

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

ROBERT G. MONEY and  
LORAIN K. MONEY

Appellants,

v.

FRANKLIN COUNTY BOARD  
OF EQUALIZATION,

Appellee.

CASE NO. 97R-120

DOCKET ENTRY  
AFFIRMING 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 Kearney, Franklin County, Nebraska, on the 26th day of May, 1998, pursuant to a Notice of Hearing issued the 11th day of March, 1998.

Appellants appeared through Counsel. 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 commercial 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 the subject property value is incorrectly valued as a dental office and that it should be valued as a "regular building".
- IV. That the County Assessor proposed valuing the property at \$42,865 for the purposes of taxation.
- V. That the Appellants requested that the property be valued at \$18,132 for purposes of taxation.
- VI. That the Appellee denied the protest.
- VII. That Appellants thereafter timely filed an appeal of that decision to the Commission.
- VIII. That Exhibit #39 shows Taxpayer paid \$20,000 on February 27, 1996, for subject property and Exhibit #36 shows Taxpayer reporting \$27,350 for remodeling costs.
- IX. That Exhibit #37 shows a bank mortgage in the amount of \$66,416 for the subject property. Furthermore, Taxpayer testimony is that the dental business, office equipment and building were the only collateral used.
- X. That using the \$66,000 mortgage the cost of the subject property per square foot is \$22.92. Using \$20,000 plus \$27,350 remodeling costs for a total of \$47,350 the per square foot cost is \$16.44. Using County value of \$42,865, the per square foot is \$14.88,

- and using the Taxpayers requested value of \$18,132, the cost is \$6.30 per square.
- XI. That County testified that all testified that all commercial property in Franklin is valued using the Marshall Swift Cost Method, and all properties received a 60% economic depreciation in addition to physical and functional depreciation.
- XII. Further that the assessed value of the subject property for tax year 1997 is supported by the evidence.
- XIII. 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. §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 based on the record before the Commission, insufficient evidence has been adduced to establish that the action of the Appellee in this case was unreasonable or arbitrary.
- IV. That the Appellant has failed to establish by a preponderance of the evidence that the decision of the Franklin County Board of Equalization was unreasonable or arbitrary.
- V. That the Commission must, therefore, and hereby does conclude as a matter of law that the decision of the Franklin County Board of Equalization which set the assessed value of

the subject property for purposes of taxation at \$42,685 for tax year 1997 was neither unreasonable nor arbitrary.

VI. Further that the decision of the Franklin County Board of Equalization must be affirmed.

**ORDER**

I. That the order of the Franklin County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$42,865 is affirmed.

II. That Appellants' real property legally described as Lot 15, Block 7; Original Town of Franklin, Franklin County, Nebraska, shall be valued as follows for tax year 1997:

Land	\$ 1,585
Improvements	\$41,280
Total	\$42,865

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


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 26th day of May, 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 1st day of June, 1998.

*SEAL*

  
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*Mark P. Reynolds, Chairman*

