

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

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

COUNTY NUMBER 16

FINDINGS AND ORDERS
(NO ADJUSTMENT AFTER SHOW
CAUSE)

APPEARANCES FOR THE COUNTY:

Betty Daugherty, County Assessor for Cherry County
Eric Scott, County Attorney for Cherry County
Tanya Storer, Board of Equalization for Cherry County

SUMMARY

The Tax Equalization and Review Commission, as part of its equalization proceedings, finds that the levels of value for real property in the Residential and Commercial Classes of property in Cherry County for tax year 2017 satisfy the requirements of Neb. Const. art. VIII, §1, and Neb. Rev. Stat. §77-5023(2) (Reissue 2009). The Commission does not enter an order adjusting the value of real property within Cherry County. The following findings, conclusions, of law and order are issued pursuant to a motion adopted by a majority of the Commission.

**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

² Neb. Rev. Stat. §77-5022 (2016 Cum. Supp.).

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

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

⁵ Neb. Rev. Stat. §77-5027 (2016 Cum. Supp.).

⁶ Neb. Rev. Stat. §77-5023(1) (Reissue 2009).

⁷ Neb. Rev. Stat. §77-5023(2) (Reissue 2009).

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

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.⁹ Special valuation is defined in Neb. Rev. Stat. §77-1344.
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. 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 20.¹¹
11. The appropriate PRD range for all classes and subclasses of real property is between .98 and 1.03.¹²
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

⁹ Neb. Rev. Stat. §77-5023(2) (Reissue 2009).

¹⁰ Neb. Rev. Stat. § 77-5023(5) (Reissue 2009).

¹¹ 442 Neb. Admin. Code, ch. 9, §005.02 (06/11).

¹² 442 Neb. Admin. Code, ch. 9, §005.03 (06/11).

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 79-1016 and also by assessing officials in establishing assessed valuations.¹³

13. 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) (2016 Cum. Supp.).
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.¹⁴

IV. 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

¹³ Neb. Rev. Stat. §77-1327(3) (2016 Cum. Supp.).

¹⁴ Neb. Rev. Stat. §77-5027(3) (2016 Cum. Supp.).

personal property or the meaning of words and phrases if the document is identified in the Commission's rules and regulations.¹⁵ The Commission, pursuant to statute, has identified various treatises, periodicals, and reference works for its consideration.¹⁶ 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.¹⁷ The Commission may evaluate the evidence utilizing its experience, technical competence, and specialized knowledge.¹⁸

V. FINDINGS OF FACT

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

PROCEDURAL

1. A statistical and narrative report informing the Commission of the level of value and the quality of assessments of real property in Cherry 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 Cherry County for the tax year 2017.¹⁹
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

¹⁵ Neb. Rev. Stat. §77-5016(3) (2016 Cum. Supp.).

¹⁶ See 442 Neb. Admin. Code, ch. 5, §31 (06/11).

¹⁷ See Neb. Rev. Stat. §77-5016(4) (2016 Cum. Supp.).

¹⁸ Neb. Rev. Stat. §77-5016(6) (2016 Cum. Supp.).

¹⁹ (E16).

representative of the class or subclass, or the level of value has been determined using other generally accepted mass appraisal techniques.

3. The Commission's Order to Show Cause and Notice of Hearing dated April 24, 2017 proposing an adjustment to the level of value of real property in Cherry County was mailed to the County Clerk, County Assessor, and Chairperson of the County Board for Cherry County on April 27, 2017.
4. A hearing on the Commission's order proposing an adjustment was held on May 3, 2017.

RESIDENTIAL CLASS OF REAL PROPERTY AND ITS SUBCLASSES

THE CLASS

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. (E16:18).
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 acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
4. No increase or decrease by a percentage of the value for the residential class of real property, or a subclass thereof, is necessary.

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

THE CLASS

1. The level of value indicated by the median for the commercial class of real property is 98% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator. (E16:18).
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 commercial class of real property.
3. The level of value for the commercial class of real property as indicated by the median is within the acceptable range set by state law as determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.
4. No increase or decrease by a percentage of the value for the commercial class of real property, or a subclass thereof, is necessary.

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

THE CLASS

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 75% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator. (E16:18).

2. The statistical studies of the level of value and the quality of assessments are not 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. An insufficient basis for the formation of an opinion concerning the level of value or the quality of assessments for the agricultural land and horticultural land class not receiving special valuation or its subclasses of real property has been presented to the Commission.
4. The Commission finds that there is not enough information to support an increase or decrease by a percentage of the value of the class of real property agricultural land and horticultural land or a subclass thereof.
5. No increase or decrease by a percentage of the value for the agricultural land and horticultural land class of real property, or a subclass thereof, is necessary.

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

6. The level of value indicated for the Land Use Grass subclass of the agricultural land and horticultural land class of real property not receiving special valuation is 59.45% of actual or fair market value as shown by the Reports and Opinions of the Property Tax Administrator. (E16:28).
7. The Commission proposed an increase in the amount of 21% to the Land Use Grass subclass of the agricultural land and horticultural land class of real property not receiving special valuation to bring the level of value to the midpoint of the 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). (E134:4-6).

8. The Commission, after a hearing pursuant to Neb. Rev. Stat. §77-5026 (Reissue 2009), determines that no adjustment should be made.

**VI.
CONCLUSIONS OF LAW**

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

**VII.
ORDER**

IT IS THEREFORE ORDERED THAT:

1. No percentage adjustment shall be made by the Commission to the level of value for the residential class of real property in the County or a subclass thereof for tax year 2017.
2. No percentage adjustment shall be made by the Commission to the level of value for the commercial class of real property in the County or a subclass thereof for tax year 2017.
3. No percentage adjustment shall be made by the Commission to the level of value for the agricultural land and horticultural land class of real property in the County or a subclass thereof for tax year 2017.
4. These Findings and Orders shall be served on the Property Tax Administrator of the State of Nebraska via personal delivery, the Cherry County Assessor via Certified First Class United States Mail, the Cherry County Clerk, the Chairperson of the Cherry County Board, and the Cherry County Attorney via First Class United States Mail sufficient postage paid, on or before May 15, 2017, as required by Neb. Rev. Stat. §77-5028 (Reissue 2009).

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

SIGNED AND SEALED May 10, 2017

Nancy J. Salmon, Commissioner

Robert W. Hotz, Commissioner

Steven A. Keetle, Commissioner