

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

KENNETH J. LYNN,)

Appellant,)

vs.)

SCOTTS BLUFF COUNTY BOARD OF)
EQUALIZATION,)

Appellee.)

CASE NO. 98A-290

FINDINGS AND ORDERS
(STIPULATION AT HEARING)

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 8th day of July, 1999, pursuant to a Notice of Hearing issued the 4th day of June, 1999.

Kenneth J. Lynn ("Taxpayer") appeared personally at the hearing and with counsel, and the Scotts Bluff County Board of Equalization ("County") appeared through the Scotts Bluff County Assessor. 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 1998.

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, based on the stipulation offered by the Parties, finds and determines as follows:

FINDINGS OF FACT

1. That Taxpayer is the owner of record of certain agricultural real property as legally described in the petition ("subject property").
2. That the actual or fair market value of the subject property as of January 1, 1998, the assessment date herein, was \$7,504, as stipulated to by the Parties.
3. That therefore the assessed value of the subject property for tax year 1998 as determined by the County (\$11,115) is not supported by the evidence.
4. That sufficient evidence has been adduced to establish that the decision of the County was unreasonable and arbitrary.
5. That therefore the decision of the County must be reversed.

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 as a matter of law the Taxpayer has met the burden of persuasion as required by *Kawasaki Motors v. Lancaster Cty. Bd. Of Equal.*, 7 Neb. App. 655 (1998).
5. 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 Scotts Bluff County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$11,115 for tax year 1998 was both unreasonable and arbitrary.
6. That therefore the decision of the Scotts Bluff County Board of Equalization must be vacated and reversed.

ORDER

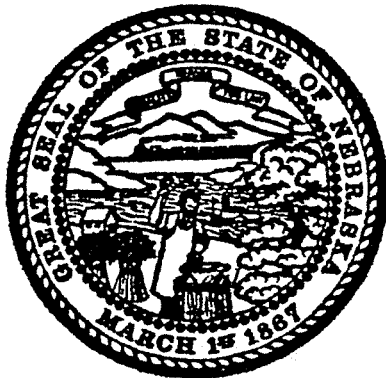
1. That the order of the Scotts Bluff County Board of Equalization setting the assessed value of the subject property for tax year 1998 at \$11,115 is vacated and reversed.
2. That Taxpayer's agricultural real property legally described as N ½ NE 24-21-53, Scotts Bluff County, Nebraska, shall be valued as follows for tax year 1998:

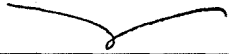
Land	\$7,504
Improvements	\$0
Total	\$7,504

3. That this decision, if no appeal is filed, shall be certified within thirty days to the Scotts Bluff County Treasurer, and the Scotts Bluff 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.

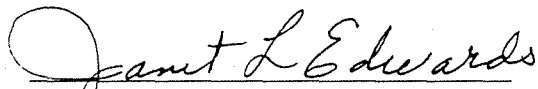
IT IS SO ORDERED.

Dated this 28th day of July, 1999.

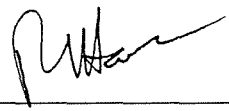




Mark P. Reynolds, Chairman



Janet L. Edwards, Commissioner



Robert L. Hans, Commissioner