

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

LEON CHISHOLM, )

Appellant. )

v. )

KEITH COUNTY BOARD  
OF EQUALIZATION. )

Appellee. )

CASE NO. 97R-191

DOCKET ENTRY  
REVERSING 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 Ogallala, Keith County, Nebraska, on the 10<sup>th</sup> day of June, 1998, pursuant to a Notice of Hearing issued the 17<sup>th</sup> day of March, 1998.

Appellant appeared personally at the hearing, and 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 residential 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 increase in assessed value of 92% in one year is excessive; that no improvements were made to the subject property; and other comparable properties in the immediate area are valued substantially lower.
- IV. That the County Assessor proposed valuing the property at \$28,995 for the purposes of taxation.
- V. That the Appellant requested that the property be valued at \$15,670 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 the assessed value of the land, in the amount of \$1,140, is not at issue before the Commission.
- IX. That Taxpayer testified that Exhibit 20 is near the subject property; is 6-years newer than the subject property; is two-feet wider than the subject property; and is valued at less than the subject property.

### 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 Keith County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$28,995 for tax year 1997 was both unreasonable and arbitrary.
- V. That therefore the decision of the Keith County Board of Equalization must be vacated and reversed.

### ORDER

- I. That the order of the Keith County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$28,995 is vacated and reversed.

II. That Appellants' real property legally described as Lot 1, Hoffman's Subdivision. Keith County, Nebraska, shall be valued as follows for tax year 1997:

Land	\$1,140	
Improvements	\$24,375	(Calculated as follows: Replacement Cost New of
Total	\$25,515	\$61,090 is reduced by the same depreciation factor which was applied to the comparable of 58% yields \$25,658, which is reduced by the 5% locational depreciation factor.)

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

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

IV. 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 10<sup>th</sup> day of June, 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 15<sup>th</sup> day of June, 1998.

SEAL



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Mark P. Reynolds, Chairman