

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

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

COUNTY NUMBER 41

FINDINGS AND
ORDER ADJUSTING VALUE

APPEARANCES FOR THE COUNTY:

Patricia Sandberg, Hamilton County Assessor

SUMMARY

The following findings of fact, conclusions of law, and order are issued pursuant to a motion adopted by a majority of the Tax Equalization and Review Commission (the Commission). The Commission, as part of its equalization proceedings held pursuant to Neb. Const. art. IV, §28 and Neb. Rev. Stat. §77-5022 *et. seq.*, finds that the level of value of certain real property in Hamilton County for tax year 2019 fails to satisfy the requirements of law. The Commission therefore orders an adjustment to the value of certain real property within Hamilton County.

I. APPLICABLE LAW

1. The Commission has the power to review and equalize assessments of property for taxation within the state.¹

¹ Neb. Const. Art. IV, §28.

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.² The Commission must also equalize the values of real property valued by the state.³
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.⁴
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.⁵
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.⁶
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.⁷
7. The median has been adopted by the Commission as the preferred established indicator of central tendency.⁸
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

² Neb. Rev. Stat. §77-5022 (Reissue 2018).

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

⁴ 442 Neb. Admin. Code, Ch. 9, §002.02 (06/11).

⁵ Neb. Rev. Stat. §77-5027 (Reissue 2018).

⁶ Neb. Rev. Stat. §77-5023(1) (Reissue 2018).

⁷ Neb. Rev. Stat. §77-5023(2) (Reissue 2018).

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

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.⁹

9. 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.¹⁰
10. 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.¹¹
11. 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.¹²
12. The Property Tax Administrator may also make nonbinding recommendations for consideration by the Commission.¹³

II. EVIDENCE BEFORE THE COMMISSION

⁹ Neb. Rev. Stat. §77-5023(2) (Reissue 2018).

¹⁰ Neb. Rev. Stat. § 77-5023(5) (Reissue 2018).

¹¹ Neb. Rev. Stat. §77-1327(3) (Reissue 2018).

¹² Neb. Rev. Stat. §77-5027(3) (Reissue 2018).

¹³ Neb. Rev. Stat. §77-5027(4) (Reissue 2018).

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 Commission's rules and regulations.¹⁴ The Commission, pursuant to statute, has identified various treatises, periodicals, and reference works for its consideration.¹⁵ 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.¹⁶ The Commission may evaluate the evidence utilizing its experience, technical competence, and specialized knowledge.¹⁷

III. FINDINGS OF FACT

The Commission finds and determines the following concerning classes and subclasses of real property in Hamilton 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 for Hamilton County and certifying the opinion of

¹⁴ Neb. Rev. Stat. §77-5016(3) (Reissue 2018).

¹⁵ See 442 Neb. Admin. Code, Ch. 5, §31 (06/11).

¹⁶ See Neb. Rev. Stat. §77-5016(4) (Reissue 2018).

¹⁷ Neb. Rev. Stat. §77-5016(6) (Reissue 2018).

the Property Tax Administrator regarding the level of value and the quality of assessment for tax year 2019 was timely received by the Commission. (E41).

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 19, 2019, proposing an adjustment to the level of value of real property in Hamilton County, was mailed to the County Clerk, County Assessor, and Chairperson of the County Board for Hamilton County on April 19, 2019.
4. A hearing on the Commission's order proposing an adjustment was held on May 1, 2019.

B. RESIDENTIAL CLASS OF REAL PROPERTY

1. The level of value indicated by the median for the residential class of real property is 92% of actual or fair market value, as shown by the Reports and Opinions of the Property Tax Administrator. (E41:18).
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 level of value for each subclass of the residential class of real property, except for the Valuation Group 8 subclass, 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.

Valuation Group 8 subclass of Residential Property

5. The level of value for the Valuation Group 8 subclass of the residential class of real property in the county is 88.44% of actual or fair market value, as indicated by the median and shown by the Reports and Opinions of the Property Tax Administrator (E41:22).
6. The level of value for Valuation Group 8 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.
7. The level of value of Valuation Group 8 fails to satisfy the requirements of Neb. Rev. Stat. §77-5023(2).
8. An increase in the amount of 8.5% must be made in order to bring the level of value indicated by the median for Valuation Group 8 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. (E127).
9. If an increase in the amount of 8.5% is ordered, the level of value indicated by the median for Valuation Group 8, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques, will be 96% of actual or fair market value. (E127:1).

10. An increase in the amount of 8.5% to Valuation Group 8 will result in a level of value of 93% for the residential class of real property in Hamilton County, determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques. (E138:1).

C. COMMERCIAL CLASS OF REAL PROPERTY

1. The level of value indicated by the median 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. (E41:18).
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 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.
4. 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.
5. 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. 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 73% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator. (E41:18).
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 real property class of agricultural land and horticultural land not receiving special valuation.
3. 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.
4. 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.
5. 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. VOTE

The Findings and Order of the Commission were approved by a unanimous vote of the Commission after a motion and discussion at the hearing.

V. CONCLUSIONS OF LAW

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

VI. 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, excepting the adjustment for the Valuation Group 8 subclass described below, for tax year 2019.
2. The level of value for the Valuation Group 8 subclass of the residential class of real property in the County shall be adjusted by an increase in the amount of 8.5% to the subclass so that the level of value indicated by the median of the subclass will be 96%. The ordered adjustment shall be made to all land and improvements however classified or coded within the Valuation Group 8 subclass of the residential class of real property as shown in the County's 2019 abstract of assessment.
3. No adjustment by a percentage by the Commission shall be made to level of value for the commercial class of real property in the County, or any subclass thereof, for tax year 2019.
4. No adjustment by a percentage by the Commission shall be made to the level of value for the agricultural land and horticultural land class of real property not receiving special valuation in the County, or any subclass thereof, for tax year 2019.

5. These Findings and Orders shall be served on the Property Tax Administrator via personal delivery, the Hamilton County Assessor via Certified United States Mail, return receipt requested, the Hamilton County Clerk, the Chairperson of the Hamilton County Board, and the Hamilton County Attorney, via First Class United States Mail, sufficient postage prepaid, on or before May 15, 2019, as required by Neb. Rev. Stat. §77-5028 (Reissue 2018).
6. On or before June 5, 2019, the Hamilton 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 2018).
7. The Property Tax Administrator shall audit the records of the Hamilton County Assessor to determine whether this Order was implemented, as required by Neb. Rev. Stat. §77-5029 (Reissue 2018).
8. On or before August 1, 2019, the Property Tax Administrator shall certify to the Commission that this Order either was or was not implemented by Hamilton County, as required by Neb. Rev. Stat. §77-5029 (Reissue 2018).
9. 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

