wolken ("the Taxpayer") failed to appear at the hearing. The Madison County Board of Equalization ("the County") appeared through counsel, Joel E. Carlson, the Deputy Madison County Attorney. During the hearing, the Commission took statutory 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 Order for Hearing and Notice of Hearing.

Neb. Rev. Stat. §77-5018(2000 Cum. Supp., as amended by 2001 Neb. Laws L.B. 465 § 8), 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:

I.
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 three tracts of agricultural real property as legally described in the Appeal Form ("the subject properties").
2. That the Madison County Assessor ("the Assessor") proposed valuing the subject properties for purposes of taxation for tax year 2000 in the amounts shown below:

Case Number	Assessor's Proposed Value	Taxpayer's Requested Value	County's Determination	Exhibit Number
00A-193	\$93,985	\$64,780	\$93,985	1
00A-194	\$116,948	\$85,715	\$116,948	2
00A-195	\$159,584	\$135,127	\$159,584	3

3. That Taxpayer timely protested those determinations of value to the Madison County Board of Equalization ("the County") and requested that the assessed values be set in the amounts shown above.
4. That the County denied each of the protests.

5. That Taxpayer timely filed appeals of each of those decisions to the Commission. (Appeal Form).
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, 2001.
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 each of the Parties.
9. That a Notice of Hearing was issued in these cases on the 13th day of March, 2001, which set the case for a hearing on the merits of the appeal for the 27th day of June, 2001.
10. That the matter was set for hearing in the City of Norfolk, Madison County, Nebraska, for the convenience of the Parties.
11. 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 each of the Parties.
12. That Chapter 4, Title 442, Section 011.01 requires that, if the Taxpayer is a natural person, that person must appear at the hearing.
13. 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 appeal.

14. That the Commission called this matter for hearing on the merits in the City of Norfolk, Madison County, Nebraska, on the 27th day of June, 2001.
15. That no one appeared on behalf of the Taxpayer at the hearing.
16. That County appeared at the hearing through counsel, with its witnesses, and was prepared to defend the decision of the Madison County Board of Equalization.
17. That each of the Parties has been afforded an opportunity to present evidence and argument as required by Neb. Rev. Stat. §77-5015 (2000 Cum. Supp.).
18. That each of the Parties has been afforded an opportunity to cross-examine the witnesses of the opposing party as required by Neb. Rev. Stat. §77-5016(4) (2000 Cum. Supp., as amended by 2001 Neb. Laws L.B. 419 §1, 2001 Neb. Laws L.B. 170 §22 and 2001 Neb. Laws L.B. 465 §7).
19. That from the record before the Commission, the Taxpayer has failed, neglected and refused to comply with the Order for Hearing.
20. That therefore these appeals should be dismissed with prejudice for failure to appear and for want of prosecution.

II.
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 these appeals should be dismissed with prejudice.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That these appeals are ordered dismissed with prejudice.
2. That Taxpayer's agricultural real property shall be valued as follows for tax year 2000 as determined by the Madison County Board of Equalization:

- a. In Case Number 00A-193, the tract of land legally described as E $\frac{1}{2}$ NW $\frac{1}{4}$, in Section 10, Township 22, Range 3, consisting of approximately 80 acres in Madison County, Nebraska:

Land	\$93,985
Improvements	\$ -0-
Total	\$93,985

- b. In Case Number 00A-194, the tract of land legally described as $W\frac{1}{2}$ $SE\frac{1}{4}$, in Section 4, Township 22, Range 3, consisting of approximately 80 acres in Madison County, Nebraska:

Land	\$108,878
Improvements	\$ 8,070
Total	\$116,948

- c. In Case Number 00A-195, the tract of land legally described as PT $SW\frac{1}{4}$, Tract 1, in Section 3, Township 22, Range 3, consisting of approximately 77.12 acres in Madison County, Nebraska:

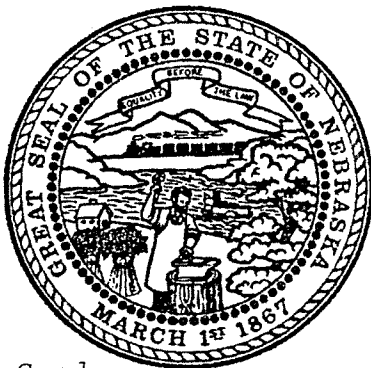
Land	\$ 86,905
Improvements	\$ 72,679
Total	\$159,584

3. That these decisions, if no appeal is filed, shall be certified to the Madison County Treasurer, and the Madison County Assessor, pursuant to Neb. Rev. Stat. §77-5018(2000 Cum. Supp., as amended by 2001 Neb. Laws L.B. 465 § 8).
4. That each party is to bear its own costs in this matter.


5. That these decisions shall only be applicable to tax year 2000.

IT IS SO ORDERED.

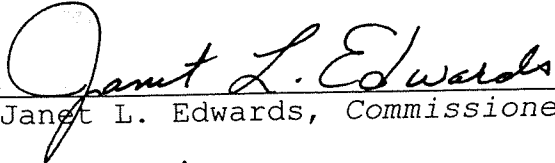
Dated this 29th day of June, 2001.



Seal



Mark P. Reynolds, Chairman



Janet L. Edwards, Commissioner



Robert L. Hans, Commissioner