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BEFORE THE NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION

ACME INVESTMENTS, INC.,)
)
Appellant,)
)
vs.)
)
BOX BUTTE COUNTY BOARD OF)
EQUALIZATION,)
)
Appellee.)

CASE NO. 99C-148

FINDINGS AND ORDERS
(STIPULATION AS TO VALUE)

THE COMMISSION, BEING FULLY ADVISED IN THE PREMISES, FINDS AND DETERMINES AS FOLLOWS:

The Nebraska Tax Equalization and Review Commission ("the Commission") issued a Notice In Lieu of Summons in this matter on the 31st day of August, 1999.

The Parties, on the 18th day of October, 1999, notified the Commission by written stipulation that the Parties had determined that the actual or fair market value of the subject property differed from that amount determined by the Appellee. The Parties requested that the Commission issue an Order determining the actual or fair market value of the property as of the assessment date.

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 Acme Investments, Inc., ("the Taxpayer") is the owner of certain commercial real property legally described as a motel located on Replat Blk 2 and N ½ Blk 3, Wyoming Ave Add, more commonly known as the West Way Motel located at 1207 West 3rd Street, in the City of Alliance, Box Butte County, Nebraska. ("the subject property").
2. That the actual or fair market value of the subject property as of January 1, 1999, the assessment date herein, was \$460,000, as stipulated to by the Parties.
3. That therefore the assessed value of the subject property for tax year 1999 as determined by the County (\$485,370) 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 the 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 Box Butte County Board of Equalization which set the assessed value of the subject property for the purposes of taxation at \$485,370 for tax year 1999 was both unreasonable and arbitrary.
6. That therefore the decision of the Box Butte County Board of Equalization must be vacated and reversed.

ORDER

1. That the order of the Box Butte County Board of Equalization setting the assessed value of the subject property for tax year 1999 at \$485,370, is vacated and reversed.
2. That Taxpayer's commercial real property legally described as a motel located on Replat Blk 2 and N ½ Blk 3, Wyoming Ave Add, more commonly known as the West Way Motel located at 1207 West 3rd Street, in the City of Alliance, Box Butte County, Nebraska, shall be valued as follows for tax year 1999:


Land:	\$ 41,850
Improvements	\$418,150
Total	\$460,000

3. That this decision, if no appeal is filed, shall be certified within thirty days 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 1999.
5. That each party is to bear its own costs in this matter.

IT IS SO ORDERED

Dated this 26th day of October, 1999.





Mark P. Reynolds, Chairman



Janet L. Edwards, Commissioner



Robert L. Hans, Commissioner