NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division ~~and Taxation~~

Chapter 12 - Sales File Regulations

Effective Date ~~1/3/07~~

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Title 350- Nebraska Department of Revenue, Property Assessment Division ~~and Taxation~~
Chapter 12 - Sales File

REG-12-001 PURPOSE

001.01 The purpose of these regulations is to define terms and establish procedures for the sales file. The sales file is a data base of sales of real property, including arm's length transactions, in the State of Nebraska. The sales file is required to be developed by the Property Tax Administrator in compliance with professionally accepted mass appraisal methodology.

001.02 The data gathered and compiled to develop the sales file serves to provide statistical information regarding the measure of central tendency as one of many possible indicators of the level of value and quality of assessment by county and school district for any class or subclass of real property. The sales file information is provided to the assessors, the Nebraska Tax Equalization and Review Commission, and the county boards of equalization, for use in valuing and equalizing real property. The information is also used by the Department of Revenue, Property Assessment Division ~~Department of Property Assessment and Taxation~~ to assist in determining the level of value for statewide equalization purposes, and to assist in determining the assessable valuation of real property for each school district in Nebraska. (See School Adjusted Valuation Regulation, Chapter 80).

001.03 The data gathered and compiled to develop the sales file is available for use by assessors as a base of sales to use as similar properties, and for the development of assessment strategies.

(Neb. Rev. Stat. Section~~s 77-702 and~~ 77-1377, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1327 R.S. Supp. 2007~~2006~~.)

REG-12-002 DEFINITIONS

002.01 Weighted Mean ratio, is a ratio determined by adding the assessed value of each parcel in a ratio study and dividing that number by the sum of the total selling prices of all the parcels in the study. The weighted mean gives weight to each dollar value for the parcels included in the ratio study.

002.02 Assessment shall mean the act of listing the description of all real property, determining its taxability, determining its taxable value, and placing it on the assessment roll.

002.03 Level of value shall mean the most probable overall opinion of the relationship of assessed value to actual value for a political subdivision based upon an analysis of all information available to the Property Tax Administrator including, but not limited to, the assessment/sales ratio and assessment practices study for each county for the various classes of real property.

002.04 Assessment/sales ratio shall mean the ratio of assessed value divided by the selling price of a sold parcel of real property.

002.05 Assessment statistics shall mean computed measures of central tendency and dispersion used in determining the degree of assessment uniformity, proportionality, and compliance.

002.06 Benchmark sale shall mean a similar property that has sold in a similar area which may be used to assist in determining the level of value in an assessment/sales ratio study for a jurisdiction with insufficient sales.

002.07 Actual value shall mean the market value of real property in the ordinary course of trade. It 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 seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which it is capable of being used. In analyzing the uses and restrictions, the analysis shall include a consideration of the full description of the physical characteristics of the property and the property rights being valued. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach, (2) income approach, and (3) cost approach.

002.08 Mean ratio shall mean the arithmetic mean ratio or the total of all assessment/sales ratios divided by the number of ratios.

002.09 Median ratio shall mean the middle ratio of the sorted or arrayed assessment/sales ratios. If there is an even number of ratios, the median shall be the average of the two middle ratios.

002.10 Non-qualified sale shall mean a sale which has been identified through the sales verification process as a non-arm's length transaction, or where the property as assessed is substantially different in it’s characteristics then from the property as it was when sold.

002.11 Qualified sale shall mean a sale which is an arm's-length transaction included in the sales file as determined by the assessor or verification process of the Department.

002.12 Professionally accepted mass appraisal techniques shall include standards recognized in the appraisal industry contained in publications of the International Association of Assessing Officers and Standard 6 of the Uniform Standards of Professional Appraisal Practice. The publications referred to are available to the public and maintained at the Department's office in Lincoln, Nebraska, for viewing during normal business hours. Additionally, practices or techniques may be developed from sources within the appraisal industry as professionally accepted mass appraisal techniques, even if not contained within IAAO publications or USPAP if information can be developed regarding the use of such practices or techniques to show that they are reliable, can be tested, are not in conflict with existing professionally mass appraisal techniques and do not conflict with the statutory or regulatory provisions dealing with the subject matter of those practices or techniques.

002.13 Sale shall mean the transfer of property or an interest in property in exchange for consideration of more than one hundred dollars or upon which more than two dollars and twenty-five cents ($2.25) in documentary stamp taxes are paid. For the purposes of this definition, consideration shall mean money or its equivalent.

002.14 Adjustment shall mean the determination that there are necessary changes to the stated selling price of a parcel for time, atypical financing or personal property, involved in the transaction which represents the actual value paid for atypical financing or personal property.

002.15 Valuation is the act or process of estimating actual value of real property. (See, Assessment Process Regulations, Chapter 50.)

002.16 Transfer shall mean the conveyance of title or any interest in real property by a deed which is recorded with the register of deeds and requiring the filing of a Real Estate Transfer Statement, Form 521.

002.17 Supplemental information shall mean additional information which relates to sold real property as of the date of sale.

002.18 Sale verification shall mean the confirmation or authentication of all of the data relating to a given transaction with the buyer or the seller, or the authorized agent of either. This data includes, but is not limited to, data relating to the sale price, date of sale, terms of sale, terms of financing, and other motivating factors.

002.19 Qualified sales roster shall mean a listing of all sold properties that are not disqualified as non-arm's length transaction by the Department, or that are not disqualified as non-arm's length transactions by the assessor.

002.20 Non-qualified sales roster shall mean a listing of all sold properties from the total sales roster which have been identified through the sales verification process as non-arm's length transactions.

002.21 Arm's length transaction shall mean a sale between two or more parties, each seeking to maximize their positions from the transaction.

002.22 Representative sample shall mean a sample of observations drawn from the entire population of observations such that statistics calculated from the sample can be expected to proportionately represent the characteristics of the population being studied.

002.23 Dispersion shall mean the degree to which data are distributed either tightly or loosely around a measurement of central tendency. Measures of dispersion include the range, average deviation, standard deviation, coefficient of dispersion and coefficient of variation and price related differential.

002.24 Measures of central tendency shall mean descriptive measures that indicate the center of a set of values, for example, mean and median.

002.25 Coefficient of dispersion shall mean the extent to which a set of ratios is clustered either tightly or loosely around the median, arithmetic mean or weighted mean ratio and expressed as a percentage of that measure.

002.26 Price related differential is found by dividing the mean ratio by the weighted mean ratio and then multiply by one hundred (100) to obtain the percentage relationship. A percentage more than one hundred (100) indicates that higher priced properties are assessed at lower ratios than lower priced properties. A percentage of less than one hundred (100) indicates that lower priced properties are assessed at lower ratios than higher priced properties.

002.27 Class or subclass of real property shall mean a collection of properties that share one or more common characteristics that are not found in other properties outside the class or subclass.

002.27A For agricultural or horticultural land, class or subclass shall include, but not be limited to irrigated cropland, dry cropland, grassland, wasteland, nurseries, feedlots, orchards, location, geographic characteristics and market characteristics that are appropriate for the valuation of a class or subclass of agricultural or horticultural land at seventy-five (75) percent of its market value. In the case of agricultural or horticultural land subject to special valuation assessment, seventy-five (75) percent of its special value as if the land were available only for agricultural or horticultural purposes or uses without regard to any other

purpose or use that could be applied to the land.

002.27B For all other real property, class or subclass shall include, but not be limited to status, parcel type, zoning, location, city size, parcel size, geographic characteristics or market characteristics that are appropriate for the valuation of a class or subclass of real property at one hundred (100) percent of its market value. For the purposes of this regulation market characteristics shall mean the social and economic factors in the market that affect the value of real property. Geographic characteristics shall mean the physical characteristics of the earth, land, region, or site that may have an effect on value.

(Neb. Rev. Stat. Sections 77-112, 77-117, 77-126~~, 77-702, 77-705,~~ and 77-1360.01, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702, 77-705, 77-1327 and 79-1016, R.S. Supp. 2007 ~~2006~~.)

REG-12-003 PROCEDURES

003.01 The Department of Revenue receives ~~provides the Department of Property Assessment and Taxation~~ all Real Estate Transfer Statements, Forms 521, filed each month by each county register of deeds.

003.02 The sales file data base shall contain the name of the county and school district where the parcel is located, the property class and subclass, and selected information reported on the real estate transfer statement or supplemental data required by the Property Tax Administrator for the parcel.

003.03 The assessor shall provide to the Department of Revenue, Property Assessment Division ~~Department of Property Assessment and Taxation~~ supplemental data required by the Property Assessment Division ~~Department~~ in the form of a sales worksheet or a previously approved electronic transfer of said data for each Real Estate Transfer Statement with the required stated consideration or documentary stamp tax paid.

003.03A The assessor shall forward a copy of the Real Estate Transfer Statement and the supplemental data to the Department of Revenue, Property Assessment Division ~~Department of Property Assessment and Taxation~~ on or before the fifteenth of the second month following the month the deed was recorded. The data shall be included by deed book and page number and date of sale with the Real Estate Transfer Statement in the sales file database. Failure on the part of the assessor to comply with the requirements of REG-12-003.03 may result in corrective action being taken by the Property Tax Administrator, pursuant to Proceedings Instituted by the Department of Revenue ~~Department of Property Assessment and Taxation~~ Regulations, Chapter 91.

003.03B All data incorporated into the sales file database by the assessor or ~~Department~~ Property Assessment Division shall be available for further verification by the assessor or the Department of Revenue, Property Assessment Division ~~Department of Property Assessment and Taxation~~.

003.03C The assessor shall indicate numerically on the sales worksheet their opinion as to whether the sale is qualified or non-qualified for inclusion in the sales file as an arm's length transaction. If the assessor determines a sale to be non-qualified, a numeric code and explanation as defined by the Property Tax Administrator shall be indicated on the sales worksheet.

003.03D The Property Tax Administrator may verify any transaction with the county assessor that may be questionable for inclusion or exclusion from the sales file. The verification of these transactions may include, but not be limited to:

(1) Interview with the assessor to gather information regarding the sales transaction and the assessment information for the property. Such interviews may be conducted by Department of Revenue, Property Assessment Division ~~Department of Property Assessment and Taxation~~ personnel by telephone.

(2) Interview with a primary party to the sale or knowledgeable third person, for the purpose of gathering information regarding the sales transaction. Such interviews may be conducted by Department of Revenue, Property Assessment Division ~~Department of Property Assessment and Taxation~~ personnel by telephone.

(3) The Property Assessment Division ~~Department~~ shall determine from all information gathered if any adjustments to selling price are warranted.

(4) The Property Assessment Division ~~Department~~ shall provide a narrative explanation of the determination made regarding the qualification of the sale. Such explanation shall be based on the information gathered by the Property Assessment Division ~~Department~~ and entered in the data base contemporaneously in time with the gathering of the data.

003.04 In the verification of sales by the Property Assessment Division, ~~Department,~~ the assessor's opinion with respect to the inclusion, exclusion or adjustment of a sale shall be presumed correct. The ~~Department~~ Property Assessment Division may treat a sale in a manner different from that recommended by the assessor when the information accumulated through the ~~Department's~~ Property Assessment Division's verification process

indicates that the opinion of the assessor regarding the inclusion, exclusion, or adjustment of the transaction is incorrect.

003.04A If the county assessor fails to provide a reason for adjusting the sales price or for disqualifying the sale, the Property Assessment Division ~~Department~~ may include the sale in the sales file, without adjustment.

003.04B If the county assessor has indicated a reason for the adjustment of a sale or the disqualification of a sale, and the reason is not in compliance with professionally accepted mass appraisal techniques, the ~~Department~~ Property Assessment Division may include the sale in the sales file, without adjustment.

003.04C If the county assessor has indicated a reason for the adjustment of a sale, or the disqualification of a sale, and the reason is in compliance with professionally accepted mass appraisal techniques, including but not limited to, Appendix A Sections ~~6~~ A.4.1 and ~~6~~ A.4.2 of the Standard on Ratio Studies of the International Association of Assessing Officers, the ~~Department~~ Property Assessment Division shall include or exclude the sale in or from the sales file only after the ~~Department~~ Property Assessment Division has completed a verification of the sale, and the ~~Department~~ Property Assessment Division does not agree with the decision of the county assessor.

003.04D If the ~~Department~~ Property Assessment Division determines that it does not agree with the decision of the county assessor, the Property Assessment Division ~~Department~~ shall, within seven (7) days of such determination, notify the county assessor in writing that the sale will not be included in or excluded from the sales file, or that the adjustment amount to the sale is changed.

003.04E If the county assessor disagrees with the Property Assessment Division's ~~Department's~~ determination, the county assessor, using the sales file protest form, may file a written protest of the Property Assessment Division's ~~Department's~~ determination within thirty (30) days from the mailing of the ~~Department~~ Property Assessment Division notification, with the Tax Commissioner ~~Property Tax Administrator~~. Any such protest shall be filed pursuant REG 12-004, below.

003.05 Rosters of the sales file database shall be provided by the ~~Department of Property Assessment and Taxation~~ Department of Revenue, Property Assessment Division twice per year to assessors. The assessor may request in writing additional rosters for use in the assessment process.

003.05A All rosters shall show the county, school district, class or subclass of real property, and all other necessary information contained in the data base as specified by the Property Tax Administrator.

003.05B The additional rosters requested by the assessor may include additional data, if available, as specified in the written request of the assessor.

003.06 The Property Tax Administrator shall test the sales data provided by the assessor to ensure that the sales reporting and processing procedures are being followed uniformly as set forth in REG-12-003.01 through REG-12-003.05. The test shall include both qualified and non-qualified sales.

003.07 The Property Tax Administrator shall calculate the measures of central tendency and other statistical indicators of the quality of assessment, such as the coefficient of dispersion and price related differential, of all of a class or subclass of property.

003.07A The study period for each major class of property shall be as follows:

003.07A(1) For residential property, from July 1 to June 30 for the two (2) years ending on June 30 of the year prior to the issuance of the Report and Opinion.

003.07A(2) For commercial property, from July 1 to June 30 for the three (3) years ending on June 30 of the year prior to the issuance of the Report and Opinion.

003.07A(3) For agricultural and horticultural land, from July 1 to June 30 for the three (3) years ending on June 30 for the year prior to the issuance of the Report and Opinion.

003.07A(4) The ~~Department of Property Assessment and Taxation~~ Department of Revenue, Property Assessment Division may use a longer or shorter study period where the data developed for the above described periods does not, based on all of the data available to the ~~Department of Property Assessment and Taxation~~ Department of Revenue, Property Assessment Division accurately reflect the level of value for a county and where the change to the length of the study period will enhance the Department's ability to determine a county's level of value. The adoption of a longer or shorter time period may be done by the ~~Department of Property Assessment and Taxation~~ Department of Revenue, Property Assessment Division based on its own information or information provided by a county pursuant to a request to adopt a longer or shorter study period. Such a request shall be in writing and set forth the reasons the county is seeking a

different study period. To the extent possible, sales outside the established time period will be adjusted to the mid-point of the established time period.

003.08 Upon request, the Property Tax Administrator shall make the sales file database available to the assessors, the county boards of equalization, ~~the agricultural and horticultural land valuation boards,~~ and the Tax Equalization and Review Commission for use in the assessment and equalization of property pursuant to Neb. Rev. Stat. Sections 77-1377 and 77-5027.

(Neb. Rev. Stat. Sections ~~77-702,~~ 77-1371~~,~~ and 77-1377, R.R.S. 2003, and Neb. Rev. Stat. Sections 77-702, 77-1327, 77-5027 and 79-1016, R.S. Supp., 2007. ~~2006.~~)

REG-12-004 SALES FILE PROTEST PROCEDURES

004.01 After receiving the qualified and nonqualified sales roster from the ~~Department of Property Assessment and Taxation~~ Department of Revenue, Property Assessment Division, an assessor may protest the inclusion, exclusion, or the adjustment or failure to make an adjustment to a sale, in the following manner:

004.01A The protest shall be in writing on the sales file protest form supplied by the ~~Department~~ Property Assessment Division and shall set forth the reasons for the protest as well as the requested action the assessor wishes the Property Tax Administrator to take with respect to treatment of the sale in the sales file;

004.01B The protest shall be accompanied by supplementary written materials that question whether the transaction is arm's length or whether the selling price should be adjusted for time, personal property or atypical financing to more accurately reflect the price paid for the real property.

004.01B(1) Issues regarding the improper classification of the sold property must be dealt with using a sales file correction form or the actual value update. Property that is the subject of an arm's length transaction but has been reclassified, shall be a qualified sale in the sales roster under its corrected classification. This corrected classification should reflect the typical assessment practices of the assessor.

004.01C The protest shall be mailed to the main office of the ~~Department of Property Assessment and Taxation~~ Department of Revenue, Property Assessment Division within thirty (30) days of the date on

the certificate of mailing on the qualified and nonqualified semi annual sales roster sent by the Property Tax Administrator to the assessor.

004.01D The assessor shall be entitled to a hearing on the merits of the protest before the Tax Commissioner ~~Property Tax Administrator~~. Such hearings shall be governed by the Department's Practice and Procedure Regulations, Nebraska Administrative Code, Title 350, Chapter 90.

004.01D(1) The assessor may waive the hearing before the Tax Commissioner ~~Property Tax Administrator~~. The waiver of hearing shall be in writing and shall be done in conjunction with the filing of the protest or at any time prior to a scheduled hearing.

004.01D(2) In the event that the assessor agrees to waive the hearing on the protest, the matter shall be submitted for determination by the Tax Commissioner ~~Property Tax Administrator~~ based on the information provided by the assessor accompanying the protest and the information developed by the Property Assessment Division ~~Department~~ through the verification process.

004.02 Burden of Proof. The burden of proof to alter the contents of the qualified sales roster after the verification process shall be on the assessor filing the protest to provide evidence to the Tax Commissioner ~~Property Tax Administrator~~ to show, by more than a mere difference of opinion, that the property should be treated in the manner advocated by the assessor who filed the protest.

004.03 Review of Protests. In ruling on protests following the hearing or in making a determination of protests for which the hearing was waived the Tax Commissioner ~~Property Tax Administrator~~ or his or her designee shall apply the following standards:

004.03A All sales shall be deemed to be arm's length transactions unless determined to be otherwise under professionally accepted mass appraisal techniques.

004.03B The determination of the Department of Revenue, Property Assessment Division ~~Department of Property Assessment and Taxation~~ regarding the treatment of the sale will stand in the absence of additional evidence provided by the assessor accompanying the protest;

004.03C Assertions by the assessor without additional information accompanying the protest shall be insufficient to change the treatment of the sale for roster purposes;

004.03D Supplemental information provided by the assessor accompanying the protest such as additional contact with the buyer or seller or other information affecting the sale may result in the Tax Commissioner ~~Property Tax Administrator~~ ruling in favor of the assessor and treating the sale in the manner requested in the protest. Such information must be relevant to the question of whether the transaction is arm's length in nature or whether an adjustment to the selling price recognized under professionally accepted mass appraisal techniques is appropriate. The information provided with the protest may also relate to errors in the classification or subclassification of a parcel. If a protest results in the reclassification of a parcel, that transaction shall become part of the sales file for its new classification. Reclassification or data correction maybe handled by the liaison without the necessity of a written protest.

004.03E The fact that a sale has an assessment/sales ratio above or below the acceptable range for equalization, as set forth in Neb. Rev. Stat. Section 77-5023, standing alone, shall not be grounds for the exclusion or adjustment of the sale.

004.04 Ruling on Protest. The Tax Commissioner ~~Property Tax Administrator~~ shall review the protests filed regarding the sales file and the Tax Commissioner ~~Property Tax Administrator~~ shall issue a written ruling on the protest within thirty (30) days of the hearing, or, if the hearing has been waived within thirty (30) days from receipt of the protest by the Property Assessment Division ~~Department~~. Such ruling in writing ~~and~~ shall set forth the reasons for grant or denial of the action requested in the protest and shall be ~~shall be~~ sent to the assessor by regular U.S. mail, within seven (7) days after the date of the ruling.

004.05 Appeal. Any assessor whose protest has been denied may appeal within thirty (30) days after the date of the written ruling of the Tax Commissioner ~~Property Tax Administrator~~ to the Tax Equalization and Review Commission in accordance with Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Sections 84-901, 84-913 and 84-914, R.R.S. 1994, ~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 and 77-702 and 77-5023, R.S. Supp., 2007.)