

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

HENRY B. WILSON AND
ELEANOR M. WILSON,

Appellants,

vs.

SHERMAN COUNTY BOARD OF
EQUALIZATION,

Appellee.

Case No. 97R-140

DISMISSAL WITH PREJUDICE
FOR FAILURE TO APPEAR

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for a Show Cause Hearing in the City of Grand Island, Hall County, Nebraska, on the 30th day of March, 1998, pursuant to a Notice of Hearing issued the 13th day of February, 1998.

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, in compliance with that mandate, adopts the following as its final decision and order in this case:

FINDINGS OF FACT

- I. That Appellants timely filed an appeal challenging a decision of the Sherman County Board of Equalization regarding the assessed valuation of certain property owned by Appellants.

- II. That Appellee denied the protest, from which decision Appellants appealed.
- III. That Appellee was served with a Notice in Lieu of Summons, and duly answered that Summons.
- IV. A Notice of Hearing was issued in this case on the 13th day of February, 1998.
- V. An Affidavit of Service and Receipt for Certified Mail, both of which appear in the records of the Commission, establishes that a copy of the Order to Show Cause and the Notice of Hearing was mailed to all parties.
- VI. That Chapter 4, Title 442, Section 012.01A1 requires that, if the appellant is a natural person, that person must appear at the hearing.
- VII. That the Notice of Hearing specifically states in paragraph 3 that if the Appellant fails to appear the Commission will enter an order dismissing the case.
- VIII. That the Commission was notified by telephone that the Appellants would not be appearing at the hearing scheduled for the 1st day of April, 1998.
- IX. That the Commission was notified by the Appellants that they would not appear at the scheduled hearing on the 31st day of March, 1998, while the Commission was in the City of Grand Island, Hall County, Nebraska.
- X. That the Notice of Hearing had been issued six weeks prior to the date of the scheduled hearing.
- XI. That the Commission had traveled to the City of Grand Island, Hall County, Nebraska, for the purpose of hearing this and other cases.
- XII. That the Commission notified the Appellee on the 31st day of March, 1998, that the Appellants would not be appearing.

- XIII. That Appellee was prepared to attend the hearing through counsel, with its witnesses, and was prepared to defend the decision of the Sherman County Board of Equalization.
- XIV. That each of the parties was afforded an opportunity to present evidence and argument as required by Neb. Rev. Stat. §77-5015 (Reissue 1996).
- XV. That each of the parties was afforded an opportunity to cross-examine the witnesses as required by Neb. Rev. Stat. §77-5016(4) (1997 Supp.).
- XVI. That from the record before it, the Appellant has failed, neglected and refused to comply with substantive provisions of Title 442 and the Order to Show Cause 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 Appellant'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:

- I. That this appeal is ordered dismissed with prejudice.

II. That the agricultural property described below in Sherman County, Nebraska, shall be valued as follows for tax year 1997, as determined by the Sherman County Board of

Equalization:

Parcel No. 500143

Land \$ 21,525

Improvements \$ 0

Total \$ 21,525

Parcel No. 500145.00

Land \$ 24,495

Improvements \$ 0

Total \$ 24,495

Parcel No. 600090.00

Land \$ 89,200

Improvements \$ 43,940

Total \$133,140

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

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

IT IS SO ORDERED.

Dated this 14th day of April, 1998.



Seal

A handwritten signature in black ink, appearing to read "Mark P. Reynolds".

Mark P. Reynolds, Chairman

A handwritten signature in black ink, appearing to read "Janet L. Edwards".

Janet L. Edwards, Commissioner

A handwritten signature in black ink, appearing to read "Robert L. Hans".

Robert L. Hans, Commissioner