

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

IN THE MATTER OF THE )  
EQUALIZATION OF ASSESSMENTS )  
OF REAL PROPERTY WITHIN )  
CUSTER COUNTY, NEBRASKA, )  
FOR TAX YEAR 2006 )

**COUNTY NUMBER 21  
FINDINGS AND ORDERS  
ADJUSTING VALUES**

**APPEARANCES FOR THE COUNTY:**

**SUMMARY**

The Tax Equalization and Review Commission, as part of its equalization proceedings held pursuant to Neb. Const. Art. IV, §28, and Neb. Rev. Stat. §77-5022 *et. seq.*, (Reissue 2003, Cum Supp 2004, Supp. 2005), finds that the level of assessment of certain real property in Custer County for tax year 2006, fails to satisfy the requirements of Neb. Const. Art. VIII, §1, and Neb. Rev. Stat. §77-5023 (Cum. Supp. 2004). The Commission therefore orders an adjustment to the value of certain real property within Custer County.

**I.  
REPORT AND OPINION  
OF THE PROPERTY TAX ADMINISTRATOR**

Custer County (“County”), as required by Neb. Rev. Stat. §77-1514 (Supp. 2005), timely filed its Abstract of Assessment for 2006. The Property Tax Administrator (“Administrator”), based on that abstract and other information available to the Administrator, has filed certain statistical and narrative reports with the Nebraska Tax Equalization and Review Commission (“Commission”) and further has certified the Administrator's opinion regarding the level of value

and the quality of assessment of real property in Custer County for tax year 2006.

Neb. Rev. Stat. §77-5027 (Supp. 2005).

## **II. REVIEW OF ASSESSMENT PRACTICES**

The level of value or assessment for any class or subclass of real property is generally indicated by its median assessment-sales ratio unless that statistic is deemed unreliable, the sample from which it is drawn is not representative of the class or subclass, or the level of value or assessment has been determined based on other generally accepted mass appraisal techniques. The acceptable ratio range for the median of the "Assessment-Sales Ratio" is from 74% to 80% of actual or fair market value for the class and subclasses of agricultural and horticultural land not receiving special valuation pursuant to Neb. Rev. Stat. §77-1344; 74% to 80% of special valuation and recapture valuation, for the class and subclasses of agricultural and horticultural land receiving special valuation pursuant to Neb. Rev. Stat. §77-1344; and 92% to 100% of actual or fair market value for all other classes and subclasses of real property.

Neb. Rev. Stat. §77-5023(2) (Cum. Supp. 2004). Whether or not the level of assessment indicated by the median falls within the acceptable range may be determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques. Neb. Rev. Stat. § 77-5023(5) (Cum. Supp. 2004).

For purposes of determining the level of value of agricultural and horticultural land subject to special valuation under sections 77-1343 to 77-1348 of Nebraska Statutes, the Property Tax Administrator is required to make and issue a comprehensive study developed in compliance

with professionally accepted mass appraisal techniques to establish the level of value if in his or her opinion the level of value cannot be developed through the use of the comprehensive assessment ratio studies.

The uniformity and proportionality of assessments (the “quality” of assessments), under professionally accepted mass appraisal methods, are measured through the use of the Coefficient of Dispersion (“COD”) and the Price Related Differential (“PRD”). The appropriate COD range for the residential class and subclasses of real property is between 0 and 15 and the appropriate COD range for all other classes and subclasses of real property is between 0 and 20. 442 Neb. Admin. Code, ch 9, §008.06C (01/05). The appropriate PRD range for all classes and subclasses of real property is between .98 and 1.03. 442 Neb. Admin. Code, ch 9, §008.06B (01/05).

### **III. DUTIES OF THE COMMISSION**

“. . . if the commission finds that the level of assessment of a class or subclass of real property fails to satisfy the requirements of section 77-5023, the commission shall issue a notice to the counties which it deems either undervalued or overvalued . . . .” Neb. Rev. Stat. §77-5026 ( Supp. 2005).

“The Commission shall pursuant to 77-5026 raise or lower the valuation of any class or subclass of property in a county when it is necessary to achieve equalization.” Neb. Rev. Stat. §77-5027 ( Supp. 2005).

“After a hearing conducted pursuant to section 77-5024 or 77-5026, the commission shall enter an order based on the information presented to it at the hearing . . . the order shall specify

the percentage increase or decrease and the class or subclass of real property affected or the corrections or adjustments to be made to the class or subclass of real property affected.”

Neb. Rev. Stat. §77-5028 (Supp. 2005).

“Any increase or decrease shall cause the indicator of central tendency of assessment utilized by the commission to be at the midpoint of the acceptable range.” Neb. Rev. Stat. §77-5023 (3) (Cum. Supp. 2004). “Any decrease or increase to a subclass of property shall also cause the indicator of central tendency utilized by the commission for the class from which the subclass is drawn to be within the applicable acceptable range.” Neb. Rev. Stat. §77-5023(4) (Cum. Supp. 2004). “Whether or not an established indicator of central tendency falls within an acceptable range or at the midpoint of an acceptable range may be determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.” Neb. Rev. Stat. §77-5023(5) (Cum. Supp. 2004).

#### **IV. EVIDENCE BEFORE THE COMMISSION**

The Commission may consider and utilize the provisions of the Constitution of the United States, the Constitution of Nebraska, the laws of the United States, the laws of Nebraska, the Code of Federal Regulations, the Nebraska Administrative Code, any decision of the several courts of the United States or the State of Nebraska, and the legislative history of any law, rule, or regulation, without making the document a part of the record. The Commission may without inclusion in the record consider and utilize published treatises, periodicals, and reference works pertaining to the valuation or assessment of real or personal property or the meaning of words and phrases if the document is identified in the Commission's rules and regulations.

Neb. Rev. Stat. §77-5016(3) (Supp. 2005), 442 Neb. Admin. Code, ch 5, (01/05). No information or evidence, except that permitted by law, may be considered. Neb. Rev. Stat. §77-5016(3) (Supp. 2005). The Commission may evaluate the evidence presented utilizing its experience, technical competence, and specialized knowledge. Neb. Rev. Stat. §77-5016(5) (Supp. 2005).

**V.  
FINDINGS OF FACT**

The Commission finds and determines the following concerning classes and subclasses of real property in Custer County:

**PROCEDURAL**

1. A statistical and narrative report informing the Commission of the level of value and the quality of assessments of the classes and subclasses of real property for Custer County and certifying the opinion of the Property Tax Administrator regarding the level of value and the quality of assessment of real property in Custer County, for the tax year 2006 was timely received by the Commission. (E21).
2. The level of assessment for any class or subclass is the level of value indicated by the median assessment to sales ratio as it has been determined for the class or subclass unless the statistic is deemed unreliable, the sample from which it is drawn is not representative of the class or subclass, or the level of value or assessment has been determined based on other generally accepted mass appraisal techniques.
3. The Commission's Order to Show Cause and Notice of Hearing dated April 20, 2006, proposing an adjustment to the level of value of real property in Custer County was

mailed to the County Clerk, County Assessor, and Chairperson of the County Board for Custer County on April 20, 2006.

4. A hearing on the Commission's order proposing an adjustment was held April 27, 2006.

### **RESIDENTIAL CLASS OF REAL PROPERTY AND ITS SUBCLASSES**

#### **THE CLASS**

5. The level of value indicated by the median for the residential class of real property is 96.55% of actual or fair market value, the COD is 33.81, and the PRD is 119.78, as shown by the Reports and Opinions of the Property Tax Administrator. (E21:30).
6. The statistical studies of the level of value and the quality of assessments are reliable and representative of the level of value and the quality of assessments for the residential class of real property.
7. The level of assessment for the residential class of real property as indicated by the median is within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
8. The quality of assessment practices for the residential class of real property is not appropriate as shown by the COD.
9. The quality of assessment practices for the residential class of real property is not appropriate as shown by the PRD.
10. A measure of the quality of assessment practices for the residential class of real property cannot be improved by a percentage adjustment to the level of value for the class of

residential real property as required by Neb. Rev. Stat. §77-5023 (Cum. Supp. 2004). An adjustment by a percentage to the level of value of a subclass of the residential class of real property might improve a measure of the quality of assessment practices but an adjustment for that purpose is not warranted.

**Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the residential class of  
real property**

11. The level of value indicated by the median for the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the residential class of real property is 89.47% of actual or fair market value, the COD is 29.17, and the PRD is 110.53 as shown by the Reports and Opinions of the Property Tax Administrator. (E21:31).
12. The statistical studies of the level of value and the quality of assessments are reliable and representative of the level of value and the quality of assessments for the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the residential class of real property.
13. The level of assessment for the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the residential class of real property is not within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.

14. The quality of the assessment practices for the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the residential class of real property is not appropriate, as shown by the COD.
15. The quality of the assessment practices for the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the residential class of real property is not appropriate, as shown by the PRD.
16. The level of assessment of the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the residential class of real property in the County fails to satisfy the requirements of Neb. Rev. Stat. §77-5023(2) (Cum. Supp. 2004).
17. An increase in the amount of 7.30% must be made in order to bring the level of value indicated by the median for the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the class of residential real property to the midpoint of the acceptable range as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques as required by Neb. Rev. Stat. §77-5023(3) (Cum. Supp. 2004). (E140)
18. If an increase in the amount of 7.30% is ordered, the level of value indicated by the median for the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the residential class of real property, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, will be 96.00% of actual or fair market value the COD will be 29.17, and the PRD will be 110.53. (E140:2).



19. If the level of assessment is changed as found to be necessary, the level of value indicated by the median for the residential class of real property, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, will be 96.82% of actual or fair market value, the COD will be 33.73, and the PRD will be 119.50.  
(E140:1).

**COMMERCIAL AND INDUSTRIAL CLASS OF REAL PROPERTY  
AND ITS SUBCLASSES**

**THE CLASS**

20. The level of value indicated by the median for the commercial and industrial class of real property is 98.98% of actual or fair market value, the COD is 24.40, and the PRD is 111.71, as shown by the Reports and Opinions of the Property Tax Administrator.  
(E21:36).
21. The statistical studies of the level of value and the quality of assessments are reliable and representative of the level of value and the quality of assessments for the commercial and industrial class of real property.
22. The level of assessment for the commercial and industrial class of real property as indicated by the median is within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
23. The quality of assessment practices for the commercial and industrial class of real property is not appropriate as shown by the COD.

24. The quality of assessment practices for the commercial and industrial class of real property is not appropriate as shown by the PRD.
25. A measure of the quality of assessment practices for the class of commercial and industrial real property cannot be improved by a percentage adjustment to the level of value for the class of commercial and industrial real property as required by Neb. Rev. Stat. §77-5023 (Cum. Supp. 2004). An adjustment by a percentage to the level of value of a subclass of the commercial and industrial class of real property might improve a measure of the quality of assessment practices but an adjustment for that purpose is not warranted.
26. The level of assessment for each subclass of the commercial and industrial class of real property is either within the acceptable range, the number of sales for a subclass are insufficient to provide a reliable statistical study of the subclass, or an adjustment by a percentage of value is not appropriate based on the record before the Commission.
27. No increase or decrease by a percentage for the value of the commercial and industrial class of real property, or a subclass thereof, is necessary.

**AGRICULTURAL LAND AND HORTICULTURAL LAND  
CLASS OF REAL PROPERTY  
NOT SUBJECT TO SPECIAL VALUATION**

**THE CLASS**

28. The level of value indicated by the median for the agricultural land and horticultural land class of real property not subject to special valuation is 75.54% of actual or fair market

value, the COD is 22.34, and the PRD is 102.50, as shown by the Reports and Opinions of the Property Tax Administrator. (E21:42).

29. The statistical studies of the level of value and the quality of assessments are reliable and representative of the level of value and the quality of assessments for the agricultural land and horticultural land class of real property not subject to special valuation.
30. The level of assessment for the agricultural land and horticultural land class of real property not subject to special valuation as indicated by the median is within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
31. The quality of assessment practices for the agricultural land and horticultural land class of real property not subject to special valuation is not appropriate as shown by the COD.
32. The quality of assessment practices for the agricultural land and horticultural land class of real property not subject to special valuation is appropriate as shown by the PRD.
33. A measure of the quality of assessment practices for the class of agricultural land and horticultural land class of real property not subject to special valuation cannot be improved by a percentage adjustment to the level of value for the class of agricultural land and horticultural land class of real property not subject to special valuation as required by Neb. Rev. Stat. §77-5023 (Cum. Supp. 2004). An adjustment by a percentage to the level of value of a subclass of the agricultural land and horticultural land class of real property not subject to special valuation might improve a measure of the quality of assessment practices but an adjustment for that purpose is not warranted.

**Market Area 1 subclass of the agricultural land and horticultural land class of real property not subject to special valuation**

34. The level of value indicated by the median for the Market Area 1 subclass of the agricultural land and horticultural land class of real property not subject to special valuation is 71.00% of actual or fair market value, the COD is 26.22, and the PRD is 103.73 as shown by the Reports and Opinions of the Property Tax Administrator. (E21:44).
35. The statistical studies of the level of value and the quality of assessments are reliable and representative of the level of value and the quality of assessments for the Market Area 1 subclass of the agricultural land and horticultural land class of real property not subject to special valuation.
36. The level of assessment for the Market Area 1 subclass of the agricultural land and horticultural land class of real property not subject to special valuation is not within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
37. The quality of the assessment practices for the Market Area 1 subclass of the agricultural land and horticultural land class of real property not subject to special valuation is not appropriate, as shown by the COD.

38. The quality of the assessment practices for the Market Area 1 subclass of the agricultural land and horticultural land class of real property not subject to special valuation is not appropriate, as shown by the PRD.
39. The level of assessment of the Market Area 1 subclass of the agricultural land and horticultural land class of real property not subject to special valuation in the County fails to satisfy the requirements of Neb. Rev. Stat. §77-5023(2) (Cum. Supp. 2004).
40. An increase in the amount of 8.45% must be made in order to bring the level of value indicated by the median for the Market Area 1 subclass of the class of agricultural land and horticultural land class of real property not subject to special valuation to the midpoint of the acceptable range as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques as required by Neb. Rev. Stat. §77-5023(3) (Cum. Supp. 2004). (E141)
41. If an increase in the amount of 8.45% is ordered, the level of value indicated by the median for the Market Area 1 subclass of the agricultural land and horticultural land class of real property not subject to special valuation will be 77.00% of actual or fair market value, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques the COD will be 26.22, and the PRD will be 103.73. (E141:3).
42. If the level of value is changed as found to be necessary, the level of value indicated by the median for the agricultural land and horticultural land class of real property not subject to special valuation will be 76.83% of actual or fair market value, determined to a

reasonable degree of certainty relying upon generally accepted mass appraisal techniques the COD will be 23.04, and the PRD will be 102.81. (E141:1).

## VI.

### CONCLUSIONS OF LAW

1. The Commission is required to meet annually to equalize the assessed value, special value or recapture value of all real property as submitted by the county assessors on the abstracts of assessment and equalize the values of real property which is valued by the state. Neb. Rev. Stat. §77-5022 (Cum. Supp. 2004).
2. The Commission is required to raise or lower the valuation of a class or subclass of real property as necessary to achieve equalization. Neb. Rev. Stat. §77-5027 (Supp. 2005).
3. To achieve equalization the Commission is required to increase or decrease the value of a class or subclass of real property in any county or taxing authority or of real property valued by the state so that all classes or subclasses of real property in all counties fall within an acceptable range. Neb Rev. Stat. §77-5023(1) (Cum. Supp. 2004).
4. An acceptable range is the percentage of variation from a standard for valuation as measured by an established indicator of central tendency of assessment.  
Neb. Rev. Stat. §77-5023(2) (Cum. Supp. 2004).
5. The median has been adopted by Commission as the preferred established indicator of central tendency. 442, Neb. Admin. Code, ch 9, §002.02 (01/05).

6. The acceptable ratio range for the median of the “Assessment-Sales Ratio” is from 74% to 80% of actual or fair market value for the class and subclasses of agricultural land and horticultural land not receiving special valuation pursuant to Neb. Rev. Stat. §77-1344; 74% to 80% of special valuation and 74% to 80% of recapture valuation for the class and subclasses of agricultural land and horticultural land receiving special valuation pursuant to Neb. Rev. Stat. §77-1344; and 92% to 100% of actual or fair market value for all other classes and subclasses of real property. Neb. Rev. Stat. §77-5023(2) (Cum. Supp. 2004).
7. Whether or not the median level of assessment falls within the acceptable range may be determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques. Neb. Rev. Stat. § 77-5023(5) (Cum. Supp. 2004).
8. Any increase or decrease of value shall cause the indicator of central tendency of assessment utilized by the commission to be at the midpoint of the acceptable range. Neb. Rev. Stat. §77-5023 (3) (Cum. Supp. 2004)
9. Any decrease or increase to a subclass of property shall also cause the indicator of central tendency utilized by the commission for the class from which the subclass is drawn to be within the applicable acceptable range. Neb. Rev. Stat. §77-5023(4) (Cum. Supp. 2004).
10. An increase or decrease to the value of a class or subclass of real property in Custer County may only be made after a hearing held not less than five days after mailing notice of the hearing to the county clerk, county assessor, and the chairperson of the county board for Custer County unless notice is waived by a legal representative of the County. Neb. Rev. Stat. 77-5026 (Supp. 2005).

11. The Commission has jurisdiction over Custer County and the subject matter of this order.
12. An adjustment to the level of assessment of real property in Custer County is required by law.

**VII.  
ORDER**

**IT IS THEREFORE ORDERED THAT:**

1. No adjustment by a percentage by the Commission shall be made to level of assessment for the residential class of real property in the County excepting an adjustment to a subclass, for tax year 2006.
2. The level of assessment for the Location: Urban, Suburban, Rural, Strata 2 Suburban subclass of the class of residential real property in the County shall be adjusted by an increase in the amount of 7.30% so that the level of value indicated by the median of the subclass will be 96.00%. The ordered adjustment shall be made to all land and improvements however classified or coded within the Location: Urban, Suburban, Rural Strata 2 Suburban subclass of the class of residential real property as shown in the County's 2006 abstract of assessment.
3. No adjustment by a percentage by the Commission shall be made to the level of assessment for the commercial and industrial class of real property in the County, or a subclass thereof, for tax year 2006.
4. No adjustment by a percentage by the Commission shall be made to the level of assessment for the agricultural land and horticultural land class of real property not



subject to special valuation in the County, excepting an adjustment to a subclass, for tax year 2006.

5. The level of assessment for the Market Area 1 subclass of the class of agricultural land and horticultural land real property not subject to special valuation in the County shall be adjusted by an increase in the amount of 8.45% so that the level of value indicated by the median of the subclass will be 77.00%. The ordered adjustment shall be applied only to agricultural land and horticultural land not subject to special valuation, all uses within Market Area 1, excluding improvements as shown in the County's 2006 abstract of assessment.
6. These Findings and Orders shall be served on the Property Tax Administrator of the State of Nebraska via personal delivery, the Custer County Assessor via Certified United States Mail, return receipt requested, the Custer County Clerk, the Chairperson of the Custer County Board and the Custer County Attorney via First Class United States Mail sufficient postage paid, on or before May 15, 2006, as required by Neb. Rev. Stat. §77-5028 (Supp. 2005).
7. On or before June 5, 2006, the Custer County Assessor shall recertify the County Abstract of Assessment to the Property Tax Administrator, which Abstract shall reflect that the specified changes have been made as required by Neb. Rev. Stat. §77-5029 (Reissue 2003).

8. The Property Tax Administrator shall audit the records of the Custer County Assessor to determine whether this Order was implemented, as required by Neb. Rev. Stat. §77-5029 (Reissue 2003).
9. On or before August 1, 2006, the Property Tax Administrator shall certify to the Commission that this Order either was or was not implemented by the Custer County Assessor, as required by Neb. Rev. Stat. §77-5029 (Reissue 2003 as amended by 2006 Neb. Laws LB 808 §45).
10. This order is effective the date it is signed and sealed.

**SIGNED AND SEALED** May 9, 2006.

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*Robert L. Hans*, Commissioner

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*Susan S. Lore*, Commissioner

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*William C. Warnes*, Commissioner

***Seal***

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*Wm. R. Wickersham*, Commissioner