



## FINDINGS OF FACT

From the record, the Commission found and determined as follows:

1. That Appellant is the owner of record of certain commercial real property as described in the petition in this case.
2. That Appellant timely filed a protest of the assessed value of his property for tax year 1997.
3. That the basis for the protest was the allegation that the property was overvalued.
4. That the County Assessor proposed valuing the property at \$26,503 for the purposes of taxation.
5. That the Appellant requested that the property be valued at \$14,575 for purposes of taxation.
6. That the Appellee denied the protest.
7. That Appellant thereafter timely filed an appeal of that decision to the Commission.
8. That the County Assessor did not personally inspect the subject property.
9. That the record before the Commission demonstrates that at least four different depreciation factors were used in the cost approach to value for commercial properties in the City of Rushville.
10. That the six commercial properties offered as comparables by the parties were all built between 1890 and 1920. All are "Class C" buildings. All are of "average" condition. All but 2 are of "average" quality. The property with the highest per square foot assessed value however, has a "fair" quality of construction. (Exhibit 11.) The property with the lowest quality of construction has the second lowest per square foot assessed value.

(Exhibit 8). "Average" quality of construction is a higher quality rating than a "Fair" quality of construction. "Fair" quality of construction is a higher quality rating than a "Low" quality of construction.

11. No depreciation schedule based on elements of comparability was made a part of the record.
12. That the County attributes no value to the basement or the second floor of the subject property.
13. That the property most comparable to the subject property according to County's expert is the property described in Exhibit 10. That the County has attributed 75% depreciation to that comparable property, which was "remodeled" in 1994. The subject property was "remodeled" in 1988, but only has a 60% depreciation factor. That "physical depreciation" is "the loss in value due to wear and tear in service and the disintegration of an improvement from the forces of nature. All man-made objects begin a slow process of deterioration as soon as they are created." *Property Assessment Valuation*, Second Edition, p. 154. That County offered no explanation as to why properties which are "comparable" as that term is understood under professionally accepted mass appraisal practices bear different physical depreciation factors.
14. That from the record before the Commission the Appellant has established by a preponderance of the evidence that the decision of the Appellee was unreasonable and arbitrary.
15. That therefore the assessed value of the subject property as determined by the Appellee for tax year 1997 is not supported by the evidence.

CONCLUSIONS OF LAW

1. That the Commission has jurisdiction over the parties and the subject matter of this appeal.
2. 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.
3. That the presumption accorded a county board of equalization does not apply where the County Assessor has not inspected the property. *Grainger Bros. Co. v. Board of Equalization*, 188 Neb. 571, 144 N. W. 2d 161 (1966).
4. 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.
5. 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 Sheridan County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$26,503^ for tax year 1997 was both unreasonable and arbitrary.
6. That therefore the decision of the Sheridan County Board of Equalization must be vacated and reversed.

ORDER

1. That the order of the Sheridan County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$26,503 is vacated and reversed.
2. That Appellants' real property as legally described in the petition shall be valued as

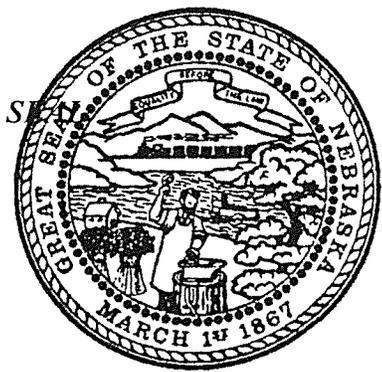
follows for tax year 1997:

Land	\$ 5,000	1983 Replacement Cost New = \$68,221, less 75%
Improvements	\$15,350	depreciation (same depreciation as attributed to
Total	\$20,350	most comparable property according to County),
		= \$17,056 less 10% economic depreciation given to
		all commercial properties = \$15,350

3. That this decision, if no appeal is filed, shall be certified within thirty days to the Sheridan County Treasurer, and the Sheridan County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
4. That this decision shall only be applicable to tax year 1997.
5. 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 13<sup>th</sup> day of August, 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 17<sup>th</sup> day of August, 1998.



*Mark P. Reynolds, Chairman*