



**Valuation  
Appeals  
To The Tax  
Equalization  
And Review  
Commission**



*Revised June 2009*

# VALUATION APPEALS TO THE TAX EQUALIZATION AND REVIEW COMMISSION

The information in this pamphlet is applicable to valuation appeals. Valuation appeals may involve actual, special, or taxable value of a parcel as well as equalization of taxable value.

## VALUATION TERMINOLOGY, STANDARDS AND CONCEPTS

- Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and a willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property, the analysis shall include a consideration of the full description of the physical characteristics of the real property and an identification of the property rights being valued.
- Taxable value is often referred to as assessed value. As the term implies it is the value subject to tax.
- Taxable value of all real property except agricultural land and horticultural land is 100% of its actual value.
- Taxable value of agricultural land and horticultural land is 75% of its actual value (market

value) if special valuation (greenbelt) is not used to determine taxable value.

- Agricultural land and horticultural land is defined in section 77-1359 of the Nebraska Statutes. Agricultural land and horticultural land does not include any land directly associated with any building or enclosed structure.
- Special value is the value agricultural land and horticultural land has for agricultural and horticultural purposes or uses without regard to the actual value the land would have for other purposes or uses. Special value does not apply to any land directly associated with any building or enclosed structure.
- Actual value or special value may be determined using the sales comparison approach, the income approach, the cost approach, or any other professionally accepted mass appraisal method. When the sales comparison methodology is used, sales of comparable properties are analyzed to establish actual value or special value. Taxable value of a comparable is not evidence of actual value or special value in any valuation approach.
- A parcel is a contiguous tract of land determined by its boundaries, under the same ownership, and in the same tax district and section. Parcel also means an improvement on leased land. If all or several lots in the same block are owned by the same person and are contained in the same tax district, they may be considered to be one parcel.
- Comparable parcels of real property share similar uses, physical characteristics, location, and improvements, if any. Improvements are

comparable if they share similar quality of construction, physical condition, style, age, size, amenities, and functional utility.

- Equalization of taxable value. Taxable value of a parcel is equalized with the taxable value of a comparable parcel when the ratio of taxable value to actual value of a parcel is equal to that same ratio for a comparable parcel.

The questions and answers that follow apply generally to valuation appeals without consideration of whether the issue in an appeal involves actual value, taxable value, special value, equalization of taxable value, or the valuation approach used.

## **WHO CAN APPEAL?**

- An owner or one of several owners of the property, the legally designated trustee of a trust, or an officer, director, or full time employee of a legal entity owning the property are persons who may appeal a valuation decision. More examples are listed in Chapter 5 of the Commission's Rules and Regulations.
- A taxpayer in a county who believes the County Board of Equalization has lowered the value of a parcel owned by someone else to a taxable value that is less than its lawful taxable value.
- Legal counsel may appeal on behalf of a client.

## **WHAT INFORMATION DO I FILE?**

- (1) An Appeal Form must be filed for each parcel of real property. An Appeal Form may be obtained from the County Clerk, the Commission or printed from the Commission's web site at [www.terc.ne.gov](http://www.terc.ne.gov).

(2) A copy of the decision of the County Board of Equalization or other information that documents the decision of the County Board of Equalization for each parcel being appealed must be provided with the Appeal Form. A copy of a notice or report of the decision of the County Board of Equalization may be obtained from the County Clerk.

- An appeal filed without required documentation will be dismissed.

## **HOW MUCH DOES IT COST?**

- The filing fee for each appeal is \$25.00.
- The filing fee may be paid in cash only if delivered personally at the Commission's Office.
- Checks should be made payable to the Tax Equalization and Review Commission.
- If the filing fee is not paid by the filing deadline, an appeal will be dismissed.

## **HOW AND WHERE DO I FILE?**

- An Appeal Form with required documentation and the filing fee, may be filed by mail. The Commission's mailing address is: **Tax Equalization and Review Commission, PO Box 95108, Lincoln, NE 68509-5108.**
- An Appeal Form with required documentation and the filing fee may also be delivered to the Commission at its office in the State Office Building by 5:00 P.M. each business day. The State Office Building is located at 301 Centennial Mall South, one block north of the Capitol building, in Lincoln between L & M Streets on 14th Street.

- The Commission does not accept faxed appeals.

## WHEN DO I FILE?

- If you received a notice of valuation change from the County Assessor and were required to file a protest on or before June 30, then an appeal from a decision on the protest must be filed on or before August 24, unless the protest hearing deadline has been extended. The protest hearing deadline can only be extended by the County Board of Equalization in Douglas, Lancaster, or Sarpy Counties. If the protest hearing deadline has been extended by the County Board of Equalization, an appeal from a decision on the protest must be filed on or before September 10. Review sections 77-1502 and 77-1510 of Nebraska Statutes and call the County Clerk if you want to know if the protest hearing deadline has been extended by the County Board of Equalization.
- If a County Board of Equalization made an initial determination that property was undervalued or overvalued, and it proposed a value and sent notice of that value, then an appeal of a Board's decision on a protest of that value must be filed on or before October 15, unless the protest hearing deadline has been extended. The protest hearing deadline can only be extended by the County Board of Equalization in Douglas, Lancaster, or Sarpy Counties. If the protest hearing deadline has been extended by the County Board of Equalization, an appeal from a decision on the protest must be filed on or before October 30. Review Section 77-1504 of Nebraska Statutes and call the county clerk if

you want to know if the protest hearing deadline has been extended by the County Board of Equalization.

- Other decisions of a County Board of Equalization concerning taxable value of real property must be appealed within 30 days of the board's decision.
- Decision of a County Board of Equalization concerning the taxable status of property and other decisions may be appealed to the Commission. Appeals of those decisions are governed by specific statutory provisions
- It is your responsibility to determine which filing deadline applies. NEBRASKA STATUTES MAY BE FOUND AT: [www.nebraskalegisature.gov](http://www.nebraskalegisature.gov) or the County Clerk's office, and many public libraries.
- If the filing deadline is on a weekend or holiday, the next business day becomes the filing deadline.
- When a mailed Appeal Form is received after the filing deadline, the envelope must be legibly postmarked by the US Postal Service on or before the filing deadline. Private or Commercial carrier posting dates will not be considered. If the postmark is not legible, the commission may receive other evidence to establish timely mailing.
- Envelopes without sufficient postage are not delivered to the Commission.
- Delivery of an Appeal Form in person or by delivery service must be made at the Commission's Office before 5:00 P.M. the day of the filing deadline.

## WHEN WILL MY APPEAL BE HEARD?

- Most appeals are heard in the calendar year after they are filed.
- Hearings can be continued if all parties agree or if there are special circumstances.
- Contact the Commission at (402) 471-2842 as soon as possible prior to a scheduled hearing if something unexpected happens that will prevent you from attending the hearing.

## WHERE WILL MY APPEAL BE HEARD?

- The Commission holds most of its hearings on the sixth floor of the State Office Building at 301 Centennial Mall South in Lincoln, Nebraska. Parking can be a problem. The Commission can furnish maps showing public parking. A map showing the location of the State Office Building and parking facilities may be found by using the Commission's web site [www.terc.ne.gov](http://www.terc.ne.gov) and clicking on the “useful links” tab. The subtab with maps is labeled maps of downtown Lincoln and parking facilities.
- The Commission does travel to other Nebraska locations. Hearings have been held in Norfolk, Kearney, Ogallala, Scottsbluff, North Platte, Chadron, and other locations.



## HOW DO I FIND OUT WHEN AND WHERE MY APPEAL WILL BE HEARD?

- The Commission will issue an Order for Hearing and Notice of Hearing setting the date, time, and location on which your appeal will be heard. The Order for Hearing and Notice of Hearing will be issued 60 to 90 days prior to the hearing date. You will be mailed a copy of the Order for Hearing and Notice of Hearing.

## WHO WILL HEAR MY APPEAL?

- The Commission consists of four members. At least two members of the Commission hear each appeal. The Commissioners designated to hear your appeal will be named in the order for hearing. A Commissioner may be excused from the hearing after the order for hearing is issued. Information concerning each Commissioner may be found on the Commission's web page.
- In rare instances a lawyer appointed as a special master will preside at a hearing. A special master cannot decide an appeal. He or she may only take evidence and make recommendations to the Commissioners.

## DO I NEED A LAWYER?

- You may have a lawyer but a lawyer is not required.
- An owner or one of several owners of the property, or an officer, director, or full time employee of an entity owning the property are examples of persons who may present evidence and question witnesses. More examples are listed in Chapter 5 of the Commission's Rules and

Regulations in the section describing those who can sign an appeal.

- Persons who are not authorized to practice law in Nebraska will not be allowed to present evidence or question witnesses on behalf of another person at a hearing.
- Frequently the County Board of Equalization has an attorney at the hearing.

## **DO I HAVE TO ATTEND THE HEARING?**

- At least one person who is an owner or one of the owners of the property or an officer, director, trustee, or a full time employee of an entity owning the property described in the appeal are examples of persons who must appear at the hearing unless that requirement is waived. You are not required to be present if you have legal counsel present and the Commission has waived the requirement that you be present. Examples of a person required to be present at a hearing on the merits of an appeal or petition if their presence is not waived are contained in Chapter 4 of the Commission's Rules and Regulations.
- Failure to attend the hearing will result in a decision in favor of the county.

## **HOW CAN I PREPARE FOR A HEARING?**

- Organize evidence to prove actual value, special value, or equalized taxable value as of January 1 of the tax year in dispute. Evidence is anything that tends to prove a fact. Evidence can be in the form of testimony of a witness, documents, photographs, etc.

- Identify the person(s) you want to appear as witnesses. You can be a witness. You can call the County Assessor or a representative of that office as a witness if he or she is at the hearing. You can compel the attendance of a witness with a subpoena. If you want to subpoena a witness, file a request with the Commission. Please review the Commission's Rules and Regulations to learn about the subpoena requirements and procedures.
- If you want to use an appraisal as evidence at your hearing, remember that the valuation date is January 1 of each year and the appraisal has to tell the Commission something about actual value or special value on that date. An appraisal with an effective date of January 1 of the tax year in dispute is desirable. Appraisals with a valuation date other than January 1 of the year in dispute will only be considered to the extent some connection can be shown between the value determined as of the effective date of the appraisal and January 1 of the tax year in dispute. Generally the appraiser must be present to testify concerning his or her appraisal for it to be considered. If the appraiser is not present and there is an objection to use of the appraisal based on the appraiser's absence, the appraisal will not be considered.
- Find or prepare documents that support your position. You may want information about property you believe is comparable. *If you plan to present information about comparable property, it is critical that you present a copy of the County Assessor's property record file for each parcel you believe is comparable. The assessor's records will be used to evaluate comparability. The assessor's records are not proof of actual value for a*

*comparable property. You may be charged a copying fee. Some counties have web pages with property information. Use web page information only to identify parcels of real property you want complete property record files for and then obtain copies of those files from the County Assessor. Information you obtain from a web page is not enough to establish comparability of parcels. Make sure the records you obtain are for January 1 of the tax year in dispute.*

- Each appeal is different and there may be other types of evidence you will want to present.
- The order for hearing will give instructions for delivering copies of documents, photographs etc. (Exhibits) you want the Commission to consider. The order for hearing will also give instructions for disclosure of information concerning expert witnesses such as an appraiser. Delivery of Exhibits and disclosure of expert witnesses will be required within the dates stated in the order for hearing. Failure to follow directions in the order for hearing may result in exclusion of exhibits or expert witness testimony. **Instructions in the order must be followed.**
- All exhibits offered will be given exhibit and page numbers by the Commission. Each exhibit will be identified on an exhibit list prepared by the Commission.
- Do not number photographs or other documents. Appraisals should be numbered by the preparer as provided in the Commission's Rules and Regulations.
- Objections to use of an exhibit can be made at the hearing. The presiding hearing officer will make a ruling on use of exhibits at the hearing.

- Materials the Commission may use as a part of its consideration of your appeal, in addition to evidence presented at the hearing, are listed in Chapter 5 of the Commission's Rules and Regulations.

## **WHAT IS A HEARING LIKE?**

- Hearings are usually informal, but they are structured, and there are procedures and rules to be followed. A brochure titled "What to Expect at Your Valuation Hearing" is mailed to everyone with the Order for Hearing and Notice of Hearing. That brochure is also on the Commission's web site [www.terc.ne.gov](http://www.terc.ne.gov). The brochure will be mailed to you on request and is available in many County Assessors' offices.
- If you would like to attend a hearing, contact the Commission for dates, times, and places of hearings. You may also view the Commission's hearing schedule on its web site at [www.terc.ne.gov](http://www.terc.ne.gov) by clicking on the "Calendar" tab.

## **WHEN WILL I GET A DECISION?**

- A decision may be made the day of the hearing or it may be delayed while the Commission reviews the evidence and reaches a decision. A copy of the decision will be mailed to you.

## **WHAT IF I DISAGREE WITH THE COMMISSION'S DECISION?**

- An appeal from a decision of the Commission must be filed with the Nebraska Court of Appeals, as provided in Section 77-5019 of Nebraska Statutes, within 30 days after the date of the Commission's decision.

## **DO I HAVE TO HAVE A HEARING?**

- Some appeals are settled. If you and the County can agree on a resolution of your appeal, the Commission can enter an order implementing the agreement if it is lawful. Value cannot be changed without a Commission order.
- If the parties agree, an appeal can be submitted to the Commission without a hearing. Please review Chapter 5 of the Commission's Rules and Regulations.

## **THE COUNTY OFFERED TO SETTLE AND I REFUSED, WHAT HAPPENS?**

- An offer of settlement is not evidence of actual value and will not be considered by the Commission for the purpose of determining actual value.
- Failure to obtain relief from the Commission in an amount greater than the County's offer of settlement will result in a requirement that you pay the County's fees and costs incurred after the offer was made. Review Nebraska Statute section 77-1510.01.

## **WHAT HAPPENS TO MY TAXES IF I WIN?**

- In many Appeals a final decision is not made until one-half or sometimes all of the taxes levied on the disputed value have been paid. If taxes have been paid, the County Treasurer will refund the difference between taxes on the disputed value and taxes on any lower value determined on appeal.

## WHAT ABOUT THE YEAR AFTER MY PROTEST AND APPEAL?

- A Commission decision will only be applicable to the year for which the appeal was filed.
- If you want to dispute taxable value of a parcel for the year after you filed an appeal, you must file another protest with the County Board of Equalization before that deadline.

## WHAT IF I NEED TO KNOW MORE?

- The Commission's Rules and Regulations can be mailed to you for \$10.00 or found at
  - (1) [www.terc.ne.gov](http://www.terc.ne.gov) under the "Rules and Regulations" tab; or
  - (2) The Secretary of State's web page [www.sos.state.ne.us](http://www.sos.state.ne.us) under the Rules and Regulations tab.
- Nebraska Statutes may be found at [www.nebraskalegislature.gov](http://www.nebraskalegislature.gov) under the Bills and Laws tab.
- The Commission's telephone number is (402) 471-2842. The Commission does not have a toll free number.
- You may also find useful information on the Property Tax Administrator's web page [www.pat.ne.gov](http://www.pat.ne.gov).

Tax Equalization and Review Commission  
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