

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

AUSTIN COMPANY, INC.,)
)
Appellant,)
)
v.)
)
POLK COUNTY BOARD)
OF EQUALIZATION,)
)
Appellee.)

Case No. 97R-199

DOCKET ENTRY

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for hearing on the merits in the City of Lincoln, Lancaster County, Nebraska, on the 30th day of January, 1998, pursuant to a Notice of Hearing issued the 6th day of January, 1998.

Appellant appeared personally. 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 subject property is assessed at 81 percent (81%) of value.
- IV. That the County Assessor proposed valuing the property at \$55,200 for the purposes of taxation.
- V. That the Appellant requested that the property be valued at \$50,429 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 Polk County's published measures of central tendency for the median level of value of agricultural land at 81 percent (81%) for 1997 do not apply to individual parcels of real property.
- IX. That the sales file used to establish the median level of value contained 53 sales over a three-year period. There are, however, a total of 3,099 agricultural parcels in the County.
- X. That no evidence was adduced by Appellant to indicate what the fair market value of the subject property was for tax year 1997; therefore, the assessor's determination of value for the subject property for 1997 is deemed to be correct.

- XI. Further that the assessed value of the subject property for tax year 1997 is supported by the evidence.
- XII. That no 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. §7701511 (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 the Appellant has failed to establish by a preponderance of the evidence that the decision of the Polk County Board of Equalization was unreasonable or arbitrary.
- IV. That the Commission must, therefore, and hereby does conclude as a matter of law that the decision of the Polk County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$55,200 for tax year 1997 was neither unreasonable nor arbitrary.
- V. Further that the decision of the Polk County Board of Equalization must be affirmed.

ORDER

- I. That the order of the Polk County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$55,200 is affirmed.

II. That Appellants' real property legally described in the petition shall be valued as follows for tax year 1997:

Land	\$55,200
Improvements	\$ --0--
Total	\$55,200

III. That this decision, if no appeal is filed, shall be certified within thirty days to the Polk County Treasurer, and the Polk County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1997).

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

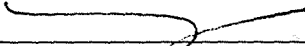
V. That each party is to bear its own costs in this matter.

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 30th day of January, 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 17th day of February, 1998.

SEAL





 Mark P. Reynolds, Chairman

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