

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

A & L JOHNSON FAMILY REVOCABLE)
TRUST)

Case No. 97R-15

Appellant,)

DOCKET ENTRY

v.)

KEARNEY 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 Grand Island, Hall County, Nebraska, on the 20th day of May, 1998, pursuant to a Notice of Hearing issued the 5th day of March, 1998.

Appellant, Mr. Archie Johnson appeared personally. Appellee appeared through Richard A. Schwenka, Deputy County Attorney. 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:

EVIDENCE BEFORE THE COMMISSION

Judicial notice was taken, without objection, of the pleadings in Case File 97R-12; *Marshall Swift Residential Cost Handbook*; the *Nebraska Assessor's Reference Manuals*, Volumes 1 and 2; the Nebraska Constitution; the Nebraska State Statutes; Title 442 of the Administrative Code (Tax Equalization and Review Commission's Rules and Regulations); the standard reference work *Property Assessment Valuation, Second Edition*; the standard reference work *Property Appraisal and Assessment Administration*; the standard reference work *Glossary for Property Appraisal and Assessment*; the Property Tax Division of the Department of Revenue's published 1997 ratios and measures of central tendency which are published pursuant to Neb. Rev. Stat. §77-1327(6); the 1997 County Profiles for Kearney County; the 1997 Equalization Proceedings of the Tax Equalization and Review Commission; and the *Uniform Standards of Profession Appraisal Practices*, 1997 Edition.

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 it's property for tax year 1997.
- III. That the basis for the protest was the allegation that the subject property is valued for more than the \$23,000 purchase price paid in 1990.

- IV. That the Appellant requested that the subject property be valued at its purchase price of \$23,000 for 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 this property does not qualify for consolidation of the filing fee with the other protested properties because they are not located in one homogenous neighborhood.
- VIII. That testimony of Taxpayer indicates each subject property has had improvements made such as new roofs, furnaces, air conditioning, plumbing fixtures, sewer replacement, and vinyl siding, which enhance the fair market value.
- IX. That testimony of the County is that the residential market in Minden has been active and increasing. The record shows 124 qualified residential sales in Minden, over a two year period, which is typical according to the County Assessor.
- X. Further that the assessed value of the subject property for tax year 1997 is supported by the evidence.
- XI. 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 the Appellant has failed to establish by a preponderance of the evidence that the decision of the Kearney 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 Kearney County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$38,295 for tax year 1997 was neither unreasonable nor arbitrary.
- V. Further that the decision of the Kearney County Board of Equalization must be affirmed.

ORDER

- I. That the order of the Kearney County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$38,295 is affirmed.
- II. That Appellants' real property legally described as South 62' of Lot 2, Block 13, Jensen's Addition in the City of Minden, Kearney County, Nebraska, shall be valued as follows for tax year 1997:

Land	\$ 3,245
Improvements	\$ 35,050
Total	\$ 38,295

- III. That this decision, if no appeal is filed, shall be certified within thirty days to the Kearney County Treasurer, and the Kearney 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 20th 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 29th day of May, 1998.

SEAL




Mark P. Reynolds, Chairman