

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

JUDY ENGBRETSSEN)

Appellant,)

v.)

SIOUX COUNTY BOARD
OF EQUALIZATION,)

Appellee.)

CASE NO. 97R-359

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 Gering, Scotts Bluff County, Nebraska, on the 12th day of August, 1998, pursuant to a Notice of Hearing issued the 7th day of April, 1998.

Taxpayer appeared personally. County 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 Taxpayer is the owner of record of certain agricultural real property as described in the petition in this case.
- II. That Taxpayer timely filed a protest of the assessed value of her property for tax year 1997.
- III. That the basis for the protest was the allegation that the house on this parcel has been vacant for 18 years. We plan to tear it down. It is not liveable now.
- IV. That the County Assessor proposed valuing the property at \$56,704 for the purposes of taxation.
- V. That the Taxpayer requested that the property be valued at \$53,103 for purposes of taxation.
- VI. That the County denied the protest.
- VII. That Taxpayer thereafter timely filed an appeal of that decision to the Commission.
- VIII. That Taxpayer testified that water cannot be provided to the house. There is no electricity and it has been vacant for more than 18 years.
- IX. That the county has not had rural residential property reappraised for 26 years.
- X. That the Property Record Card, Exhibit #9, lists the house value at \$3,980 and outbuildings at \$2,479 for a total improvement value of \$6,459.
- XI. That the County testified the improvements were valued as "Salvage" total of \$5,000 this year and may be different after the 1998 Reappraisal of Residential Property.
- XII. That the condition of the house and outbuildings would not have been different or

improved from 1997 to 1998.

XIII. That improvement value for 1997 should be \$5,000 with house value \$2,521 and outbuildings value at \$2,479.

XIV. That Taxpayer adduced no evidence as to the land value on this parcel.

XV. That from the record before the Commission the Taxpayer has established by a preponderance of the evidence that the decision of the County was unreasonable and arbitrary.

XVI. That therefore the assessed value of the subject property as determined by the County for tax year 1997 is not supported by the evidence.

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 County unless evidence is adduced establishing that the action of the County was unreasonable or arbitrary.

III. That as a matter of law the Taxpayer has established by a preponderance of the evidence that the action of the County 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 Sioux County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$56,704 for tax year 1997 was both unreasonable and arbitrary.

V. That therefore the decision of the Sioux County Board of Equalization must be vacated and reversed.

ORDER

I. That the order of the Sioux County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$56,704 is vacated and reversed.

II. That Taxpayer's real property legally described as Section 2, Township 25, Range 57, consisting of approximately 641 acres more or less, located in Sioux County, Nebraska, shall be valued as follows for tax year 1997:

Land	\$50,245
Improvements	\$ 5,000
Total	\$55,245

III. That this decision, if no appeal is filed, shall be certified within thirty days to the Sioux County Treasurer, and the Sioux 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 12th 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).

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Signed and sealed this 19th day of August, 1998.





Mark P. Reynolds, Chairman