

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

ALLIANCE APARTMENTS I, L.P.,)	
)	
Appellant,)	CASE NO. 98C-88
)	
vs.)	FINDINGS AND ORDER
)	ADOPTING RECOMMENDATIONS
BOX BUTTE COUNTY BOARD OF)	OF SPECIAL MASTER
EQUALIZATION,)	(DECISION OF COUNTY AFFIRMED)
)	
Appellee.)	
)	

The Special Master for the Nebraska Tax Equalization and Review Commission called the above-captioned case for a hearing on the merits of the appeal in the City of Gering, Scotts Bluff County, Nebraska, on the 31st day of August, 1999, pursuant to a Notice of Hearing issued the 16th day of July, 1999.

Taxpayer was represented by counsel, but did not appear personally at the hearing. The Box Butte County Board of Equalization appeared through the Box Butte County Attorney. During the hearing, the Special Master 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 (1998 Cum. 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 considering the exhibits and the recommendations of the Special Master, adopts the following Findings of Fact, Conclusions of Law, and Final Order in this case:

FINDINGS OF FACT

A.

PROCEDURAL FINDINGS

1. That Taxpayer is the owner of record of certain commercial real property located in Box Butte County, Nebraska ("subject property").
2. That the Box Butte County Assessor ("Assessor") proposed valuing the subject property in the amount of \$89,445 for purposes of taxation as follows as of January 1, 1998 ("assessment date").
3. That Taxpayer timely filed a protest of the proposed valuation, and requested that the subject property be valued in the amount of \$72,518.73. (E6).
4. That the basis of the protest was the allegation that an increase of 30% is too high.
5. That the County denied the protest. (E6).
6. That thereafter, the Taxpayer timely filed an appeal of the County's decision to the Commission. (Appeal Form).

B.

SUBSTANTIVE FINDINGS AND FACTUAL CONCLUSIONS

1. No general partner was present as required by Title 442, Chapter 4, Section 12.
2. No full-time, salaried employee of the partnership, as defined by the Nebraska Supreme Court, was present.
3. No documentary, photographic or other exhibits pertaining to actual or fair market value were presented by taxpayer's witness.

4. Taxpayer's only witness is a Nebraska Real Estate licensed broker. However, taxpayer's expert offered no testimony in the form of an opinion of value for the subject property and further offered no testimony from which an opinion of value could be derived.
5. That there are three approaches of an appraisal: cost, sales, and income. Taxpayer adduced no evidence in support of the cost approach. Taxpayer adduced no evidence to support the sales approach. Taxpayer adduced no actual expenses, capitalization rates, or actual income to support the income approach.
6. That from the record before it, the Commission finds and determines that the actual or fair market value of the subject property as of January 1, 1998, was \$89,445.
7. That no evidence has been adduced that the decision of the County was either unreasonable or arbitrary.
8. That therefore the decision of the County must be affirmed.

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. §77-1511 (Reissue 1996) 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.” *Kawasaki Motors v. Lancaster Cty. Bd. Of Equal.*, 7 Neb. App. 655 (1998).

4. That based on the record before the Commission, insufficient evidence has been adduced to establish that the action of the County in this case was unreasonable or arbitrary.
5. That the appraisal of real estate is not an exact science. *Matter of Bock's Estate*, 198 Neb. 121, 124, 251 N. W. 2d 872, 874 (1977).
6. That an owner who is familiar with his property and knows its worth is permitted to testify as to its value. *US Ecology v. Boyd County Board of Equalization*, 256 Neb. 7, 16, 588 N.W. 2d 575, 581 (1999).
7. That as a matter of law the Taxpayer has NOT met the burden of persuasion as required by *Kawasaki Motors v. Lancaster Cty. Bd. Of Equal.*, 7 Neb. App. 655 (1998).
8. 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 Box Butte County Board of Equalization which set the assessed value of the subject property for tax year 1998 was neither reasonable nor arbitrary.
9. That therefore the decision of the Box Butte County Board of Equalization must be affirmed.

ORDER

1. That the order of the Box Butte County Board of Equalization setting the assessed value of the subject property for tax year 1998 as follows is affirmed:

2. That Taxpayer's commercial real property legally described as Lot 9, Blk 9 Lakefield in Box Butte County, Nebraska, shall be valued as follows for tax year 1998:

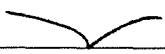
Land	\$ 7,947
Improvements	\$81,498
Total	\$89,445

3. That this decision, if no appeal is filed, shall be certified to the Box Butte County Treasurer, and the Box Butte County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
4. That this decision shall only be applicable to tax year 1998.
5. That each party is to bear its own costs in this matter.

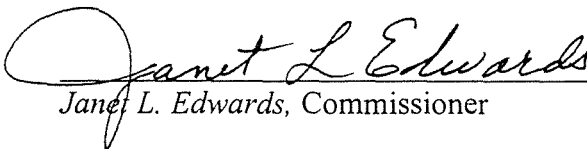
IT IS SO ORDERED.

Signed and sealed this 4th day of October, 1999.

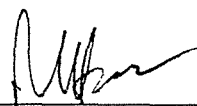




Mark P. Reynolds, Chairman



Janet L. Edwards, Commissioner



Robert L. Hans, Commissioner