

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

GEORGE L. MEDEIROS,	)	
Appellant,	)	CASE NO. 02R-27
vs.	)	
SARPY COUNTY BOARD OF	)	FINDINGS AND ORDERS
EQUALIZATION,	)	(STIPULATION AT HEARING)
Appellee.	)	

The Nebraska Tax Equalization and Review Commission ("the Commission") called the above-captioned case for a hearing on the merits of the appeal in the City of Lincoln, Lancaster County, Nebraska, on the 2<sup>n</sup><sup>d</sup> day of June, 2003, pursuant to a Notice of Hearing issued the 27<sup>th</sup> day of February, 2003.

George L. Medeiros ("the Taxpayer") appeared personally at the hearing. The Sarpy County Board of Equalization ("the County") appeared through Gretchen L. McGill, Deputy Sarpy County Attorney. 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 2002.

Neb. Rev. Stat. §77-5018 (Cum. Supp. 2002) 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 residential real property as legally described in the appeal ("the subject property").
2. That the Sarpy County Assessor ("the Assessor") proposed valuing the subject property in the amount of \$198,787 for purposes of taxation as of January 1, 2002 ("the assessment date"). (E1).
3. That Taxpayer timely filed a protest of the proposed valuation, and requested that the value of the subject property be reduced. (E1).
4. That the basis of the protest was the allegation that the subject property was overvalued. (E1).
5. That the County denied the protest. (E1).
6. That thereafter, the Taxpayer timely filed an appeal of the County's decision to the Commission. (Appeal Form).
7. That at the hearing on the merits of the appeal, the Parties stipulated that the actual or fair market value of the subject property as of the assessment date was \$178,787.
8. That therefore the Commission finds and determines that the actual or fair market value of the subject property as of the assessment date was \$178,787.

9. That therefore the assessed value of the subject property for tax year 2002 as determined by the Board (\$198,787) is not supported by the evidence. (E3.1) .
10. 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.
11. 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) (Cum. Supp. 2002) 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 Sarpy County Board of Equalization must be vacated and reversed.

**III.  
ORDER**

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

1. That the order of the Sarpy County Board of Equalization setting the assessed value of the subject property for tax year 2002 at \$198,787 is vacated and reversed.
2. That Taxpayer's residential real property legally described as Lot 28 and Out lot 73, Hanson's Lakes, Sarpy County, Nebraska, shall be valued as follows for tax year 2002:

Land	\$ 45,000
Improvements	\$133,787
Total	\$178,787
3. That any motions or requests not specifically granted herein be, and hereby are, denied.
4. That this decision, if no appeal is filed, shall be certified within thirty days to the Sarpy County Treasurer, and the Sarpy County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Cum. Supp. 2002).
5. That this decision shall only be applicable to tax year 2002.

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

**IT IS SO ORDERED.**

Dated this 2nd day of June, 2003.



**Seal**

Robert L. Hans, Commissioner

Susan S. Lore, Commissioner

Wm. R. Wickersham, Vice-Chair

Mark P. Reynolds, Chair