

BEFORE THE NEBRASKA TAX EQUALIZATION  
AND REVIEW COMMISSION

JOHN P. STUMPF,	)	
	)	
Appellant,	)	CASE NO. 00A=36
	)	
vs.	)	
	)	
DAWES COUNTY BOARD OF EQUALIZATION,	)	FINDINGS AND ORDERS (STIPULATION AT HEARING)
	)	
Appellee.	)	

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for a hearing on the merits of the appeal in the City of Chadron, Dawes County, Nebraska, on the 25<sup>th</sup> day of October, 2001, pursuant to an Amended Notice of Hearing issued the 7<sup>th</sup> day of May, 2001.

John P. Stumpf ("the Taxpayer") appeared personally at the hearing. The Dawes County Board of Equalization ("the County") appeared at the hearing through Dennis D. King, Special Appointed Counsel. Each of the parties was afforded the opportunity to present evidence and argument. During the course of the hearing the Parties entered into a stipulation regarding the assessed value of the subject property for tax year 2000.

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Neb. Rev. Stat. §77-5018 (2000 Cum. Supp., as amended by 2001 Neb. Laws, L.B. 465, §8), 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, based on the stipulation offered by the Parties, finds and determines as follows:

I.  
FINDINGS OF FACT

1. That the Taxpayer is the owner of record of certain agricultural real property as legally described in the appeal ("the subject property").
2. That the Dawes County Assessor ("the Assessor") proposed valuing the subject property in the amount of \$114,960 for purposes of taxation as of January 1, 2000 ("the assessment date"). (E1).
3. That the Parties stipulated that the assessed value of the agricultural land of the subject property was determined based on sales of the Land Capability Groups and resulting assessed values of agricultural land in Market Area 2.
4. That the resulting agricultural land for values for Market Area 2 are higher than the agricultural land values for the same Land Capability Groups in Market Area 1.

5. That Taxpayer timely filed a protest of the proposed valuation, and requested that the value of the agricultural land of the subject property be reduced. (E1).
6. That the basis of the protest were the allegations that (1) the subject property was overvalued and (2) the subject property was not valued uniformly and proportionately with other comparable property in Dawes County. (E1).
7. That the County denied the protest. (E1).
8. That thereafter, the Taxpayer timely filed an appeal of the County's decision to the Commission. (Appeal Form).
9. That at the hearing on the merits of the appeal, the Parties stipulated that 80% of the actual or fair market value of the agricultural land component of the subject property as of the assessment date should be that amount determined by the County for the Land Capability Groups for Market Area 1 for tax year 2000.
10. That therefore the Commission finds and determines that 80% of the actual or fair market value of the subject property should be that amount determined using the Land Capability Group values for Market Area 1 of the County for tax year 2000.

11. That therefore the assessed value of the subject property for tax year 2000 as determined by the County is not supported by the evidence.
12. That the stipulation of the Parties constitutes sufficient clear and convincing evidence which establishes that the action of the County was unreasonable and arbitrary, and further that the valuation decision of the County was unreasonable.
13. That therefore the decision of the County must be vacated and reversed.

II.

CONCLUSIONS OF LAW

1. That the Commission has jurisdiction over the parties and the subject matter of this appeal.
2. That the Commission is required by Neb. Rev. Stat. §77-5016(7) (2000 Cum. Supp., as amended by 2001 Neb. Laws, L.B. 419, §1, and as amended by 2001 Neb. Laws, L.B. 170, §22) to affirm the decision of the County unless evidence is adduced establishing that the action of the County was unreasonable or arbitrary.

3. That "There is a presumption that a board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action. That presumption remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence on appeal to the contrary. From that point on, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board." *Garvey Elevators, Inc. v. Adams County Board of Equalization*, 261 Neb. 130, 136, 621 N.W.2d 518, 523 (2001).
4. That "Ordinarily, a stipulation entered by the parties to a proceeding or by their attorneys within the scope of authority for representation of the parties, establishes the fact or facts stipulated and binds the parties." *Ehlers v. Perry*, 242 Neb. 208, 218, 494 N.W.2d 325, 333 (1993)  
(Citations omitted).
5. That as a matter of law the Taxpayer has met the burden of persuasion as required by *Garvey Elevators, Inc., supra*.

6. That therefore the decision of the Dawes County Board of Equalization must be vacated and reversed.

**III.  
ORDER**

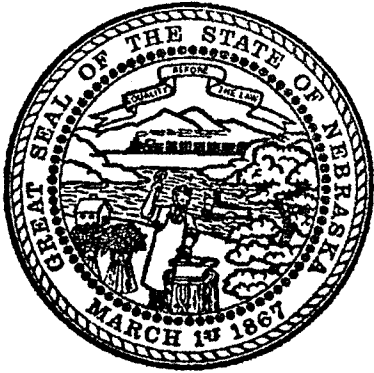
**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

1. That the order of the Dawes County Board of Equalization setting the assessed value of the subject property for tax year 2000 at \$114,960 is vacated and reversed.
2. That Taxpayer's agricultural real property legally described as the East ½ of Section 1, Township 31, Range 51, in Dawes County, Nebraska, shall be valued for tax year 2000 using the Land Capability Groups values for Market Area 1.
3. That this decision, if no appeal is filed, shall be certified within thirty days to the Dawes County Treasurer, and the Dawes County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2000 Cum. Supp., as amended by 2001 Neb. Laws, L.B. 465, §8).
4. That this decision shall only be applicable to tax year 2000.

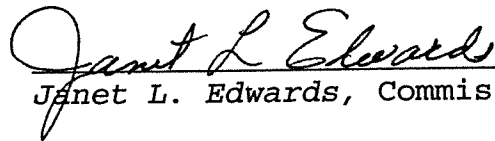
5. That each party is to bear its own costs in this matter.


IT IS SO ORDERED.


Dated this 2<sup>nd</sup> day of November, 2001.



Seal

  
Janet L. Edwards, Commissioner

  
Robert L. Hans, Commissioner

  
Mark P. Reynolds, Chairman