

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

IN THE MATTER OF THE PETITION OF)	Case Number 17CP-001
THE NANCE COUNTY, NEBRASKA,)	
BOARD OF EQUALIZATION TO)	FINDINGS AND ORDER
ADJUST VALUES BY A CLASS OR)	DENYING PETITION
SUBCLASS OF REAL PROPERTY)	

The Nance County Board of Equalization (“the County Board”) petitioned the Tax Equalization and Review Commission (“the Commission”) to adjust all agricultural property within Nance County, Nebraska, for the 2017 tax year. The County Board also requested that a new subclass of property be established for “limited/unreliable irrigation” land.

The Commission received the Petition of Nance County on July 25, 2017 and issued an Order for Hearing and Notice of Hearing on July 28, 2017. A copy of the Order and Notice was served on the Nance County Clerk, Nance County Assessor, Chairperson of the County Board, Nebraska Tax Commissioner, and Property Tax Administrator.

The Commission called the matter for a hearing on the merits in the Tax Equalization and Review Commission Hearing Room, Sixth Floor of the Nebraska State Office Building, 301 Centennial Mall South, in the City of Lincoln, Lancaster County, Nebraska, on August 9, 2017. Commissioners Keetle and Hotz heard the petition. Commissioner Hotz presided.

I. ISSUE

The only issue before the Commission is whether failure to make the requested adjustment would result in values which are not equitable and in accordance with the law.¹

¹ Neb. Rev. Stat. §77-1504.01 (2016 Cum. Supp.).

II. LAW

1. Petitions concerning adjustments to the level of assessment of real property must be filed on or before July 26.²
2. The Commission must hear and act on a Petition for adjustment of value by class or subclass brought by a County Board of Equalization on or before August 10.³
3. After a hearing, the Commission shall, within the powers granted in Neb. Rev. Stat. §77-5023, enter its order based on the evidence presented to it at such hearing and the hearings held pursuant to Neb. Rev. Stat. §77-5022 for that year.⁴
4. The Commission may issue an order adjusting values by a percentage, and may exclude individual properties from the order adjusting values if the assessed values of those individual properties have already been adjusted by the Board as part of the protest proceedings.⁵
5. The County Board bears the burden of proof of demonstrating that failure to make the requested adjustment would result in values which are not equitable and in accordance with the law.⁶
6. Any Commission order adjusting values must specify the percentage increase or decrease and the class or subclass of real property affected or any corrections or adjustments to be made to the class or subclass of real property.⁷

² Neb. Rev. Stat. §77-1504.01(1) (2016 Cum. Supp.).

³ Neb. Rev. Stat. §77-1504.01(2) (2016 Cum. Supp.).

⁴ Neb. Rev. Stat. §77-1504.01(3) (2016 Cum. Supp.).

⁵ *Id.*

⁶ Neb. Rev. Stat. §77-1504.01(2) (2016 Cum. Supp.).

⁷ Neb. Rev. Stat. §77-1504.01(3) (2016 Cum. Supp.).

7. Any Order Adjusting Values must result in the level of value as determined for the affected class or subclass to fall at the midpoint of the acceptable range.⁸
8. The acceptable range for the median of the “Assessment-Sales Ratio” for agricultural property is 69% to 75% of actual value.⁹

III. ANALYSIS

The County Board presented evidence and testimony at the hearing regarding the valuation of agricultural property in Nance County. It argued that it is assessed too high in relation to the market. The County Board argued that while the market value continues to go down, the assessed value continues to rise. In addition, the County Board argued that the Commission should create a new subclass of agricultural property to reflect particular irrigation issues in Nance County.

The County Board offered the testimony of Megan Zoucha, the Nance County Assessor. She testified that there are two market areas for agricultural property in Nance County. She testified that for tax year 2017, Area 1 Irrigated Land was raised 4% for the purposes of equalization, based on a comparison with other counties.

The County Board also offered the testimony Linda Dallman, the Franklin County Assessor. She testified generally about the number of sales used and the practice of borrowing sales from other counties.

The County Board also offered the testimony of Mark Sonderup, a rancher and landowner in Nance County. Mr. Sonderup testified that he has lived his entire life in Nance County as a rancher, farmer, and market consultant for crop prices. He had also recently purchased land that he had been farming in Market Area 2 of Nance County. He testified regarding the irrigation situation

⁸ Neb. Rev. Stat. §77-1504.01(3) (2016 Cum. Supp.); Neb. Rev. Stat. §77-5023(3) (Reissue 2009).

⁹ Neb. Rev. Stat. §77-5023(2) (Reissue 2009).

in Nance County. He stated that in some parts of the county there is not good access to ground water. As a result, a canal system has been set up. He testified the irrigation situation has been difficult. As a result, it was his opinion that there needed to be a new subclass of property created to account for unreliable irrigation on the land.

The County Board argued that the water situation in this part of Nance County made the use of borrowed sales from other counties inaccurate. Further, it argued that the situation required that the Commission create a subclass of agricultural property to account for the irrigation issues. In addition, the County Board argued that the application of the rules of the Property Tax Administrator was arbitrary and resulted in unfairness to some taxpayers. In addition, the County alleged that there is no meaningful way for a taxpayer to challenge the use of sales data.

The Commission's authority to act on a county petition in the statewide equalization process is limited to those powers granted in *Neb. Rev. Stat. §77-5023*.¹⁰ Included is the power to increase or decrease the value of a class or subclass of real property.¹¹ The evidence in this proceeding is that the agricultural properties of Nance County, Nebraska were assessed according to law.

Despite the request of the County Board, the Commission does not have the power to create a market area or subclass.¹² In addition, the County Board has failed to produce sufficient evidence to meet its burden of proof. Therefore, there is insufficient evidence demonstrating that the adjustments proposed by the County Board would be necessary to achieve equalization.¹³

The Petition must accordingly be denied.

IV. CONCLUSIONS OF LAW

¹⁰ Neb. Rev. Stat. §77-1504.01 (2016 Cum. Supp.).

¹¹ Neb. Rev. Stat. §77-5023(2) (Reissue 2009).

¹² *Dodge Cty Bd. Of Equalization v. Nebraska Tax Equal. & Rev. Comm.*, 10 Neb.App. 927, 639 N.W.2d 683 (2002).

¹³ Neb. Rev. Stat. §77-5023 (Reissue 2009); *Dodge Cty Bd. Of Equalization v. Nebraska Tax Equal. & Rev. Comm.*, 10 Neb.App. 927, 639 N.W.2d 683 (2002).

1. The Commission has jurisdiction over the subject matter of this Petition.¹⁴
2. The County Board has failed to provide the evidence necessary for the Commission to issue an Order Adjusting values as requested.

V. ORDER

IT IS ORDERED THAT:

1. The Petition of the Nance County Board of Equalization to adjust the assessed value of agricultural property and create a new subclass of agricultural property in Nance County, Nebraska, is denied.
2. A copy of this Order shall be served upon the Nance County Assessor by certified mail, and upon the Nance County Clerk, the Chairperson of the Nance County Board of Equalization, and the Nance County Attorney, by regular mail.

SIGNED AND SEALED August 10, 2017.

Steven A. Keetle, Commissioner

SEAL

Robert W. Hotz, Commissioner

¹⁴ Neb. Rev. Stat. §77-1504.01 (2016 Cum. Supp.).