BEFORE THE NEBRASKA TAX EQUAI IZATION AND REVIEW COMMISSION

DAVID L. CARLSON and NANCY L. CARLSON, Appellants,	)	CASE NO. 98R-67
vs.	)	**DOCKET ENTRY AFFIRMING DECISION OF COUNTY**
SARPY COUNTY BOARD OF EQUALIZATION, Appellee.	)	

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for a hearing on the merits of the appeal in the City of Papillion, Sarpy County, Nebraska, on the 4th day of February, 1999, pursuant to a Notice of Hearing issued the 28th day of December, 1998.

David L. Carlson ("Taxpayer") appeared personally at the hearing, and the Sarpy County Board of Equalization appeared through the Deputy Sarpy County Attorney. During the hearing, the Commission took judicial notice of certain information, and each of the parties was afforded the opportunity to present evidence and argument. Each party was also afforded the opportunity to cross-examine witnesses of the opposing party as required by law.

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, after receiving the exhibits and hearing evidence and argument, entered its Findings of Fact, Conclusions of Law, and a Final Order on the merits of the appeal in this case, which were in substance as follows:

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 $114,304 as of January 1, 1998 ("assessment date").
3. That Taxpayer timely filed a protest of the proposed valuation, and requested that the assessed value of the subject property be reduced.
4. That the County denied the protest.
5. 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 only issue before the Commission is the value of the land component of the subject property.
2. That the Taxpayer testified that he purchased the land in 1994 for $7,000.
3. That the Taxpayer adduced no evidence to establish that the decision of the County was unreasonable or arbitrary.

4. That the Taxpayer testified that comparable lots within Taxpayer's subdivision were selling for $20,000 as of the assessment date.

5. That the assessed value of the land component of the subject property as of the assessment date as determined by the County was $18,800.

6. That from the record before it, the Commission finds and determines that the actual or fair market value of the land component of the subject property as of the assessment date was $18,800.

7. That therefore the assessed value of the subject property for tax year 1998 as determined by the County is supported by the evidence.

8. That no evidence has been adduced to establish that the decision of the County was unreasonable or arbitrary.

9. 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. Further, 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. That as a matter of law the Taxpayer has NOT met his 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 land component of the subject property for purposes of taxation at $18,800 for tax year 1998 was neither unreasonable nor arbitrary.

8. That therefore the decision of the Sarpy County Board of Equalization must be affirmed.

ORDER

1. That the order of the Sarpy County Board of Equalization setting the assessed value of the land component of the subject property for tax year 1998 at $18,800 is affirmed.

2. That Taxpayer's real property legally described as Lot 156, Cottonwood 2nd Addition, more commonly known as 305 Carolina Drive, in the City of Papillion, Sarpy County, Nebraska, shall be valued as follows for tax year 1998:

Land	$18,800
Improvements	$95,504
Total	$114,304

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 4th day of February, 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 9th day of February, 1999.

SEAL

Mark P. Reynolds, Chairman