

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 commercial property located in Thayer County, Nebraska ("subject property").
2. That the Thayer County Assessor ("Assessor") proposed valuing the subject property for purposes of taxation in the amount of \$269,461 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 \$130,000. (E1).
4. That the basis of the protest was the allegation that the property was overvalued. (E1).
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 Taxpayer's evidence of actual or fair market value consists of: personal opinion; and Exhibits 4 and 23.
2. That Taxpayer owns four motels, three in Nebraska and one in Kansas. That the record doesn't establish when the Taxpayer last purchased or sold a motel.
3. That Exhibit 4 was prepared by Taxpayer's attorney, and Taxpayer could not explain how the "present value" figure of \$208,134 for 1997 was determined.

4. That Exhibit 23 suggests an actual or fair market value of \$125,000 as of February 18, 1999. The opinion of value was not correlated to the assessment date. The opinion does not comply with the Uniform Standards of Professional Appraisal Practice. The opinion purports to be based on "the market approach." No evidence was adduced which would establish what sales were used to reach the conclusion of value.
5. That the Commission placed no weight on the opinion of value expressed in Exhibit 23.
6. That the Taxpayer expressed the opinion that the actual or fair market value of the subject property was adversely affected by the construction of Highway 81, but offered no evidence of impact on actual or fair market value of this construction. Further that from the record before the Commission, the construction of Highway 81 was completed after the assessment date, and therefore the impact would be difficult to quantify.
7. That although there was a dramatic increase in the assessed value of the subject property over the previous year's assessment, the Commission cannot consider that fact in deciding the appeal. The County's assessment practices, as demonstrated by the median indicated level of value, Coefficient of Dispersion and Price Related Differential demonstrate that the quality of assessment practices in the County is improving. Furthermore, the record establishes that a complete reappraisal of commercial property was undertaken by the County in 1997. (1999 Formal Plan of Equalization, pg. 129).
8. That from the record before it, the Commission finds and determines that the actual or fair market value of the subject property as of January 1, 1998, was \$269,461.
9. That therefore the assessed value of the subject property for tax year 1998 as determined by the County is supported by the evidence.

10. That insufficient evidence has been adduced to establish that the decision of the County was unreasonable or arbitrary.
11. 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, insufficient evidence has been adduced to establish that the action of the County in this case was unreasonable or arbitrary.

5. That "It is well established that the value of the opinion of an expert witness is no stronger than the facts upon which it is based." *Bottorf v. Clay Cty. Bd. Of Equal.*, 7 Neb. App. 162, 167 (1998). The Commission, based on this Conclusion of Law, placed no weight on Exhibit 23.
6. That insufficient 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.
7. 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).
8. 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).
9. 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).
10. 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 Thayer County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$269,461 for tax year 1998 was neither unreasonable nor arbitrary.
11. That therefore the decision of the Thayer County Board of Equalization must be affirmed.

ORDER

1. That the order of the Thayer County Board of Equalization setting the assessed value of the subject property for tax year 1998 at \$269,461 is affirmed.

- 2. That Taxpayer's commercial real property located in the City of Hebron, Thayer County, Nebraska, more commonly known as Rosewood Villa Motel, shall be valued as follows for tax year 1998:

Land	\$ 10,701
Improvements	\$258,760
Total	\$269,461

- 3. That this decision, if no appeal is filed, shall be certified to the Thayer County Treasurer, and the Thayer 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 25th 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 1st day of March, 1999.



Mark P. Reynolds, Chairman