

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

IN THE MATTER OF THE	)	
EQUALIZATION OF ASSESSMENTS	)	COUNTY NUMBER 69
OF REAL PROPERTY WITHIN	)	FINDINGS AND ORDERS
PHELPS COUNTY, NEBRASKA,	)	(No Show Cause Hearing)
FOR TAX YEAR 2006	)	

**SUMMARY OF DECISION**

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 levels of assessment of real property in Phelps County for tax year 2006 satisfy the requirements of Neb. Const. Art. VIII, §1, and Neb. Rev. Stat. §77-5023 (Cum. Supp. 2004).

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

Phelps 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 assessments of real property in Phelps 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 land 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(3) (Cum. Supp. 2004). 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).

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. Neb. Rev. Stat. §77-1327(4) (Supp. 2005).

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, §34 (01/05). No other 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 Phelps County:

**A.**  
**PROCEDURAL**

1. A statistical and narrative report informing the Commission of the level of value and the quality of assessments of real property in Phelps County and certifying the opinion of the Property Tax Administrator regarding the level of value and the quality of assessment of real property in Phelps County, for the tax year 2006 was timely received by the Commission. (E69).
2. The level of assessment for each class or subclass is the level of value indicated by its median assessment to sales ratio, unless it 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.

**B.**  
**RESIDENTIAL CLASS OF REAL PROPERTY  
AND ITS SUBCLASSES**

3. The median indicated level of assessment for the residential class of real property is 94.50% of actual or fair market value, the COD is 19.29, and the PRD is 107.25, as shown by the Reports and Opinions of the Property Tax Administrator. (E69:30).
4. 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.
5. The level of assessment as indicated by the median for the residential class of real property is within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.

6. The level of assessment for each subclass of the class of residential real property as indicated by the median is either within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, the number of sales for a subclass is insufficient to provide a reliable statistical study of the subclass, or an adjustment by a percentage of value is not supported by clear and convincing evidence.
7. The quality of assessment practices for the residential class of real property is not appropriate as shown by the COD.
8. The quality of assessment practices for the residential class of real property is not appropriate as shown by the PRD.
9. The quality of assessment practices for the class of residential real property cannot be improved by a percentage adjustment to the level of value for the class nor can the quality of assessment practices within a subclass be improved by a percentage adjustment to the level of value for the subclass.
10. 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 for the class of residential real property but an adjustment for that purpose is not warranted.
11. No increase or decrease by a percentage of the value of the residential class of real property, or a subclass thereof, is supported by clear and convincing evidence.

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

12. The median indicated level of assessment for the commercial and industrial class of real property is 97.72% of actual or fair market value, the COD is 26.35, and the PRD is 123.17, as shown by the Reports and Opinions of the Property Tax Administrator. (E69:35).
13. 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 class of commercial and industrial real property.
14. The level of assessment for the class of commercial and industrial 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.
15. The level of assessment for each subclass of the class of commercial and industrial class of real property as indicated by the median is either within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, the number of sales for a subclass is insufficient to provide a reliable statistical study of the subclass, or an adjustment by a percentage of value is not supported by clear and convincing evidence.
16. The quality of assessment practices for the class of commercial and industrial real property is not appropriate as shown by the COD.
17. The quality of assessment practices for the class of commercial and industrial real property is not appropriate as shown by the PRD.

18. 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 nor can the quality of assessment practices within a subclass be improved by a percentage adjustment to the level of value for the subclass.
19. 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 for the class but an adjustment for that purpose is not warranted.
20. No increase or decrease by a percentage of the value of the class of commercial and industrial real property, or a subclass thereof, is supported by clear and convincing evidence.

**D.**

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

21. The median indicated level of assessment for the real property class of agricultural land and horticultural land not subject to special valuation is 77.27% of actual or fair market value, the COD is 16.69, and the PRD is 97.20, as shown by the Reports and Opinions of the Property Tax Administrator. (E69:40).
22. The statistical studies of the level of value and the quality of assessments are reliable and are representative of the level of value and the quality of assessments for the real property class of agricultural land and horticultural land not subject to special valuation.
23. The level of assessment as indicated by the median for the real property class of agricultural land and horticultural land 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.

24. The level of assessment for each subclass of the real property class of agricultural land and horticultural land not subject to special valuation is either within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, the number of sales for a subclass is insufficient to provide a reliable statistical study of the subclass, or an adjustment by a percentage of value is not supported by clear and convincing evidence.
25. The quality of assessment practices for the real property class of agricultural land and horticultural land not subject to special valuation is appropriate as shown by the COD.
26. The quality of assessment practices for the real property class of agricultural land and horticultural land not subject to special valuation is not appropriate as shown by the PRD.
27. The quality of assessment practices for the real property class of agricultural land and horticultural land not subject to special valuation cannot be improved by an adjustment by a percentage to the level of value nor can the quality of assessment practices within a subclass be improved by a percentage adjustment to the level of value for the subclass.
28. An adjustment by a percentage to the level of value of a subclass of the real property class of agricultural land and horticultural land not subject to special valuation might improve a measure of the quality of assessment practices for the class but an adjustment for that purpose is not warranted.

29. No increase or decrease by a percentage of value for the real property class of agricultural land and horticultural land not subject to special valuation or a subclass thereof, is supported by clear and convincing evidence.

## **VII. 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(3) (Cum. Supp. 2004).
5. The median has been adopted by the 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(3) (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. The Commission has jurisdiction over Phelps County and the subject matter of this order.
9. No adjustment to the value of a class or subclass of real property in Phelps County is required by law.

## **VIII. ORDER**

### **IT IS THEREFORE ORDERED THAT:**

1. No order proposing an adjustment of the value for a class or subclass of real property in Phelps County for tax year 2006, be entered and that no further proceedings be held to determine whether an adjustment should be made.
2. The Property Tax Administrator for the State of Nebraska, the Phelps County Assessor, the Phelps County Clerk, the Chairperson of the Phelps County Board, and the Phelps County Attorney be notified of this order as required by Neb. Rev. Stat. §77-5028 (Supp. 2005).

**SIGNED AND SEALED** May 10, 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