

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 residential real property located in Sarpy County, Nebraska ("subject property").
2. That the Sarpy County Assessor ("Assessor") proposed valuing the subject property for purposes of taxation in the amount of \$282,765 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 \$194,381. (E1).
4. That the basis of the protest was the allegation that the property was overvalued.
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 "equalization" was not an issue before the County. (E1).
2. That the subject property was built new in 1997. That the Taxpayer testified that the total cost of construction and land was \$194,381. Taxpayer testified that he served as his own General Contractor, and that there was some "sweat equity" involved. No evidence as to the effect on the cost of the improvements was adduced.

3. That the insurance policy (Exhibit 5) is for a 4 month period of time. That this insurance policy is not persuasive evidence of value of the subject property, based on the Commission's training, experience and specialized knowledge.
4. That the Taxpayer offered as "comparables" 4 residential properties.
5. That "comparable" properties share the overall quality, architectural attractiveness, age, size, amenities, functional utility, and physical condition. (*Property Valuation Assessment, 2nd Ed.*, p. 98).
6. That the record does not support Taxpayer's contention that the four properties offered as comparables in Exhibit 3 are in fact comparable to the subject property under professionally accepted mass appraisal practices.
7. That the Taxpayer's property is the largest in terms of square footage as of the assessment date.
8. That the record does establish that the number of fixtures, and the basement finish, as listed by the County is erroneous.
9. That the County used the Cost Approach methodology. That under the Cost Approach, as used by the County, the number of fixtures and basement finish have a significant impact on the County's valuation as shown by Exhibit 16.
10. That from the record before it, the Commission finds and determines that the actual or fair market value of the subject property as of the assessment date was \$278,413.
11. That therefore the assessed value of the subject property for tax year 1998 as determined by the County (\$282,765) is NOT supported by the evidence.

- 12. That sufficient evidence has been adduced to establish that the decision of the County was unreasonable and arbitrary.
- 13. 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 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.” *Forney v. Box Butte Cty. Bd. Of Equal.*, 7 Neb. App. 417 (1998).
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 as a matter of law the Taxpayers have met their burden of proof as required by *Kawasaki Motors v. Lancaster Cty. Bd. Of Equal.*, 7 Neb. App. 655 (1998).
 7. 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 Sarpy County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$282,765 for tax year 1998 was both unreasonable and arbitrary.
 8. That therefore the decision of the Sarpy County Board of Equalization must be vacated and reversed.

ORDER

1. That the order of the Sarpy County Board of Equalization setting the assessed value of the subject property for tax year 1998 at \$282,765 is vacated and reversed.
2. That Taxpayers’ real property legally described as Lot 3, Green Acres Estates Replat , in Sarpy County, Nebraska, shall be valued as follows for tax year 1998:

Land	\$ 48,880	(\$278,413 x 94% “equalization factor”
Improvements	\$212,828	used by Sarpy County = \$261,708)
Total	\$261,708	

3. That this decision, if no appeal is filed, shall be certified to the Sarpy County Treasurer, and the Sarpy 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.

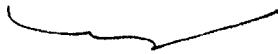
IT IS SO ORDERED.

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 3rd 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 4th day of March, 1999.

SEAL





Mark P. Reynolds, Chairman