

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

IN THE MATTER OF EQUALIZATION
OF VALUE OF REAL PROPERTY
WITHIN PHELPS COUNTY,
NEBRASKA,
FOR TAX YEAR 2017

COUNTY NUMBER 69

FINDINGS AND ORDERS
(No Show Cause Hearing)

SUMMARY

The Tax Equalization and Review Commission finds that the levels of value for real property in Phelps County for tax year 2017 meet the requirements of law¹. The following findings of fact, conclusions of law, and this order are issued pursuant to a motion adopted by the Commission on the record.

**I.
APPLICABLE LAW**

1. The Commission has the power to review and equalize assessments of property for taxation within the state.²
2. The Commission is required to meet annually to equalize the assessed values and special values of all real property based on the abstracts submitted by the county assessors.³ The Commission must also equalize the values of real property valued by the State.⁴
3. 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 its sales price.

The assessment/sales ratio is expressed as a percentage.⁵

¹ Neb. Rev. Stat. §77-5023 (2016 Cum. Supp.).

² Neb. Const. Art. IV, §28.

³ Neb. Rev. Stat. §77-5022 (2016 Cum. Supp.).

⁴ Neb. Rev. Stat. §77-5022 (2016 Cum. Supp.).

⁵ 442 Neb. Admin. Code, ch. 9, §002.02 (06/11).

4. The Commission is required to raise or lower the valuation of a class or subclass of real property when it is necessary to achieve equalization.⁶
5. To achieve equalization, the Commission is authorized 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.⁷
6. Nebraska law defines an acceptable range as "... the percentage of variation from a standard for valuation as measured by an established indicator or central tendency of assessment."⁸
7. The median has been adopted by the Commission as the preferred established indicator of central tendency.⁹
8. The acceptable ratio range for the median of the assessment/sales ratio for each class of property is as follows: 69% to 75% for the class and subclasses of agricultural land and horticultural land not receiving special valuation, 69% to 75% for the class and subclasses of agricultural land and horticultural land receiving special valuation, and 92% to 100% of actual value or fair market value for all other classes and subclasses of real property.¹⁰ Special valuation is defined in Neb. Rev. Stat. §77-1344.
9. Any increase or decrease shall cause the level of value determined by the Commission to be at the midpoint of the acceptable range.¹¹

⁶ Neb. Rev. Stat. §77-5027 (2016 Cum. Supp.).

⁷ Neb. Rev. Stat. §77-5023(1) (Reissue 2009).

⁸ Neb. Rev. Stat. §77-5023(2) (Reissue 2009).

⁹ 442 Neb. Admin. Code, ch. 9, §004 (06/11).

¹⁰ Neb. Rev. Stat. §77-5023(2) (Reissue 2009).

¹¹ Neb. Rev. Stat. §77-5023(3) (Reissue 2009).

10. Any increase or decrease 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.¹²
11. Whether the level of value determined by the Commission falls within the acceptable range may be determined to a reasonable degree of certainty using generally accepted mass appraisal techniques.¹³
12. The Property Tax Administrator shall make annual comprehensive assessment ratio studies of the average level and degree of uniformity of the assessments as well as compliance with assessment requirements for each major class of real property subject to the property tax in each county. Such 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. These studies 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, by the Property Tax Administrator in establishing the adjusted valuations required by section 79-101 and also by assessing officials in establishing assessed valuations.¹⁴
13. The Property Tax Administrator shall deliver to the Commission and to each county assessor annual reports and opinions on or before nineteen days following the final filing due date for the abstract of assessment for real property pursuant to section 77-1514. For a county with a population of at least one hundred fifty thousand inhabitants according to

¹² Neb. Rev. Stat. §77-5023(4) (Reissue 2009).

¹³ Neb. Rev. Stat. § 77-5023(5) (Reissue 2009).

¹⁴ Neb. Rev. Stat. §77-1327(3) (2016 Cum. Supp.).

the most recent Federal Decennial Census, reports and opinions shall be delivered on or before fifteen days following such final filing due date.¹⁵

14. The annual reports and opinions of the Property Tax Administrator shall contain statistical and narrative reports informing the Commission of the level and quality of assessment of the classes and subclasses of real property within the county. 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 shall also be included.¹⁶

15. In addition to an opinion of the level of value and quality of assessments, the Property Tax Administrator may make nonbinding recommendations for consideration by the Commission.¹⁷

II. EVIDENCE BEFORE THE COMMISSION

The Commission may consider 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 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 treatises, periodicals, and reference works pertaining to valuation and assessment of real or personal property or the meaning of words and phrases if the document is identified in the

¹⁵ Neb. Rev. Stat. §77-5027(2) (2016 Cum. Supp.).

¹⁶ Neb. Rev. Stat. §77-5027(3) (2016 Cum. Supp.).

¹⁷ Neb. Rev. Stat. §77-5027(4) (2016 Cum. Supp.).

Commission's rules and regulations.¹⁸ The Commission, pursuant to statute, has identified various treatises, periodicals, and reference works for its consideration.¹⁹ The Commission heard testimony and received exhibits regarding the assessments of real property within the State. No other factual information or evidence, except that listed above or permitted by law, may be considered.²⁰ The Commission may evaluate the evidence utilizing its experience, technical competence, and specialized knowledge.²¹

III. FINDINGS OF FACT

The Commission determines the following concerning the 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 was timely received by the Commission. The report certifies the opinion of the Property Tax Administrator regarding the level of value and quality of assessment of real property in Phelps County for the tax year 2017.²²
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 is not representative of the class or subclass, or the level of value has been determined using other generally accepted mass appraisal techniques.

¹⁸ Neb. Rev. Stat. §77-5016(3) (2016 Cum. Supp.).

¹⁹ See 442 Neb. Admin. Code, ch. 5, §31 (06/11).

²⁰ See Neb. Rev. Stat. §77-5016(4) (2016 Cum. Supp.).

²¹ Neb. Rev. Stat. §77-5016(6) (2016 Cum. Supp.).

²² (E69).

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

1. The level of value for the residential class of real property is 95% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator.

(E69:17).
2. The level of value for the residential class of real property 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.
3. The level of value for each subclass of the residential class of real property is either within the applicable acceptable range, 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.
4. 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 CLASS OF REAL PROPERTY
AND ITS SUBCLASSES**

1. The level of value for the commercial class of real property is 94% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator.

(E69:17).
2. The level of value for the commercial class of real property 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.

3. The level of value for each subclass of the commercial class of real property is either within the applicable acceptable range, 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.
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.

D.
THE AGRICULTURAL LAND AND HORTICULTURAL LAND
CLASS OF REAL PROPERTY
NOT RECEIVING SPECIAL VALUATION AND ITS SUBCLASSES

1. The level of value for the real property class of agricultural land and horticultural land not receiving special valuation is 69% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator. (E69:17).
2. The level of value for the real property class of agricultural land and horticultural land not receiving special valuation 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.
3. The level of value for each subclass of the real property class of agricultural land and horticultural land not receiving special valuation is either within the applicable acceptable range, 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.

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

**IV.
CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over Phelps County and the subject matter of this order.
2. No adjustment to the value of any class or subclass of real property in Phelps County is required by law.

**V.
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 2017 be entered and that no further proceedings be held to determine whether an adjustment should be made.
2. The Tax Commissioner and the Property Tax Administrator for the State of Nebraska, the Phelps County Assessor, the Phelps County Clerk, and the Chairperson of the Phelps County Board of Equalization, shall be sent a copy of this order as required by Neb. Rev. Stat. §77-5028 (Reissue 2009).

3. This order is effective the date it is signed and sealed.

SIGNED AND SEALED May 3, 2017

Nancy J. Salmon, Commissioner

Robert W. Hotz, Commissioner

Steven A. Keetle, Commissioner