

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

EDWARD L. BABBITT and BARBARA )  
A. BABBITT )

Appellant(s). )

v. )

SARPY COUNTY BOARD )  
OF EQUALIZATION. )

Appellee. )

CASE NO. 97R-417

DOCKET ENTRY  
REVERSING DECISION  
OF APPELLEE

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for hearing on the merits in the City of Papillion, Sarpy County, Nebraska, on the 7th day of April, 1998, pursuant to a Notice of Hearing issued the 27th day of February, 1998.

Appellants appeared personally. Appellee appeared through. During the hearing, the Commission took judicial notice of certain information, and each of the parties was afforded the opportunity to present evidence and argument. Each party was also afforded the opportunity to cross-examine witnesses of the opposing party as required by law.

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, after receiving the exhibits and hearing evidence and argument, entered its Findings of Fact, Conclusions of Law, and a final order on the merits of the appeal in this case, which were in substance as follows:

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### FINDINGS OF FACT

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

- I. That Appellants are the owners of record of certain residential 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 valuation was more than the house was worth..
- IV. That the County Assessor proposed valuing the property at \$42,791 for purposes of taxation.
- V. That the Appellants requested that the property be valued at \$31,200 for purposes of taxation.
- VI. That the Appellee granted the protest in part.
- VII. That Appellants thereafter timely filed an appeal of that decision to the Commission.
- VIII. That the sale price was \$32,500, when they purchased the property in January 1997
- IX. That from taxpayers testimony the house would not qualify for FHA financing thus limiting the number of potential buyers.
- X. That the taxpayer testified that the subject property was rented for \$495 per month; providing an acceptable rate of return.
- XI. "The sale price of property may be taken into consideration in determining the actual

tax purposes and other matters relevant to actual values there of must be considered" (Potts Vs. Board of Equalization of Hamilton County).

- XII. That from the record before the Commission the Appellant has established by a preponderance of the evidence that the decision of the Appellee was unreasonable and arbitrary.
- XIII. That therefore the assessed value of the subject property as determined by the Appellee for tax year 1997 is not supported by the evidence.

### CONCLUSIONS OF LAW

- I. That the Commission has jurisdiction over the parties and the subject matter of this appeal.
- II. That the Commission is required by Neb. Rev. Stat. §77-1511 (Reissue 1996) to affirm the decision of the Appellee unless evidence is adduced establishing that the action of the Appellee was unreasonable or arbitrary.
- III. That as a matter of law the Appellant has established by a preponderance of the evidence that the action of the Appellee was unreasonable and arbitrary.
- IV. That based on the record before the Commission, the Commission must, and hereby does, conclude as a matter of law that the decision of the Sarpy County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$40.243 for tax year 1997 was both unreasonable and arbitrary.
- V. That therefore the decision of the Sarpy County Board of Equalization must be vacated and reversed.

**ORDER**

- I. That the order of the Sarpy County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$40,243 is vacated and reversed.
- II. That Appellants' real property described as in Location I D #: 10596283, in the City of Bellevue, Sarpy County, Nebraska, shall be valued as follows for tax year 1997:
 


Land	\$7.680
Improvements	\$28.596
Total	\$36.276
- III. That this decision, if no appeal is filed, shall be certified within thirty days to the Sarpy County Treasurer, and the Sarpy County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
- IV. That this decision shall only be applicable to tax year 1997.
- V. That each party is to bear its own costs in this matter.

**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 7th day of April, 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 14th day of April, 1998.

DOU SEAL  
OF



  
Mark P. Reynolds, Chairman