

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

IN THE MATTER OF EQUALIZATION
OF VALUE OF REAL PROPERTY
WITHIN CUSTER COUNTY,
NEBRASKA,
FOR TAX YEAR 2019

COUNTY NUMBER 21

FINDINGS AND ORDER
(No Show Cause Hearing)

SUMMARY

The Tax Equalization and Review Commission finds that the levels of value for real property in Custer County for tax year 2019 meet the requirements of law.¹ 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 (Reissue 2018).

² Neb. Const. Art. IV, §28.

³ Neb. Rev. Stat. §77-5022 (Reissue 2018).

⁴ Neb. Rev. Stat. §77-5022 (Reissue 2018).

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 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% for all other classes and subclasses of real property.¹⁰
9. The level of value for the agricultural land and horticultural land class of real property receiving special valuation and its subclasses may be determined through a comprehensive study developed in compliance with professionally accepted mass appraisal techniques by the Property Tax Administrator.¹¹

⁶ Neb. Rev. Stat. §77-5027 (Reissue 2018).

⁷ Neb. Rev. Stat. §77-5023(1) (Reissue 2018).

⁸ Neb. Rev. Stat. §77-5023(2) (Reissue 2018).

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

¹⁰ Neb. Rev. Stat. §77-5023(2) (Reissue 2018).

¹¹ Neb. Rev. Stat. §77-1327(4) (Reissue 2018).

10. 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.¹²
11. Nebraska law requires the Property Tax Administrator to 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.¹³
12. 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.¹⁴
13. The Property Tax Administrator may also make nonbinding recommendations for consideration by the Commission.¹⁵

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

¹² Neb. Rev. Stat. § 77-5023(5) (Reissue 2018).

¹³ Neb. Rev. Stat. § 77-1327(3) (Reissue 2018).

¹⁴ Neb. Rev. Stat. § 77-5027(3) (Reissue 2018).

¹⁵ Neb. Rev. Stat. § 77-5027(4) (Reissue 2018).

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 Commission's rules and regulations.¹⁶ The Commission, pursuant to statute, has identified various treatises, periodicals, and reference works for its consideration.¹⁷ 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.¹⁸ The Commission may evaluate the evidence utilizing its experience, technical competence, and specialized knowledge.¹⁹

III. FINDINGS OF FACT

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

A. PROCEDURAL BACKGROUND

1. A statistical and narrative report informing the Commission of the level of value and the quality of assessments of real property in 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 2019 was timely received by the Commission. (E21).
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

¹⁶ Neb. Rev. Stat. §77-5016(3) (Reissue 2018).

¹⁷ See 442 Neb. Admin. Code, Ch. 5, §31 (06/11).

¹⁸ See Neb. Rev. Stat. §77-5016(4) (Reissue 2018).

¹⁹ Neb. Rev. Stat. §77-5016(6) (Reissue 2018).

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.

B. RESIDENTIAL CLASS OF REAL PROPERTY

1. The level of value for the residential class of real property is 96% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator. (E21:17).
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

1. The level of value of commercial property in Custer County cannot be determined because the information available is an insufficient basis for opinion. (E21:17).
2. The Property Tax Administrator stated the opinion that, based on the analysis of all available information, the level of value of the commercial class of real property in Custer County cannot be determined. (E21:13). The primary reason for this was an

inadvertent but widely consequential error in the use of the Computer Assisted Mass Appraisal (CAMA) system, complicated by a change in the elected position of county assessor from 2018 to 2019. (E21:12). As a result of this error, there is no reliable evidence with which to analyze the uniformity of valuations in the commercial class. (E21:13).

3. No basis for the formation of an opinion concerning the level of value for the class or subclasses or 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.

D.

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

1. The level of value for the real property class of agricultural land and horticultural land not receiving special valuation is 73% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator. (E21:17).
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 Custer County and the subject matter of this order.
2. No adjustment to the value of any class or subclass of real property in Custer County is required by law.

V. ORDER

1. No order proposing an adjustment of the value for a class or subclass of real property in Custer County for tax year 2019 shall be entered and no further proceedings shall 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 Custer County Assessor, the Custer County Clerk, and the Chairperson of the Custer County Board of Equalization, shall be sent a copy of this order as required by Neb. Rev. Stat. §77-5028 (Reissue 2018).
3. This order is effective the date it is signed and sealed.

SIGNED AND SEALED: May 7, 2019

Steven A. Keetle, Commissioner

Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner