

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

DARRELL L. KAMINSKI,

Appellant,

v.

SHERMAN COUNTY BOARD
OF EQUALIZATION,

Appellee.

CASE NO. 97R-334

DOCKET ENTRY
AFFIRMING DECISION
OF APPELLEE

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for hearing on the merits in the City of Grand Island, Hall County, Nebraska, on the 31st day of March, 1998, pursuant to a Notice of Hearing issued the 13th day of February, 1998.

Appellant appeared personally at the hearing. Appellee 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:

- I. That Appellant is the owner of record of certain agricultural real property as described in the petition in this case.
- II. That Appellant timely filed a protest of the assessed value of his property for tax year 1997.
- III. That the basis for the protest was the allegation that the 16.2 acres crop land was classified wrong due to a high water table and that approximately 12 acres of timber rangeland should be classified as waste due to cedar tree growth.
- IV. That the County Assessor proposed valuing the property at \$98,375 for the purposes of taxation.
- V. That the Appellant requested that the property be valued at a lower amount for purposes of taxation.
- VI. That the Appellee denied the protest.
- VII. That Appellant thereafter timely filed an appeal of that decision to the Commission.
- VIII. That Taxpayer's allegation that his irrigated crop land's market value was negatively impacted by 16.2 acres of wet land was not supported by competent evidence.
- IX. That from the evidence before the Commission, there was no method of determining "which" 12 acres of grassland was adversely affected by cedar tree growth.
- X. That County assessed the subject property with 92 acres of irrigated ground at a Fair Market Value of \$563.50 per acre (on average).

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- XI. That Taxpayer testified that he recently sold a long quarter of Conservation Reserve Program ground which was to be connected to a pivot irrigation system for \$575 per acre.
- XII. Further that the assessed value of the subject property for tax year 1997 is supported by the evidence.
- XIII. That insufficient evidence has been adduced to establish that the decision of the Appellee was unreasonable or arbitrary.

CONCLUSIONS OF LAW

- I. That the Commission has jurisdiction over the parties and the subject matter of this appeal.
- II. That the Commission is required by Neb. Rev. Stat. §77-1511 (Reissue 1996) to affirm the decision of the Appellee unless evidence is adduced establishing that the action of the Appellee was unreasonable or arbitrary.
- III. That based on the record before the Commission, insufficient evidence has been adduced to establish that the action of the Appellee in this case was unreasonable or arbitrary.
- IV. That the Appellant has failed to establish by a preponderance of the evidence that the decision of the Sherman County Board of Equalization was unreasonable or arbitrary.
- V. That the Commission must, therefore, and hereby does conclude as a matter of law that the decision of the Sherman County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$98,375 for tax year 1997 was neither unreasonable nor arbitrary.

VI. Further that the decision of the Sherman County Board of Equalization must be affirmed.

ORDER

I. That Appellee's Motion to Dismiss is granted, and the order of the Sherman County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$98,375 is thereby affirmed.

II. That Appellants' real property legally described as Lots 5, 6, 7, and 8, in Section 32, Township 15, Range 14, in Sherman County, Nebraska, shall be valued as follows for tax year 1997:

Land	\$76,310
Improvements	\$22,065
Total	\$98,375

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

IV. That this decision shall only be applicable to tax year 1997.

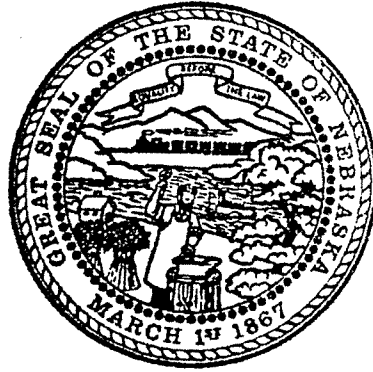
V. That each party is to bear its own costs in this matter


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 31st day of March, 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 3rd day of April, 1998.

SEAL




Mark P. Reynolds, Chairman

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