

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

IN THE MATTER OF EQUALIZATION
OF VALUE OF REAL PROPERTY
WITHIN HOWARD COUNTY,
NEBRASKA,
FOR TAX YEAR 2013

COUNTY NUMBER 47
FINDINGS AND ORDERS ADJUSTING
VALUE

APPEARANCES FOR THE COUNTY:

Neal Dethlefs, County Assessor for Howard County

SUMMARY

The following findings of fact, conclusions of law, and order are issued pursuant to a motion adopted by a majority of the Commission. 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.*, (2012 Cum. Supp.) finds that the level of value of certain real property in Howard County for tax year 2013, fails to satisfy the requirements of the Nebraska Constitution and law. The Commission therefore orders an adjustment to the value of certain real property within Howard County.

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

Howard County (“County”), as required by Neb. Rev. Stat. §77-1514 (2012 Cum. Supp.), timely filed its Abstract of Assessment for 2013. 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 Howard County for tax year 2013, as required by Neb. Rev. Stat. §77-5027 (2012 Cum. Supp.).

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 and special 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 (2012 Cum. Supp.).
2. An assessment/sales ratio is a tool used under professionally accepted mass appraisal methods to measure and evaluate the level and uniformity of assessed values. The ratio is determined by dividing the assessed value of a parcel of real property by the sales price of that parcel. The assessment/sales ratio is expressed in terms of a percentage. 442 Neb. Admin. Code, ch. 9, §002.02 (06/11).

3. 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 (2012 Cum. Supp.).
4. 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) (Reissue 2009).
5. 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) (Reissue 2009).
6. The median has been adopted by the Commission as the preferred established indicator of central tendency. 442, Neb. Admin. Code, ch. 9, §004 (06/11).
7. The applicable acceptable ratio range for the median of the assessment/sales ratios 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 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) (Reissue 2009).
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) (Reissue 2009).

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 (Reissue 2009).
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) (Reissue 2009).
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) (Reissue 2009).
12. An increase or decrease to the value of a class or subclass of real property in Howard 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 Howard County unless notice is waived by a legal representative of the County. Neb. Rev. Stat. §77-5026 (Reissue 2009).
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, §005.02 (06/11).
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, §005.03 (06/11).
15. The Property Tax Administrator annually shall make and issue comprehensive assessment ratio studies of the average level of assessment, the degree of assessment

uniformity, and the overall compliance with assessment requirements for each major class of real property subject to the property tax in each county. The comprehensive assessment ratio studies shall be developed in compliance with professionally accepted mass appraisal techniques and shall employ such statistical analysis as deemed appropriate by the Property Tax Administrator, including measures of central tendency and dispersion. The comprehensive assessment ratio studies shall be based upon the sales file as developed in subsection (2) of this section and shall be used by the Property Tax Administrator for the analysis of the level of value and quality of assessment for purposes of section 77-5027 and by the Property Tax Administrator in establishing the adjusted valuations required by section 79-1016. Such studies may also be used by assessing officials in establishing assessed valuations. Neb. Rev. Stat. §77-1327(3) (2012 Cum. Supp.).

16. On or before nineteen days following the final filing due date for the abstract of assessment for real property pursuant to section 77-1514, the Property Tax Administrator shall prepare and deliver to the commission, and to each county assessor his or her annual reports and opinions. Neb. Rev. Stat. §77-5027(2) (2012 Cum. Supp.).

17. The annual reports and opinions of the Property Tax Administrator shall contain statistical and narrative reports informing the commission of the level of value and the quality of assessment of the classes and subclasses of real property within the county and a certification of the opinion of the Property Tax Administrator regarding the level of value and quality of assessment of the classes and subclasses of real property in the county. Neb. Rev. Stat. §77-5027(3) (2012 Cum. Supp.).

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) (2012 Cum. Supp.). 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, §32 (06/11). 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) (2012 Cum. Supp.). The Commission may evaluate the evidence presented utilizing its experience, technical competence, and specialized knowledge.

Neb. Rev. Stat. §77-5016(5) (2012 Cum. Supp.).

V.
FINDINGS OF FACT

The Commission finds and determines the following concerning classes and subclasses of real property in Howard 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 Howard County and certifying the opinion of the Property Tax Administrator regarding the level of value and the quality of assessment of real property in Howard County for the tax year 2013 was timely received by the Commission. (E47).
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 Commission's Order to Show Cause and Notice of Hearing dated April 24, 2013 proposing an adjustment to the level of value of real property in Howard County was mailed to the County Clerk, County Assessor, and Chairperson of the County Board for Howard County on April 24, 2013.
4. A hearing on the Commission's order proposing an adjustment was held on April 30, 2013.

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

1. 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 8.62, and the PRD is 104.1, as shown by the Reports and Opinions of the Property Tax Administrator. (E47:12).
2. 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.
3. 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.
4. The quality of assessment practices for the residential class of real property is appropriate as shown by the COD.
5. The quality of assessment practices for the residential class of real property is not appropriate as shown by the PRD.
6. No increase or decrease by a percentage of the value of the commercial class of real property or a subclass thereof is supported by clear and convincing evidence.

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

1. The statistical studies for the commercial class of real property are based on 13 sales of commercial real property in a three year period. (E47:25). Those sales are insufficient to provide reliable statistical studies.
2. The Property Tax Administrator did not state an opinion regarding the level of value or the quality of assessments for the class or subclasses of commercial real property because the information available was an insufficient basis for opinion.
3. No basis for the formation of an opinion concerning the level of value or the quality of assessments for the class or a subclass of commercial real property has been presented to the Commission.
4. No increase or decrease by a percentage of the value of the commercial class of real property or a subclass thereof is supported by clear and convincing evidence.

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

1. The level of value indicated by the median for the agricultural land and horticultural land class of real property not receiving special valuation is 72% of actual or fair market value, the COD is 21.3, and the PRD is 114.2, as shown by the Reports and Opinions of the Property Tax Administrator. (E47:37).
2. 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 receiving special valuation.

3. The level of value for the agricultural land and horticultural land class of real property not receiving 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.
4. The quality of assessment practices for the agricultural land and horticultural land class of real property not receiving special valuation is not appropriate as shown by the COD.
5. The quality of assessment practices for the agricultural land and horticultural land class of real property not receiving special valuation is not appropriate as shown by the PRD.
6. A measure of the quality of assessment practices for the class of agricultural land and horticultural land class of real property not receiving 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 receiving special valuation as required by Neb. Rev. Stat. §77-5023 (Reissue 2009). 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 receiving special valuation might improve a measure of the quality of assessment practices but an adjustment for that purpose is not warranted.

Majority Land Use Dry, subclass of the agricultural land and horticultural land class of real property not receiving special valuation

1. The level of value indicated by the median for the 80% Majority Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation is 50.16% of actual or fair market value, the COD is 40.97, and the PRD is 122.71 as shown by the Reports and Opinions of the Property Tax Administrator. (E113:1).

2. 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 Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation.
3. The level of value for the 80% Majority Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation 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.
4. The quality of the assessment practices for the 80% Majority Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation is not appropriate, as shown by the COD.
5. The quality of the assessment practices for the 80% Majority Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation is not appropriate, as shown by the PRD.
6. The level of value of the 80% Majority Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation in the County fails to satisfy the requirements of Neb. Rev. Stat. §77-5023(2) (Reissue 2009).
7. An increase in the amount of 43% must be made in order to bring the level of value indicated by the median for the 80% Majority Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation 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 (Reissue 2009). (E112:1).

8. If an increase in the amount of 43% is ordered the level of value indicated by the median for the 80% Majority Land Use Dry, subclass of the agricultural land and horticultural land class of real property not receiving special valuation, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, will be 72% of actual or fair market value, the COD will be 40.96, and the PRD will be 122.71. (E112:1).
9. If an increase in the amount of 43% is ordered to the median for the Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation, the level of value indicated by the median for the the agricultural land and horticultural land class of real property not receiving special valuation, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, will be 72% of actual or fair market value, the COD will be 20.88, and the PRD will be 115.47. (E114:1).

IV. VOTE

The Findings and Order of the Commission were approved by a majority vote of the Commission after a motion and discussion at the hearing, with the following Commissioners voting to approve the order: Salmon and Hotz, and the following Commissioner voting not to approve the order: Freimuth.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over Howard County and the subject matter of this order.
2. An adjustment to the level of value of real property in Howard County is required by law.

VII.
ORDER

1. **IT IS THEREFORE ORDERED THAT:**
2. 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 2013.
3. No adjustment by a percentage by the Commission shall be made to level of value for the commercial class of real property or a subclass thereof in the County for tax year 2013.
4. The level of value for the Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation in the County shall be adjusted by an increase in the amount of 43% so that the level of value indicated by the median of the subclass will be 72%. The ordered adjustment shall be applied only to the Land Use Dry subclass of the agricultural land and horticultural land class of real property not receiving special valuation in the County, excluding improvements as shown in the County's 2013 abstract of assessment.
5. These Findings and Orders shall be served on the Property Tax Administrator of the State of Nebraska via personal delivery, the Howard County Assessor via Certified United States Mail, return receipt requested, the Howard County Clerk, the Chairperson of the Howard County Board and the Howard County Attorney via First Class United States Mail sufficient postage paid, on or before May 15, 2013, as required by Neb. Rev. Stat. §77-5028 (Reissue 2009).
6. On or before June 5, 2013, the Howard 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 (Reissue 2009).

7. The Property Tax Administrator shall audit the records of the Howard County Assessor to determine whether this Order was implemented, as required by Neb. Rev. Stat. §77-5029 (Reissue 2009).
8. On or before August 1, 2013, the Property Tax Administrator shall certify to the Commission that this Order either was or was not implemented by Howard County, as required by Neb. Rev. Stat. §77-5029 (Reissue 2009).
9. This order is effective the date it is signed and sealed.

SIGNED AND SEALED May 3, 2013

Nancy J. Salmon, Commissioner

Thomas D. Freimuth, Commissioner

Robert W. Hotz, Commissioner