

**BEFORE THE NEBRASKA TAX EQUALIZATION  
AND REVIEW COMMISSION**

STEPHEN HAIGHT AND	)	
BOBBIE HAIGHT,	)	
	)	CASE NO. 97R-195
Appellants,	)	
	)	
v.	)	DOCKET ENTRY
	)	
LANCASTER COUNTY BOARD	)	
OF EQUALIZATION,	)	
	)	
Appellee.	)	

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for hearing on the merits in the City of Lincoln, Lancaster County, Nebraska, on the 18<sup>th</sup> day of February, 1998, pursuant to a Notice of Hearing issued the January 15, 1998.

Appellants failed to personally appear. Counsel for Appellant appeared with an expert witness and an employee of Appellants. Appellee appeared through counsel and with an expert witness. During the hearing, the Commission took judicial notice of certain information, and consolidated this case for hearing with another case captioned *Stephen Haight and Bobbie Haight v. Lancaster County Board of Equalization*, case number 97R-196. Thereafter Appellant moved the Commission for an order granting another continuance, or in the alternative, an order allowing the Appellant to proceed in the absence of the property owner, which is contrary to Title 442, Nebraska Administrative Code. Appellee objected, and the Commission requested evidence and argument from both parties.

Neb. Rev. Stat. §77-5018 (1997 Supp.), requires that every final decision and order entered by the Commission which is adverse to a party be stated in writing or on the record and be accompanied by findings of fact and conclusions of law. The Commission entered its Findings of Fact, Conclusions of Law, and a final order on the merits of the appeal in this case on the record, which were in substance as follows:

**FINDINGS OF FACT**

From the record before it, the Commission found and determined as follows:

- I. That Appellants are the owners of record of certain commercial multi-family real property as described in the petition in this case.
- II. That Appellants timely filed a protest of the assessed value of their property for tax year 1997.
- III. That the basis for the protest was the allegation that the property was valued "above full and true value and above comparable properties." Appeal Form, page 1.
- IV. That the County Assessor proposed valuing the property at \$9,841,300 for purposes of taxation.
- V. That the Appellants requested that the property be valued at \$7,250,000 for purposes of taxation.
- VI. That the Appellee granted the protest in part, and reduced the assessed value of the subject property for purposes of taxation to \$8,361,000.

- VII. That Appellants thereafter timely filed an appeal of that decision to the Commission.
- VIII. That the case was originally scheduled for hearing on the 20<sup>th</sup> day of January, 1998, pursuant to a Notice of Hearing issued the 31<sup>st</sup> day of December, 1997.
- IX. That Appellant moved to continue the hearing by written motion dated January 15, 1998.
- X. That the hearing was continued without objection from the Appellee.
- XI. That the hearing was rescheduled by agreement of the parties to the 18<sup>th</sup> day of February, 1998.
- XII. That an Amended Notice of Hearing was issued on the 15<sup>th</sup> day of January, 1998.
- XIII. That Paragraph 9 of the Amended Notice of Hearing required that:

“Any further motions to continue the hearing in the instant case will only be granted upon a written motion, accompanied by an affidavit which demonstrates exceptional cause.”
- XIV. That no such written motion or affidavit was filed.
- XV. That the Appellant, at the hearing, and without notice to the Commission or the Appellee, moved to continue the case.
- XVI. That Appellee, through counsel, objected.
- XVII. That Appellee appeared with its expert witness, and was prepared to proceed with the case.
- XVIII. That the property owners are required to personally appear at the hearing pursuant to Title 442, Nebraska Administrative Code (as amended) and pursuant to the Notice of Hearing.

- XIX. That the property owners, who are residents of South Dakota according to the County's records, were not present for the reason that they are in Mexico for a non-emergency reason.
- XX. That the Appellant failed to disclose the substance of its expert witness' testimony as required by the Amended Notice of Hearing.
- XXI. That the Taxpayers have or will expend approximately \$3,400 in preparation for this action.
- XXII. That the County has expended approximately \$920 in preparation for this action.
- XXIII. That the Appellant, based on the record before the Commission, has failed, neglected and refused to comply with substantive procedural rules and orders of the Commission.
- XXIV. That more than 590 appeals were filed with the Commission for tax year 1997. That for the second time the Commission has allocated one-full day of its calendar for the purposes of hearing these cases.
- XXV. That the Appellee has been prejudiced by the Appellant's actions.
- XXVI. That therefore this case should be dismissed with prejudice.

#### CONCLUSIONS OF LAW

- I. That the Commission has jurisdiction over the parties and the subject matter of this appeal.
- II. That the Commission, as required by Neb. Rev. Stat. §77-5015 (Reissue 1996), has afforded all parties an opportunity for hearing after reasonable notice.

- III. That the Commission, as required by Neb. Rev. Stat. §77-5015 (Reissue 1996), has afforded all parties an opportunity to present evidence and argument.
- IV. That the Appellant has failed, neglected and refused to comply with substantive provisions of Title 442 and the Amended Notice of Hearing, which has resulted in prejudice to the Appellee.
- V. That Appellant has failed to adduce good and sufficient reason for failing, neglecting, and refusing to comply with substantive provisions of Title 442.
- VI. That Appellant has failed to demonstrate exceptional cause justifying another continuance of this case.

**ORDER**

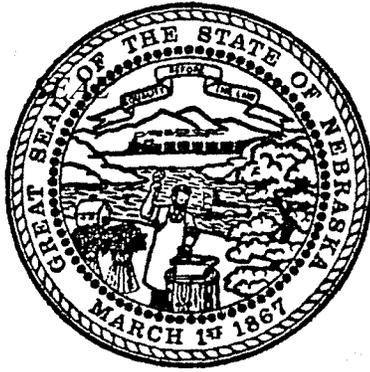
**IT WAS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:**

- I. Appellant's Motion to Continue this case for a second time is denied.
- II. This case is ordered dismissed with prejudice.
- III. Each party is to bear its own costs in this matter.
- IV. That this decision, if no appeal is filed within thirty days, shall be certified to the Lancaster County Treasurer, and to the Lancaster County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).

**The above and foregoing Findings of Fact, Conclusions of Law, and Order were approved by a quorum of the Commission, and entered of record on the 18<sup>th</sup> day of February, 1998, and are therefore deemed to be the Order of Commission in this case, pursuant to Neb.**

Rev. Stat. §77-5005. (Reissue 1996).

Signed and sealed this 20<sup>th</sup> day of February, 1998.



*Mark P. Reynolds, Chairman*