

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

THEODORE WEBER, ET AL.,	)	
	)	
	)	CASE NO. 97R-480
Appellants,	)	
	)	
v.	)	DOCKET ENTRY
	)	REVERSING DECISION
ANTELOPE COUNTY BOARD	)	OF APPELLEE
OF EQUALIZATION,	)	
	)	
Appellee.	)	

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for hearing on the merits in the City of Neligh, Antelope County, Nebraska, on the 18<sup>th</sup> day of March, 1998, pursuant to a Notice of Hearing issued the 10<sup>th</sup> day of February, 1998.

Appellant appeared through one of the owners. 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 Appellants are the owners of record of certain agricultural real property as described in the petition in this case.
- II. That Appellants timely filed a protest of the assessed value of their property for tax year 1997.
- III. That the basis for the protest was the allegation that data used to implement the valuation increase is inadequate; and that Township borders have no correlation to soil types or geographic changes.
- IV. That the Appellee granted the protest in part.
- V. That Appellants thereafter timely filed an appeal of that decision to the Commission.
- VI. That market areas are a professionally accepted mass appraisal method used to provide more accurate and equitable real property valuations.
- VII. That townships may be appropriate market areas if competent and credible evidence supports their use.
- VIII. That there are 23,040 acres in a township. That the record before the Commission demonstrates that a total of ten sales, over a three-year period, consisting of approximately 510 acres of dry agricultural land formed the basis of the County Assessor's determination of value for Elm Township (Market Area 3).
- IX. That the Commission, from the record before it, cannot conclude that those 10 sales constitute a statistically reliable basis for value determinations.

- X. That the Commission, from the record before it, cannot conclude that the use of Township boundaries for Elm Township constitutes a "market area" under professionally accepted mass appraisal methods in this case.
- XI. That Exhibit 26 shows that two of the plotted sales were adjacent to the subject properties. However, the record is devoid of any information regarding the date of sale, number of dry land acres involved or the sale price. Therefore the Commission cannot determine the market value of the subject property based on those sales.
- XII. That from all the evidence before the Commission the method used to determine market areas was unreasonable and arbitrary.
- XIII. That from the record before the Commission the County relied on the determination of market areas made by the County Assessor and that reliance was unreasonable and arbitrary.
- XIV. That from the record before the Commission the Appellant has established by a preponderance of the evidence that the decision of the Appellee was unreasonable and arbitrary.
- XV. That therefore the assessed value of the subject property as determined by the Appellee for tax year 1997 is not supported by the evidence.

#### 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 as a matter of law the Appellant has established by a preponderance of the evidence that the action of the Appellee was unreasonable and arbitrary.
- IV. 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 Antelope County Board of Equalization which set the assessed value of the subject property for purposes of taxation for tax year 1997 was both unreasonable and arbitrary.
- V. That therefore the decision of the Antelope County Board of Equalization must be vacated and reversed.

**ORDER**

- I. That the order of the Antelope County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$44,040 is vacated and reversed.
- II. That Appellants' real property legally described as the E 1/2 of the SE 1/4, except for a tract in the SE 1/4 of the SE 1/4 of Section 22, Township 25, Range 5, consisting of 73.25 acres, more or less, in Antelope County, Nebraska, shall be valued as follows for tax year 1997:

Land	\$ 41,825	(Valued as Dry Land Valuation Groups in Market Area One)
Improvements	\$ 0	(No Change)
Total	\$ 41,825	

- III. That this decision, if no appeal is filed, shall be certified within thirty days to the

Antelope County Treasurer, and the Antelope County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1997).


- 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 18<sup>th</sup> 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 24<sup>th</sup> day of March, 1998.

SEAL



  
Mark P. Reynolds, Chairman