

## Comparable Sales

### **Purpose**

This directive advises county assessors of their responsibilities in determining comparable sales for assessed value purposes. It is also intended as a resource to county assessors in their effort to ensure that only sales that reflect market value are used to establish the assessed value of real property.

### **Statute**

[Neb. Rev. Stat. § 77-1371](#) sets forth the guidelines for using comparable sales and includes a list of what types of sales should be analyzed to determine if the sale truly is a comparable sale. The statute also provides that the Property Tax Administrator (PTA) may issue guidelines for assessing officials to use in determining what constitutes a comparable sale, which will take into account the factors listed in the statute, and other relevant factors prescribed by the PTA.

### **Procedure and Implementation**

Comparable sales are recent sales of properties that are similar to the property being assessed in physical, functional, and location characteristics and in their contribution to value. The sales comparison approach to determine actual value of real property should reflect the actions of the buyers and sellers in the typical marketplace. County assessors must identify comparable sales with similar value contributions for physical, functional, and locational characteristics. Sales with special conditions should be excluded or used as adjusted when individual circumstances are identified which substantially affect the purchase price.

#### ***Arm's-length transactions***

All sales are considered arm's-length unless sufficient information is available to prove otherwise. An arm's-length sale is a sale between two or more parties each seeking to maximize their position from the transfer. In determining whether or not a sale is arm's-length, details of the transaction should be verified with the parties involved to ensure both acted in their own best interest, and neither were under any compulsion to buy or sell.

#### ***Evaluating the purchase price***

The purchase price is the most essential item concerning a sale, and should be thoroughly evaluated as part of the assessment process to ensure the purchase price reflected market value. Market value is defined as the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market 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 property is adapted and for which it is capable of being used.

#### ***Sales with special conditions***

Sales with special conditions must be reviewed to determine their validity as comparable sales reflecting market value. These sales should not be automatically excluded as

comparable sales, but should be sufficiently reviewed based upon the conditions of the sale. Sales with special conditions include sales involving:

**Special financing –**

Sales that include financing with unusual conditions, incentives, or sales concessions should be evaluated to determine if this financing materially affected the sales price. Examples might include, but are not limited to: interest-free or low-interest loans for beginning farmers; a buyer assuming the mortgage of the prior owner; the seller financing the transfer at less-than-market rates; or buyer premiums.

**Adjoining Property Owners –**

Sales in which the buyer already owns adjoining property should be examined to determine if the buyer paid more than the property is worth on the open market. In some cases, so-called “bidding wars” can occur when a property is bid up in excess of its market value because of its proximity to existing land holdings. These sales should not be excluded solely because the buyer owns adjoining property, but may be excluded if it is determined that the buyer was willing to pay more than the asking price or appraised value, the property sold substantially more or less than the asking price, or if the buyer was under substantial pressure to purchase the adjoining property.

**Tax considerations –**

Under the Internal Revenue Code § 1031, a property owner can sell his or her property and then reinvest the proceeds in ownership of like-kind property and defer the income tax on capital gains. These transactions should be reviewed individually to determine if the incentive to defer capital gains resulted in a purchase price in excess of what the property would have otherwise been worth on the open market.

**Agricultural land parcels less than 40 acres –**

Parcels of less than 40 acres may contain a size premium for nonagricultural purposes or uses and should be evaluated to determine if the per-acre sales price is a valid market indicator for agricultural land parcels larger than 40 acres. These parcels may vary depending on the market and the typical size of the agricultural parcels in the county.

**Nonagricultural influences –**

Sales of agricultural or horticultural land receiving special valuation should be reviewed by the county assessor to determine if the sales price reflects a value which the land has for purposes or uses other than agricultural or horticultural purposes. These sales do not reflect current market value of other agricultural or horticultural land. In those areas that recognize special valuation, these transactions should not be used to establish the special valuation of agricultural and horticultural land. If nonagricultural factors exist, county assessors may encourage eligible landowners to apply for special valuation.

**Recreational uses –**

Parcels with recreational uses may command a premium when sold. The county assessor should analyze the sales prices of these parcels and determine whether the sales prices are typical for all similarly classified land in the market area. If it is determined that a premium has been paid for a parcel with recreational uses, that sale should not be used for the determining the value of non-similarly situated land.

**Family members –**

Sales between immediate family members within three degrees of consanguinity (grandparents, parents, children, aunts, uncles) may sell for less than market value. These sales should be reviewed and considered valid if the property was exposed on the open market, the purchase price was established by independent appraisals, the price reflects market value, or if the sale meets other criteria typical of an arm's-length transaction.

**Foreclosure, bankruptcy, condemnation, or other legal actions –**

Distressed sales, forced sales, or sales resulting from foreclosure may not reflect open market conditions necessary to result in sales price at market value. However, in a market where foreclosure properties are abundant, buyers may have comparable foreclosure properties to choose from over conventional listings. Weak economic conditions in an area may cause foreclosure re-sales to be valid indicators of market value for nonforeclosure properties.

Transfers of real property identified through the verification process with special conditions having a substantial effect on the sales price so that it no longer serves as a valid indicator of market value should be excluded from consideration as a comparable sale, or the sales price should be adjusted to reflect market value. For any sales excluded, adjusted, or having special conditions in the sales file, the county assessor must provide a narrative description to adequately describe the reason for the exclusion or adjustment in the comments section.

***Similar in physical, functional, and locational characteristics***

Sales with purchase prices that reflect market value can be used as comparable sales when properly assigned to a market area in which parcels have similar physical, functional, and locational characteristics and are equally subject to the same set of economic forces.

When any physical, functional, or locational factors are identified through analysis as factors that affect market value similarly, those factors must be the basis on which comparable sales are selected. For agricultural land, county assessors should evaluate available data on well capacity or water availability, and whether these factors affect the market value of similar property.

**Level of Value and Quality of Assessment Measurement**

The PTA has a statutory obligation to provide the Tax Equalization and Review Commission a statistical analysis and narrative reports regarding the level of value and quality of assessment of real property in each county. The analysis will take into account the factors described in this Directive, and will include a review of the processes and procedures used by county assessors to evaluate sales. The review will ensure the measurement of assessed values is based upon sales prices that reflect market value.

For the Tax Commissioner

APPROVED:

/s

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