



## FINDINGS OF FACT

From the record, the Commission finds and determines as follows:

### A. PROCEDURAL FINDINGS

1. That Taxpayer is the owner of record of certain agricultural real property located in Platte County, Nebraska ("subject property").
2. That the Platte County Assessor ("Assessor") proposed valuing the subject property for purposes of taxation in the amount of \$91,080, 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 at \$40,000. (E1).
4. That the basis of the protest was the allegation that the taxes are too high.
5. That the County denied the protest.
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. That the Commission has no jurisdiction over the amount of taxes imposed on real property in this type of appeal. That the Commission, in this type of appeal, only has jurisdiction over the assessed value of the subject property as determined by the County.
2. That the subject property is grass land in Market Area 3, in Platte County.
3. That Taxpayer adduced no evidence of actual or fair market value of the subject property.

4. That from the record before it, the Commission finds and determines that 80% actual or fair market value of the subject property as of January 1, 1998, was \$91,080.
5. That therefore the assessed value of the subject property for tax year 1998 as determined by the County is supported by the evidence.
6. That no evidence has been adduced to establish that the decision of the County was unreasonable or arbitrary.
7. 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, no evidence has been adduced to establish that the action of the County in this case was unreasonable or arbitrary.
5. That cost is not synonymous with value. That “It is true that the purchase price of property may be taken into consideration in determining the actual value thereof for assessment purposes, together with all other relevant elements pertaining to such issue; however standing alone, it is not conclusive of the actual value of property for assessment purposes. Other matters relevant to the actual value thereof must be considered in connection with the sale price to determine actual value. Sale price is not synonymous with actual value or fair market value.” *Forney v. Box Butte Cty. Bd. Of Equal.*, 7 Neb. App. 417 (1998).
6. Further, that there is a presumption that the assessing official has performed his or her duties according to law. *See, State ex rel. Bee Building Co. v. Savage*, 65 Neb. 714 (1902); *Woods v. Lincoln Gas & Electric Co.*, 74 Neb. 526 (1905); *Brown v. Douglas Co.*, 98 Neb. 299 (1915); *Gamboni v. County of Otoe*, 159 Neb. 417 (1954); *Ahern v. Board of Equalization*, 160 Neb. 709 (1955); *Collier v. Logan County*, 169 Neb. 1 (1959); *Josten-Wilbert Vault Co. v. Board of Equalization*, 179 Neb. 415 (1965).
7. That no evidence has been adduced which would establish that the decision of the County in relying on the recommendation of the Assessor was unreasonable or arbitrary.
8. That the Nebraska Supreme Court has determined that “(w)here the county assessor does not act upon his own information, or does not make a personal inspection of the property,

any presumption as to the validity of the official assessment does not obtain." *Grainger Bros. Co. v. County Bd. of Equalization of Lancaster Co.*, 180 Neb. 571, 580, 144 N.W. 2d 161, 169 (1966).

9. 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).
10. That the prior years assessment is not relevant to the subsequent year's valuation. *DeVore v. Bd. Of Equal.*, 144 Neb. 351, 13 N. W. 2d 451 (1944).
11. That as a matter of law the Taxpayers has NOT met his burden of persuasion as required by *Kawasaki Motors v. Lancaster Cty. Bd. Of Equal.*, 7 Neb. App. 655 (1998).
12. 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 Platte County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$91,080 for tax year 1998 was neither unreasonable nor arbitrary.
13. That therefore the decision of the Platte County Board of Equalization must be affirmed.

#### ORDER

1. That the order of the Platte County Board of Equalization setting the assessed value of the subject property for tax year 1998 at \$91,080 is affirmed.
2. That Taxpayer's agricultural real property legally described as NE ¼ and SE ¼ of Section 5, Township 16N, Range 2W, consisting of approximately 309.20 acres, Platte County, Nebraska, shall be valued as follows for tax year 1998:

Land	\$91,080
Improvements	\$ 0
Total	\$91,080

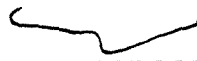
3. That this decision, if no appeal is filed, shall be certified to the Platte County Treasurer, and the Platte County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
4. That this decision shall only be applicable to tax year 1998.
5. That each party is to bear its own costs in this matter.

**IT IS SO ORDERED.**

The above and foregoing Findings of Fact, Conclusions of Law, and Order were approved by a quorum of the Commission, and entered of record on the 10<sup>th</sup> day of March, 1999, and are therefore deemed to be the Order of Commission in this case, pursuant to Neb. Rev. Stat. §77-5005. (Reissue 1996).

Signed and sealed this 18th day of March, 1999.



  
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Mark P. Reynolds, Chairman