

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

IN THE MATTER OF THE)
EQUALIZATION OF VALUE)
OF REAL PROPERTY WITHIN)
CASS COUNTY, NEBRASKA,)
FOR TAX YEAR 2007)

**COUNTY NUMBER 13
FINDINGS AND ORDERS
ADJUSTING VALUES**

APPEARANCES FOR THE COUNTY:

Allen Sutcliffe
Cass County Assessor
145 N 4th Street
Plattsmouth, NE 68048

SUMMARY

The Tax Equalization and Review Commission, as part of its equalization proceedings held pursuant to Neb. Const. Art. IV, §28; Neb. Rev. Stat. §77-5022 *et. seq.*, (Reissue 2003, Cum. Supp. 2006); 2007 Neb. Laws, LB 167, finds that the level of value of certain real property in Cass County for tax year 2007, fails to satisfy the requirements of Neb. Const. Art. VIII, §1, and Neb. Rev. Stat. §77-5023 (2)(Cum. Supp. 2006). The Commission therefore orders an adjustment to the value of certain real property within Cass County.

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

Cass County (“County”), as required by Neb. Rev. Stat. §77-1514 (Cum. Supp. 2006), timely filed its Abstract of Assessment for 2007. 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 the County for tax year 2007.

Neb. Rev. Stat. §77-5027 (Cum. Supp. 2006).

II. REVIEW OF ASSESSMENT PRACTICES

The level of value for any class or subclass of real property is indicated by its median assessment-sales ratio unless that ratio is deemed unreliable, the sample from which the ratio is drawn is not representative of the class or subclass, or the level of value has been determined based on other generally accepted mass appraisal techniques

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”).

III. APPLICABLE 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. 2006).
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 (Cum. Supp. 2006).
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 applicable acceptable range. Neb Rev. Stat. §77-5023(1) (Cum. Supp. 2006).

4. An applicable 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. 2006).
5. The median has been adopted by Commission as the preferred established indicator of central tendency. 442, Neb. Admin. Code, ch 9, §002.07 (01/07).
6. The applicable acceptable ratio range for the median of the “Assessment-Sales Ratio” is from 69% to 75% 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; 69% to 75% of special valuation and 69% to 75% 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. 2006).
7. The level of value for the special value of the agricultural land and horticultural land class of real property subject to special valuation and its subclasses may be determined through an income based methodology developed by the Property Tax Administrator pursuant to Neb. Rev. Stat. 77-1327 (4) (Cum. Supp. 2006).
8. Whether or not the level of value determined by the Commission falls within the applicable 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. 2006); 2007 Neb. Laws, LB 167, §9.

9. If the commission makes an initial determination that the level of value of a class or subclass of real property within a county fails to satisfy the requirements of section 77-5023, the commission is required to issue a notice to the county for a hearing, on five days notice, at which legal representatives of the county and interested persons may show why an adjustment should not be made. Neb. Rev. Stat. §77-5026 (Cum. Supp. 2006); 2007 Neb. Laws, LB 167, §10.
10. Any increase or decrease of value shall cause the level of value determined by the commission to be at the midpoint of the applicable acceptable range. Neb. Rev. Stat. §77-5023 (3) (Cum. Supp. 2006); 2007 Neb. Laws, LB 167, §9.
11. Any decrease or increase to a subclass of property shall also cause the level of value determined 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. 2006); 2007 Neb. Laws, LB 167, §9.
12. An increase or decrease to the value of a class or subclass of real property in Cass 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 Cass County unless notice is waived by a legal representative of the County. Neb. Rev. Stat. 77-5026 (Cum. Supp. 2006); 2007 Neb. Laws, LB 167, §10.

13. 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, §005.04B (01/07).
14. The appropriate PRD range for all classes and subclasses of real property is between .98 and 1.03. 442 Neb. Admin. Code, ch 9, §005.04C (01/07).

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) (Cum. Supp. 2006). The Commission pursuant to statute has identified various published treatises, periodicals and reference works for its consideration and utilization. 442 Neb. Admin. Code, ch 5, §29 (01/07). The Commission heard testimony and received exhibits. No information or evidence, except that permitted by law, may be considered.

Neb. Rev. Stat. §77-5016(3) (Cum. Supp. 2006). The Commission may evaluate the evidence presented utilizing its experience, technical competence, and specialized knowledge.

Neb. Rev. Stat. §77-5016(5) (Cum. Supp. 2006).

**V.
FINDINGS OF FACT**

The Commission finds and determines the following concerning classes and subclasses of real property in Cass 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 Cass County and certifying the opinion of the Property Tax Administrator regarding the level of value and the quality of assessment of real property in Cass County, for the tax year 2007 was timely received by the Commission. (E13).
2. The level of value for any class or subclass of real property is indicated by its median assessment-sales ratio unless that ratio is deemed unreliable, the sample from which it is drawn is not representative of the class or subclass, or the level of value has been determined by the Property Tax Administrator based on other generally accepted mass appraisal techniques.
3. The level of value for special value of the agricultural land and horticultural land class of real property subject to special valuation and its subclasses was determined through an income based methodology developed by the Property Tax Administrator pursuant to Neb. Rev. Stat. 77-1327 (4) (Cum. Supp. 2006).
4. The Commission's Order to Show Cause and Notice of Hearing dated April 17, 2007 proposing an adjustment to the level of value of real property in Cass County was mailed

to the County Clerk, County Assessor, and Chairperson of the County Board for Cass County on April 17, 2007.

5. A hearing on the Commission's order proposing an adjustment was held on April 23, 2007.
6. At the hearing, the evidence presented suggested that a greater adjustment than that for which the Commission provided notice to the County Clerk, County Assessor, and Chairperson of the County Board for Cass County on April 17, 2007.
7. The Commission reconsidered its original order issued on April 17, 2007.
8. After reconsideration the Commission adopted a motion for issuance of a new order to show cause with a greater adjustment than previously ordered (A decrease in the amount of 7.70% to the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the class of commercial and industrial real property).
9. The Cass County Assessor appeared at the hearing and waived the notice of the hearing requirement for the new proposed change. See, Neb. Rev. Stat. §77-5026 (2006 Cum. Supp., 2007 Neb. Laws, LB 167, §10).
10. A hearing on the Commission's order adopted April 23, 2007, proposing an adjustment, as stated in paragraph 8 above, was held on April 23, 2007, pursuant to waiver of notice of the hearing by the Cass County Assessor.

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

THE CLASS

11. The level of value indicated by the median for the residential class of real property is 99% of actual or fair market value, the COD is 12.55, and the PRD is 103.87, as shown by the Reports and Opinions of the Property Tax Administrator. (E13:30).
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 residential class of real property.
13. The level of value for the residential class of real property as indicated by the median is within the applicable 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 assessment practices for the residential class of real property is appropriate as shown by the COD.
15. The quality of assessment practices for the residential class of real property is not appropriate as shown by the PRD.
16. 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. 2006); 2007 Neb. Laws, LB 167, §9. 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.

17. The level of value for each subclass of the class of residential real property is either within the applicable 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.
18. No increase or decrease by a percentage of the value for the residential class of real property, or a subclass thereof, is necessary.

COMMERCIAL AND INDUSTRIAL CLASS OF REAL PROPERTY AND ITS SUBCLASSES

THE CLASS

19. The level of value indicated by the median for the commercial and industrial class of real property is 100% of actual or fair market value, the COD is 17.73, and the PRD is 110.89, as shown by the Reports and Opinions of the Property Tax Administrator. (E13:34).
20. 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.
21. The level of value for the commercial and industrial class of real property as indicated by the median is within the applicable acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
22. The quality of assessment practices for the commercial and industrial class of real property is appropriate as shown by the COD.

23. The quality of assessment practices for the commercial and industrial class of real property is not appropriate as shown by the PRD.
24. 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. 2006); 2007 Neb. Laws, LB 167, §9. 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.

Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the commercial and industrial class of real property

25. The level of value indicated by the median for the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the commercial and industrial class of real property is 102% of actual or fair market value, the COD is 17.08, and the PRD is 111.14 as shown by the Reports and Opinions of the Property Tax Administrator. (E163:2).
26. 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 Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the commercial and industrial class of real property.
27. The level of value for the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the commercial and industrial class of

real property is not within the applicable acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.

28. The quality of the assessment practices for the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the commercial and industrial class of real property is appropriate, as shown by the COD.
29. The quality of the assessment practices for the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the commercial and industrial class of real property is not appropriate, as shown by the PRD.
30. The level of value of the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the commercial and industrial class of real property in the County fails to satisfy the requirements of Neb. Rev. Stat. §77-5023(2) (Cum. Supp. 2006).
31. A decrease in the amount of 7.70% must be made in order to bring the level of value indicated by the median for the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the class of commercial and industrial real property to the midpoint of the applicable 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. 2006). (E164)
32. If a decrease in the amount of 7.70% is ordered, the level of value indicated by the median for the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the commercial and industrial class of real

property, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, will be 96% of actual or fair market value, the COD will be 17.17, and the PRD will be 111.27. (E164:2).

33. If the level of value is changed as found to be necessary, the level of value indicated by the median for the commercial and industrial class of real property, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, will be 95% of actual or fair market value, the COD will be 17.59, and the PRD will be 110.94. (E165).

**RECAPTURE VALUE OF AGRICULTURAL LAND AND HORTICULTURAL LAND
CLASS OF REAL PROPERTY SUBJECT TO SPECIAL VALUATION**

THE CLASS

34. The level of value indicated by the median for recapture value of the agricultural land and horticultural land class of real property subject to special valuation is 73% of recapture value, the COD is 24.05, and the PRD is 100.90, as shown by the Reports and Opinions of the Property Tax Administrator. (E13:121).
35. The statistical studies of the level of value and the quality of assessment of recapture value are reliable and representative of the level of value and the quality of assessment for recapture value of the agricultural land and horticultural land class of real property subject to special valuation.
36. The level of value for recapture value of the agricultural land and horticultural land class of real property subject to special valuation as indicated by the median is within the

applicable 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 assessment practices for recapture value of the agricultural land and horticultural land class of real property subject to special valuation is not appropriate as shown by the COD.
38. The quality of assessment practices for recapture value of the agricultural land and horticultural land class of real property subject to special valuation is appropriate as shown by the PRD.
39. A measure of the quality of assessment practices for recapture value of the class of agricultural land and horticultural land class of real property 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 subject to special valuation as required by Neb. Rev. Stat. §77-5023 (Cum. Supp. 2006); 2007 Neb. Laws, LB 167, §9. An adjustment by a percentage to the level of value of recapture value for a subclass of the agricultural land and horticultural land class of real property subject to special valuation might improve a measure of the quality of assessment practices but an adjustment for that purpose is not warranted.
40. The level of value of recapture for each subclass of the agricultural land and horticultural land class of real property subject to special valuation is either within the applicable 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.

41. No increase or decrease by a percentage of recapture value for the agricultural land and horticultural land class of real property subject to special valuation, or a subclass thereof, is necessary.

**SPECIAL VALUE OF AGRICULTURAL LAND AND HORTICULTURAL LAND
CLASS OF REAL PROPERTY SUBJECT TO SPECIAL VALUATION**

THE CLASS

42. The level of value for special value of the agricultural land and horticultural land class of real property subject to special valuation and its subclasses was determined through an income based methodology developed by the Property Tax Administrator pursuant to Neb. Rev. Stat. 77-1327 (4) (Cum. Supp. 2006).
43. The level of value for special value of the agricultural land and horticultural land class of real property subject to special valuation is 71.00% of special value as shown by the Reports and Opinions of the Property Tax Administrator. (E13:118).
44. The statistical studies of the level of value for special value are reliable and representative of the level of value for special value of the agricultural land and horticultural land class of real property subject to special valuation.
45. The level of value for special value of the agricultural land and horticultural land class of real property subject to special valuation as indicated by the Property Tax Administrator's methodology is within the applicable acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.

46. The level of value of special value for each subclass of the agricultural land and horticultural land class of real property subject to special valuation is either within the applicable 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.
47. No increase or decrease by a percentage of special value for the agricultural land and horticultural land class of real property subject to special valuation, or a subclass thereof, is necessary.

**VI.
CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over Cass County and the subject matter of this order.
2. An adjustment to the level of value of real property in Cass 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 value for the residential class of real property in the County, or a subclass thereof, for tax year 2007.
2. No adjustment by a percentage by the Commission shall be made to the level of value for the commercial and industrial class of real property in the County excepting an adjustment to a subclass, for tax year 2007.

3. The level of value for the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the class of commercial and industrial real property in the County shall be adjusted by a decrease in the amount of 7.70% so that the level of value indicated by the median of the subclass will be 100%. The ordered adjustment shall be made to all land and improvements however classified or coded within the Strata: Improved, Unimproved & IOLL: Strata, 1 Improved and Strata 3 IOLL, Improvements only subclass of the class of commercial and industrial real property as shown in the County's 2007 abstract of assessment.
4. No adjustment by a percentage by the Commission shall be made to the level of value for recapture of the agricultural land and horticultural land class of real property subject to special valuation in the County or a subclass thereof for tax year 2007.
5. No adjustment by a percentage by the Commission shall be made to the level of value for special value of the agricultural land and horticultural land class of real property subject to special valuation in the County or a subclass thereof for tax year 2007.
6. These Findings and Orders shall be served on the Property Tax Administrator of the State of Nebraska via personal delivery, the Cass County Assessor via Certified United States Mail, return receipt requested, the Cass County Clerk, the Chairperson of the Cass County Board and the Cass County Attorney via First Class United States Mail sufficient postage paid, on or before May 15, 2007, as required by Neb. Rev. Stat. §77-5028 (Cum. Supp. 2006).
7. On or before June 5, 2007, the Cass County Assessor shall recertify the County Abstract of Assessment to the Property Tax Administrator, which Abstract shall reflect that the

ordered adjustments have been made as required by Neb. Rev. Stat. §77-5029 (Cu. Supp. 2006).

8. The Property Tax Administrator shall audit the records of the Cass County Assessor to determine whether this Order was implemented, as required by Neb. Rev. Stat. §77-5029 (Cum. Supp. 2006).
9. On or before August 1, 2007, the Property Tax Administrator shall certify to the Commission that this Order either was or was not implemented by Cass County, as required by Neb. Rev. Stat. §77-5029 (Cum. Supp. 2006).
10. This order is effective the date it is signed and sealed.

SIGNED AND SEALED April 26, 2007.

Ruth A. Sorensen, Commissioner

Susan S. Lore, Commissioner

William C. Warnes, Commissioner

Seal

Wm. R. Wickersham, Commissioner