

BEFORE THE NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION

ADOLPH J. PLACEK) Case No. 96R-0026
)
Appellant,)
)
vs.) FINDINGS AND ORDER
)
)
SAUNDERS COUNTY BOARD OF)
EQUALIZATION,)
)
Appellee.)

Filed February 18, 1997

Appearances:

For the Appellant: Adolph J. Placek
1445 Lynden Circle
Fremont, NE 68025

For the Appellee: None

Before: Commissioners Edwards, Hans and Reynolds

Reynolds, Chairman:

NATURE OF THE CASE

The Commission reverses the decision of the Saunders County Board of Equalization, and reduces the assessed valuation to that requested by the Taxpayer, since Saunders County failed to answer the appeal or to appear at a "show cause" hearing.

NATURE OF THE CASE

Adolph J. Placek ("Taxpayer") filed this appeal challenging a decision of the Saunders County Board of Equalization ("County"). The appeal arose from a decision of the Saunders County Assessor to assess Taxpayer's agricultural property, consisting of certain land and improvements at \$116,230. Taxpayer protested this determination of value to County. After a hearing, County denied the protest, from which decision Taxpayer appeals.

DUTIES OF THE PARTIES

Taxpayer, if dissatisfied with the county assessor's determination of assessed value of real property, must file a written protest with County. Neb. Rev. Stat. §77-1502 (Reissue 1996). Between June 1 and July 25 of each year, County reviews and decides those protests. County is required to fairly and impartially equalize the assessments which it reviews. Neb. Rev. Stat. §77-1504 (Reissue 1996).

EVIDENCE OFFERED

County failed to answer the Notice in Lieu of Summons issued by the Commission. The Commission thereafter issued a Notice of Show Cause Hearing by certified mail, return receipt requested. County failed to appear for the "show cause" hearing. The only evidence properly before the Commission consists of the appeal form filed by Taxpayer, the attachments thereto, and the testimony of Taxpayer regarding valuation of comparable property. The uncontradicted evidence before the Commission establishes that County proposed to value Taxpayer's land at \$98,400 for tax year 1996, and the improvements to that land at \$17,830, for a total of \$116,230. Taxpayer requested that the value of his agricultural land, but not his buildings, be reduced. Taxpayer specifically requested that the value of the land be reduced from \$98,400 to \$80,896.

FINDINGS OF FACT

From the pleadings and the evidence the Commission finds and determines as follows:

I. Taxpayer owns certain agricultural property in Saunders County which is subject to taxation.

II. The property consists of a parcel described as follows:

Part of the South West ¼ of Section 26, Township 16, Range 5 east of the 6th P.M., all in Saunders County, Nebraska, comprising 128 acres, more or less.

III. That the proposed assessed value of the property for tax year 1996 as determined by the County Assessor is as follows:

Land	\$ 98,400
Improvements	\$ 17,830
Total	\$116,230

IV. That Taxpayer filed a protest with County, challenging the assessed valuations of his property.

V. That County denied the protest.

VI. Taxpayer timely prosecuted this appeal challenging the decision of County.

JURISDICTION

The Tax Equalization and Review Commission has jurisdiction of this case pursuant to Neb. Rev. Stat. §77-5007 (Reissue 1996).

STANDARD OF REVIEW

The Commission must, as required by Neb. Rev. Stat. §77-1511 (Reissue 1996) "affirm the action taken by the board unless evidence is adduced establishing that the action of the board was unreasonable or arbitrary. . . ."

CONCLUSIONS OF LAW

The Commission is required to affirm the decision of County unless evidence is adduced which establishes that the action of County was unreasonable or arbitrary. *See* Neb. Rev. Stat. §77-1511 (Reissue 1996). The only evidence before the Commission consists of the information provided by Taxpayer. The Commission, in determining the case, is bound to consider only that evidence which has been made a part of the record before it. No other information or evidence may be considered. *See* Neb. Rev. Stat. §77-5016(3) (Reissue 1996). The uncontroverted evidence establishes that the decision of County was arbitrary and unreasonable. The Commission must, therefore, and hereby does conclude as a matter of law that the decision of the Saunders County Board of Equalization in setting the assessed valuation of Taxpayer's agricultural land at \$98,400 was unreasonable and arbitrary and must be reversed.

ORDER

IT IS, THEREFORE, ORDERED as follows:

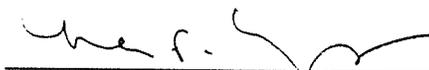
- I. That the decision of the Saunders County Board of Equalization is reversed.
- II. That the assessed value of the subject properties, for tax year 1996, be shown as follows:

Land	\$ 80,896
Improvements	\$ 17,830
Total	\$ 98,726
- III. That this decision, if no appeal is filed, shall be certified within thirty days to the Saunders County Treasurer, and the Saunders County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).

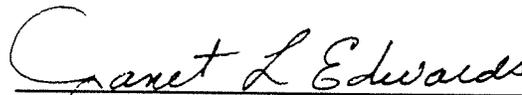
IV. That each party bear its own costs.

IT IS SO ORDERED.

Dated this 18th day of February, 1996.



Mark P. Reynolds, Chairman


Janet L. Edwards, Commissioner

Robert L. Hans, Commissioner

