NEBRASKA ADMINISTRATIVE CODE

TITLE 442, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 9

TAX EQUALIZATION AND REVIEW COMMISSION

EQUALIZATION DUTIES

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TITLE 442 — TAX EQUALIZATION AND REVIEW COMMISSION

CHAPTER 9 — EQUALIZATION DUTIES

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CHAPTER 9 EQUALIZATION DUTIES

001 Authority.

001.01 The Commission has the power to review and equalize assessments of property for taxation within the state, and shall have such other powers and perform such other duties as the Legislature may provide. Neb. Const. Article IV, §28.

001.02 The Commission shall annually equalize the assessed value, or special value, ~~or recapture~~ value of all real property as submitted by the county assessors on the abstracts of assessments and equalize the values of real property which is valued by the state. Neb. Rev. Stat. §77-5022

001.03 The Commission has the power to adjourn from time to time until the equalization process is complete. Neb. Rev. Stat. §77-5022

001.04 The Commission has the power 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. Neb. Rev. Stat. §77-5023

001.05 Any increase or decrease shall cause the level of value determined by the Commission to be at the midpoint of the applicable acceptable range. Any decrease or increase to a subclass of property shall also cause the level of value determined by the Commission for the class from which the subclass is drawn to be within the applicable acceptable range. Neb. Rev. Stat. 77-5023

001.05A Whether or not the level of value determined by the Commission falls within an applicable acceptable range may be determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.

002 Definitions. The following definitions apply whenever the defined term is used in

this chapter or the Commission's orders unless the context of a term's use requires use of a different definition.

002.01 Applicable Time Frame. An applicable time frame is the period from which sales may be drawn for statistical studies.

002.02 Assessment/Sales Ratio. 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 the sales price of that parcel. The phrase may also refer to the total assessed value of all real property parcels of a particular class or subclass of real property sold during a particular time frame divided by the total sales price of all real property parcels of that class or subclass sold during that same time frame. The assessment/sales ratio is expressed in terms of a percentage.

002.03 Class or Subclass of Real Property. A group of properties that share one or more characteristics typically common to all properties in the class or subclass, but are not typically found in the properties outside the class or subclass. Class or subclass includes, but is not limited to classifications of agricultural land and horticultural land in section 77-1363 (irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots and orchards), parcel use, parcel type, location, geographic characteristics, zoning, city size, and market characteristics for all classifications of land so that the categories reflect uses appropriate for the valuation of such land, a class or subclass based on market characteristics shall be based on characteristics that affect the actual value in a different manner than it affects the actual value of properties not within the market characteristic class or subclass. Neb. Rev. Stat. 77-103.01

002.04 Coefficient of Dispersion. The Coefficient of Dispersion ("COD") is a tool used under professionally accepted mass appraisal methods to measure the uniformity of assessments. The COD is the average absolute deviation from the median stated as a percentage. The COD is calculated by dividing the average absolute deviation by the median assessment/sales price ratio and multiplying by 100 to convert the ratio to a percentage.

002.05 Coefficient of variation (COV). A standard statistical measure of the

relative dispersion of the sample data about the mean of the data; the standard deviation expressed as a percentage of the mean.

002.06 Confidence Interval. A range of values, calculated from the sample observations that are believed, with a probability, to contain the true population parameter (mean, median, COD). The confidence interval is not a measure of precision of the sample statistic or point estimate, but a measure of the precision of the sampling process (See Reliability).

002.07 Confidence level. The degree of probability associated with a statistical test or confidence interval. For example, a 95 percent confidence interval implies that were the estimation process repeated again and again, then 95 percent of the calculated intervals would be expected to contain the true measure of a parameter(such as the median, mean, or COD). A stated probability level refers to the properties of the interval and not to the parameter itself.

002.08 Established Indicator of Central Tendency. An indicator of central tendency utilized in generally accepted professional mass appraisal techniques

002.09 Generally Accepted Mass Appraisal Techniques. Those techniques and methods described as professionally accepted mass appraisal techniques and methods. See Chapter 2, §001.46 of these rules.

002.10 Indicator of Central Tendency. The result of measuring the tendency of most kinds of data to cluster around some typical or central value. Indicators of central tendency include the mean, median, and mode.

002.11 Level of Assessment. The common or overall ratio of assessed values to market values.

002.12 Mean. The mean is a measure of central tendency. The mean is the result of adding all of the values of an array and dividing by the number of values.

002.13 Median. The median is a measure of central tendency. The median is the value of the middle item in an uneven number of items arranged or arrayed according to size; the arithmetic average of the two central items in an even number of items similarly arranged; a positional

average that is not affected by the size of extreme values.

002.14 Mode. The mode is a measure of central tendency. In an array of values the mode is the most frequently occurring value.

002.15 Price Related Differential. The Price Related Differential ("PRD") is a tool used under professionally accepted mass appraisal methods to determine whether properties of differing values are treated uniformly. The Price Related Differential may indicate assessment bias and inequity between lower valued properties and higher valued properties. A PRD that is under 1.00 indicates higher valued properties are valued at a higher assessment level than lower valued properties. When the PRD is over 1.00 it indicates lower valued properties are valued at a higher level than higher valued properties.

002.16 Property Valued By the State. Property whose taxable value is determined by the Property Tax Administrator and/or the Tax Commissioner.

002.17 Reliability. In a sampling process, the extent to which the process yields consistent population estimates. Ratio studies are typically based on samples. Statistics derived from these samples may be more or less likely to reflect the true condition in the population depending on the precision or reliability of the sample. Representativeness, sample size, and sample uniformity all contribute to reliability. Formally reliability is measure by sampling error or the width of the confidence interval at a specific confidence level relative to the central tendency.

002.18 Representative sample. A sample of observations from a larger population of observations, such that statistics calculated from the sample can be expected to represent the characteristics of the population being studied.

002.19 Sales ratio study. A ratio study that uses sales prices as proxies for market values.

002.20 Sample. A set of observations selected from a population. If the sample was randomly selected, basic concepts of probability may be applied.

002.21 Sampling error. The error reflected in ratio study statistics that results solely from the fact that a sample population is used rather than a census of the population.

002.22 Standard deviation. The statistic calculated from a set of numbers by subtracting the mean from each value and squaring the remainders, adding together all of the squares, dividing by the size of the sample less one, and taking the square root of the result. When the data are normally distributed, one can calculate the percentage of observations within any number of standard deviations of the mean from normal probability tables. When the data are not normally distributed, the standard deviation is less meaningful.

002.23 Standard error. A measure of the precision of a measure of central tendency; the smaller the standard error, the more reliable the measure of central tendency. Standard errors are used in calculation of a confidence interval about the arithmetic mean and the weighted mean.

002.24 Statistics. Numerical descriptive data calculated from a sample, for example, the median, mean, or coefficient of dispersion. Statistics are used to estimate corresponding measures termed parameters, for the population.

002.25 Taxing Authority. Counties, townships, cities, villages, school districts, and all other subdivisions of the state and all governmental agencies having the power to levy or to provide for the levy of general or special taxes.

002.26 Time Adjustments. Changes made to the sales price of real property sold during a particular time frame in order to account for general changes in market value.

003 Applicable time frames

003.01 Residential. The applicable time frame from which sales may be drawn to develop statistical studies concerning the level of assessment and quality of assessments is the two year period ending June 30 prior to January 1 of the assessment year being reviewed.

003.02 Commercial ~~or Industrial~~, Agricultural land and Horticultural land

and Other Real Property. The applicable time frame from which sales may be drawn to develop statistical studies concerning the level of assessment and quality of assessments is the three year period ending June 30 prior to January 1 of the assessment year being reviewed.

004 Preferred established indicator of central tendency. The Commission's preferred"established indicator of central tendency" is the median.

005 Acceptable Ranges.

005.01 Median. The acceptable ranges for the median are:

005.01A For agricultural and horticultural land as defined in Neb. Rev. Stat. §77-1359, sixty-nine (69) to seventy-five (75) percent of actual value;

005.01B For lands defined in Neb. Rev. Stat. §77-1344 receiving special valuation sixty-nine (69) to seventy-five (75) percent of special valuation as defined in Neb. Rev. Stat. §77-1343~~, and sixty-nine (69) to seventy-five (75) percent of recapture value as defined in Neb. Rev. Stat. §77-1343;~~ and

005.01C For all other real property, ninety-two (92) to one hundred (100) percent of actual value. (See, Neb. Rev. Stat. §77-5023(2)).

005.02 Coefficient of Dispersion. The acceptable range for the COD is for residential real property 15.0% or less, for agricultural land 20.0% or less, for commercial ~~and industrial~~ property 20.0% or less, and for vacant land and other property classes 20.0% or less.

005.03 Price Related Differential. The acceptable range for the Price Related Differential is .98 to 1.03.

006 Rounding.

006.01 Application. Rounding will be used to determine whether or not an indicator of central tendency is within or at the midpoint of a prescribed range or a measure of the quality of assessment is within the prescribed range. Rounding will not be used to determine the

base for an adjustment proposed or ordered by the Commission.

006.02 Rounding Method. Any number (X) greater or lessor than X.50 will be rounded to the nearest whole number and X.50 will be rounded to the nearest even whole number. Neb. Rev. Stat. §77-5023 (1)

007 Reports and Opinions of the Property Tax Administrator

007.01 On or before nineteen days following the final filing due date for the abstract of assessment for real property pursuant to Neb Rev. Stat. §77-1514 the Property Tax Administrator shall prepare statistical and narrative reports informing the Commission of the level of value and the quality of assessment of the classes and subclasses of real property in each county and a certification of his or her opinion regarding the level of value and quality of assessment in each county. Neb. Rev. Stat. §77-5027.

007.01A The Property Tax Administrator shall employ the methods specified in Neb. Rev. Stat.§77-112, the comprehensive assessment ratio study specified in Neb. Rev. Stat. § 77-1327, an assessment/sales ratio study, other statistical studies, and studies of the assessment practices of a county. The Property Tax Administrator may employ sales of comparable real property in market areas similar to the county or area in question or from another county as indicators of the level of value and the quality of assessment in a county. The Property Tax Administrator may use any other relevant matter in providing information to the Commission.

007.02 The Property Tax Administrator may make nonbinding recommendations for consideration by the Commission.

008 Statistical Measures. The Commission, in accordance with professionally accepted mass appraisal methods, may use various statistical measures, studies, practices and definitions in the evaluation of the level and quality of assessments in a county or taxing authority.

009 Commission Annual Equalization Review.

009.01 The Commission shall meet annually for the purpose of reviewing and equalizing assessments of property for taxation within the state.

009.02 Action by Motion. The Commission may take action on any question upon motion by any Commissioner, second and roll call vote.

009.03 Counties Not Deemed Overvalued or Undervalued. The Commission may adopt a motion to issue Findings and Orders to take no action for any county.

009.04 Orders to Show Cause and Notice of Hearing.

009.04A Order to Show Cause If the Commission determines that the level of assessment of a class or subclass of real property within a county may not satisfy the requirements of law, the Commission shall issue an Order to Show Cause and Notice of Hearing to the County and shall set a date for hearing at least five (5) days following the mailing of the Order to Show Cause and Notice of Hearing.

009.04B Notice of Hearing on Order to Show Cause. The Order to Show Cause and Notice of Hearing shall be sent by certified mail, postage prepaid (a return receipt may also be requested) to the county clerk, county assessor, chairperson of the county board, and the county attorney. The Order to Show Cause and Notice of Hearing shall also be provided to the Property Tax Administrator by delivery of a copy of the Order to the offices of the Property Tax Administrator or through the United States Postal Service by certified mail, a return receipt may be requested.

009.05 Consent. A legal representative of a County may consent to entry of the proposed order. Neb. Rev. Stat. §77-5026

009.06 Order for Adjustment after Show Cause Hearing.

009.06A Content of Order. The order shall specify the percentage increase or decrease and the class or subclass of real property affected or the corrections or adjustments to be made to the class or subclass of property affected.

009.06B Delivery of the Order. The order of the Commission shall be sent by certified mail (a return receipt may be requested) to the county assessor and by regular mail to the county clerk and

chairperson of the county board on or before May 15 of each year.

009.06C Compliance with the Order. The specified changes shall be made by the county assessor to each parcel or part of a parcel of real property in the county so affected. Neb. Rev. Stat. §77-5028.

009.06C1 On or before June 5 of each year, the county assessor of any county adjusted by an order of the commission shall recertify the county abstract of assessment to the Property Tax Administrator. On or before August 1 of each year, the Property Tax Administrator shall certify to the Commission that any order issued pursuant to Neb. Rev. Stat. §77-5028 was implemented by the county assessor. The Property Tax Administrator shall audit the records of the county assessor to determine whether the orders were implemented.

009.06C2 On or before August 10 of each year, the Property Tax Administrator shall certify the distributed taxable value of the property valued by the state (centrally assessed property), as equalized by the Commission to each county assessor.

009.07 Reconsideration of Order. The Commission may reconsider any Order issued by the Commission during the statewide equalization proceedings so long as five (5) calendar days notice is provided to the county clerk, county assessor, and chairperson of the county board. Any Order issued after reconsidering the original order must be issued before the date for completion of equalization of the same year as the original order.

010 County Board of Equalization Petition for Adjustment of the Level of Value for a Class or Subclass.

010.01 County Board Petition. After completion of its actions and based upon the hearings conducted pursuant to Neb. Rev. Stat. §§77-1502 and 77-1504, a county board of equalization may petition the Tax Equalization and Review Commission to consider an adjustment to a class or subclass of real property within the county unless a county

has adopted a resolution to extend the deadline for hearing protests under Neb. Rev. Stat. §77-1502. Neb. Rev. Stat. §77-1504.01 (1).

010.02 Filing Deadline for Petitions. Petitions by a county board of equalization for the adjustment of the level of value for a class or subclass must be filed with the Commission on or before July 26. Neb. Rev. Stat. §77-1504.01 (1).

010.03 Deadline for Hearing. The Commission shall hear and take action on a petition filed by a county board of equalization on or before August 10. Neb. Rev. Stat. §77-1504.01 (2).

010.04 Burden of Proof. The burden of proof is on the petitioning county to demonstrate that failure to make an adjustment would result in values that are not equitable and in accordance with the law. The County must adduce evidence of the consequences of the requested adjustment in the form of ratio studies which demonstrate that the requested adjustment will, in fact, improve the level, the uniformity and the proportionality of assessments within the County. Neb. Rev. Stat. §77-1504.01 (2).

010.05 Evidence for Order. After a hearing the Commission shall, within the powers granted in Neb. Rev. Stat. §77-5023, enter its order based on evidence presented to it at such hearing and the hearings held pursuant to Neb. Rev. Stat. § 77-5022 for that year.

010.06 Order on Petition for Adjustment. The order shall specify the percentage increase or decrease and the class or subclass of real property affected or any corrections or adjustments to be made to the class or subclass of real property to be affected. When issuing an order to adjust a class or subclass of real property, the Commission may exclude individual properties from that order or limit the adjustment for those individual properties whose value has already been adjusted by a county board of equalization ~~in the same manner as the Commission directs in its order~~. Neb. Rev. Stat. 77-1504.01 (3).

010.07 Delivery of Order. On or before August 10 of each year, the Commission shall send its order on the petition by certified mail to the county assessor and by regular mail to the county clerk and chairperson of the county board. Neb. Rev. Stat. §77-1504.01 (3).

010.08 Compliance with the Order. The county assessor of the county adjusted by an order of the Commission shall make the specified changes to each parcel or part of a parcel of property in the county as directed by the order of the Commission. In implementing such order, the county assessor shall only adjust the values of the class or subclass that is the subject of the order. For properties that have already received an adjustment from the county board of equalization, no additional adjustment shall be made applying the Commission's order, but such an exclusion from the Commission's order shall not preclude adjustments to those properties for corrections or omissions. Neb. Rev. Stat. §77-1504.01 (4)

010.08 Recertification of Abstract. The county assessor of the county adjusted by an order of the Commission shall recertify the abstract of assessment to the Property Tax Administrator on or before August 20. Neb. Rev. Stat. §77-1504.01 (4)

011 Notice of Annual Equalization Meeting. The Commission, when conducting hearings or proceedings pursuant to Neb. Rev. Stat. §§77-1504.01, 77-5024.01, and 77-5026, shall issue notice of hearings or proceedings as follows:

011.01 The Commission shall give notice of the time and place of the first meeting held pursuant to Neb. Rev. Stat. §§77-1504.01, 77-5024.01, and 77-5026 by publication in a newspaper of general circulation in the State of Nebraska. Such notice shall contain a statement that the agenda shall be readily available for public inspection at the principal office of the Commission during normal business hours. The agenda shall be continually revised to remain current. The Commission may thereafter modify the agenda and need only provide notice of the meeting to the affected counties in the manner provided for in Neb. Rev. Stat. §§77-1504.01, 77-5024.01, and 77-5026. The Commission shall publish in its notice a list of those counties certified under Neb. Rev. Stat. §77-5027 as having assessments which may fail to satisfy the requirements of law. The legal notice shall be issued in such a manner which assures publication at least three (3) calendar days prior to the first meeting of the Commission.

011.02 All notices of the Commission shall state the time and place of the meeting and a statement that the agenda, which shall be kept continually current, shall be available for inspection to any interested person at the offices of the Commission during normal business

hours.

011.03 The Commission shall, not less than five (5) business days prior to the first hearing or proceedings pursuant to Neb. Rev. Stat. §§77-1504.01, 77-5024, and 77-5026, cause a copy of the notice and the agenda to be placed on the Commission's website (www.terc.ne.gov). The agenda shall, for the duration of the hearings or proceedings, be updated on the Commission web site not less than once every five (5) business days to reflect any changes to the agenda.

011.14 Waiver of Notice. A legal representative of a County may waive notice of hearing on any proposed order. Neb. Rev. Stat. §77-5026.

012 Conduct of Hearings.

012.01 Evidence At a hearing, the Commission may receive testimony under oath from any interested person.

012.02 Video conference. Hearings held pursuant to Neb. Rev. Stat. §77-5022 may be held by means of video conference. A person shall be present at each video conference site to take custody of any exhibits which were not provided to the Commission at the hearing site of the presiding hearing officer, keep a record of persons who appear at the hearing, and otherwise assist the presiding hearing officer with conduct of the hearing.

012.02 Exclusion from Hearing. The presiding hearing officer may exclude any person from the hearing room when that person is disrupting the hearing.

012.03 Representation. The following representation requirements apply in a hearing or portion of a hearing held as a part of the Commission's annual equalization proceedings

012.03A County. In a hearing before the Commission the interest of the County may be represented by:

012.03A1 A member of the county board of equalization; or

012.03A2 The county clerk or current deputy clerk, who serves as secretary to the county board of equalization (pursuant to Neb.

Rev. Stat. §77-1501); or,

012.03A3 The county assessor, or current deputy county assessor, holding office at the time of the hearing; or,

012.03A4 The county attorney, or his or her deputy, (pursuant to Neb. Rev. Stat. §23-1201(2)); or,

012.03A5 Legal counsel for the county board of equalization or any other party.

013 Appeals. Any party aggrieved by a final decision of the Commission is entitled to judicial review in the Court of Appeals in accordance with Neb. Rev. Stat. §77-5019.