

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

WILLIAM R. WOLESENSKY,	)	
	)	CASE NO. 97R-401
Appellant,	)	
	)	
v.	)	DOCKET ENTRY
	)	
SAUNDERS COUNTY BOARD	)	
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 Lincoln, Lancaster County, Nebraska, on the 5<sup>th</sup> day of March, 1998, pursuant to a Notice of Hearing issued the 28<sup>th</sup> 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. A quorum of the Commission (Commissioner Hans dissenting), 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 "Our notice of valuation change is outrageous as there have been no structural changes."
- IV. That the County Assessor proposed valuing the property at \$55,830 for the purposes of taxation.
- V. That the Appellee denied the protest.
- VI. That Appellant thereafter timely filed an appeal of that decision to the Commission.
- VII. That Taxpayer purchased the subject property in December 1995, for \$55,000.
- VIII. That Taxpayer agreed that the property which the County offered as most comparable to the subject property was in fact a comparable property.
- IX. That from Exhibit 8, page 3, the condition of the subject property is "Average" while the condition of the comparable is "Fair;" which would indicate that the comparable has a more deteriorated condition than the subject.
- X. That the effective age of the subject property is 35 years, while the effective age of the comparable is 48 years.

- XI. That a portion of the subject property is a converted garage which would negatively impact the value of the subject property. However, neither party adduced evidence which would demonstrate the amount of that impact.
- XII. That the Fair Market Value of the subject property as determined by the County was \$59,395. However the equalized value was determined to be \$55,830.
- XIII. That Taxpayer's "comparable" properties, while in close proximity to the subject property, did not meet professionally accepted appraisal comparability criteria for style, quality, age, condition, amenities, or architectural design. (*Property Assessment Valuation*, Second Edition, p. 98.)
- XIV. Further that the assessed value of the subject property for tax year 1997 is supported by the evidence.
- XV. 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. §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 Saunders 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 Saunders County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$55,830 for tax year 1997 was neither unreasonable nor arbitrary.

V. Further that the decision of the Saunders County Board of Equalization must be affirmed.

**ORDER**

I. That the order of the Saunders County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$55,830 is affirmed.

II. That Appellants' real property legally described as Lot 6 and 7, and a tract of land 40 feet by 7 feet in the South East Corner of Lot 8, all in Block 48, M & C Addition to the City of Ashland, Saunders County, Nebraska, more commonly known as 1733 Adams Street, shall be valued as follows for tax year 1997:

Land	\$ 6,100
Improvements	\$49,730
Total	\$55,830

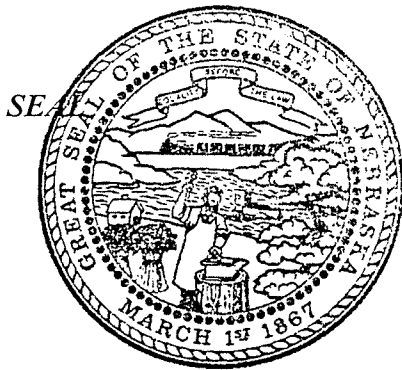
III. That this decision, if no appeal is filed, shall be certified within thirty days to the Saunders County Treasurer, and the Saunders County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1997).

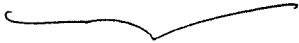
IV. That this decision shall only be applicable to tax year 1997.

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 5<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 10<sup>th</sup> day of March, 1998.



  
Mark P. Reynolds, Chairman