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Property Valuation May Be Reduced by

J. David Aiken

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Cornhusker Economics

Cooperative Extension

Institute of Agriculture & Natural Resources
Department of Agricultural Economics
University of Nebraska – Lincoln

Property Valuation May Be Reduced by Proximity to Livestock Operation

Market Report	Yr Ago	4 Wks Ago	4/26/02
<u>Livestock and Products,</u>			
<u>Average Prices for Week Ending</u>			
Slaughter Steers, Ch. 204, 1100-1300 lb Omaha, cwt	\$75.36	\$70.90	\$64.54
Feeder Steers, Med. Frame, 600-650 lb Dodge City, KS, cwt	101.77	87.86	*
Feeder Steers, Med. Frame 600-650 lb, Nebraska Auction Wght. Avg	103.07	95.02	89.08
Carcass Price, Ch. 1-3, 550-700 lb Cent. US, Equiv. Index Value, cwt	114.87	108.42	104.10
Hogs, US 1-2, 220-230 lb Sioux Falls, SD, cwt	50.25	34.50	31.00
Feeder Pigs, US 1-2, 40-45 lb Sioux Falls, SD, hd	51.00	46.61	37.50
Vacuum Packed Pork Loins, Wholesale, 13-19 lb, 1/4" Trim, Cent. US, cwt	122.60	95.90	95.90
Slaughter Lambs, Ch. & Pr., 115-125 lb Sioux Falls, SD, cwt	90.00	*	57.50
Carcass Lambs, Ch. & Pr., 1-4, 55-65 lb FOB Midwest, cwt	*	142.95	142.62
<u>Crops,</u>			
<u>Cash Truck Prices for Date Shown</u>			
Wheat, No. 1, H.W. Omaha, bu	3.29	3.06	2.86
Corn, No. 2, Yellow Omaha, bu	1.77	1.86	1.84
Soybeans, No. 1, Yellow Omaha, bu	4.13	4.52	4.49
Grain Sorghum, No. 2, Yellow Kansas City, cwt	3.32	3.51	3.34
Oats, No. 2, Heavy Minneapolis, MN, bu	1.40	2.42	1.93
<u>Hay,</u>			
<u>First Day of Week Pile Prices</u>			
Alfalfa, Sm. Square, RFV 150 or better Platte Valley, ton	115.00	115.00	115.00
Alfalfa, Lg. Round, Good Northeast Nebraska, ton	82.50	60.00	70.00
Prairie, Sm. Square, Good Northeast Nebraska, ton	105.00	92.50	80.00
* No market.			

In Nebraska, land and buildings are valued at their fair market value for purposes of property taxation. Residential and commercial real estate is valued at 92-100 percent of actual value (i.e. farm market value) and agricultural real estate is valued at 74-80 percent of actual value. NRS 77-5023(3). Fair market value for property tax valuation purposes may be determined by (1) comparative sales, (2) income, or (3) cost. NRS 77-112. In *Livingston v Jefferson County Board of Equalization*, 10 Neb App 934 (2002), the Nebraska Court of Appeals ruled that the county board of equalization erred in not considering a rural residence's proximity to a swine farrowing facility in determining the residence's valuation.

The taxpayer started a swine farrowing operation in 1990. In 1999 the taxpayer built a house approximately 3/4 of a mile from his farrowing facility at a cost of \$328,649. In 2000 the county valued the house (excluding the land) at \$399,321. The taxpayer objected to this valuation for three reasons. First, the house was approximately 3/4 of a mile from a swine farrowing facility with 5,200 sows. Second, the taxpayer had obtained an easement to apply hog manure to cropland across the road from the house. Third, the house was not served by a public road but by a private road that at times could be used only with a four-wheel drive vehicle. The taxpayer's appraiser discounted the value of the house (based on comparable sales) by 30 percent for livestock odors and 10 percent for its remote location.

The county board of equalization refused to modify its property valuation, and the county was upheld by the state Tax Equalization and Review



Commission (TERC). Both the county and TERC refused to consider the effects of livestock odors and the residence's remote location as being factors that would affect the property's market value.

Normally there is a legal presumption that county officials have properly valued property for property tax purposes. A county board of equalization need not present evidence regarding its valuation. In this case, the Court of Appeals concluded that the taxpayer had successfully overcome this legal presumption that the county's valuation was correct. The court determined that it was reversible error for the county and TERC to refuse to consider the effects of the swine facility, the manure easement and the house's remote location on its property value. The fact that the swine facility was owned by the taxpayer did not mean that the nearness of the swine facility could not be a factor in determining the residence's property value.

The court also ruled that the county board of equalization and TERC erred in refusing to consider whether the taxpayer had "overbuilt," i.e. spent more on his residence than he could realistically expect to receive if the house were sold. The taxpayer testified that he would be lucky to receive \$200,000 for the house (which probably was accurate, given its remote location and the swine odors). The court quoted an example where a house costing \$150,000 and built in a neighborhood where the average house was worth \$75,000, would likely have a property value of less than its \$150,000 cost because the house was "overbuilt" (or too expensive) for the neighborhood.

The county failed to produce any evidence (1) that the taxpayer's house was not overbuilt, and (2) that the swine odors would not affect the property value.

consider the impact of hog odors on property value were reversible error. The court noted that these factors certainly would come into play when the house was sold, and would certainly influence the price paid after negotiations between a willing buyer and a willing seller. The court quoted Nebraska livestock nuisance decisions as proof that the presence of hog odors could affect what a willing buyer would be willing to pay for the house, given the presence of hog odors. The court ordered the county to consider the impacts of hog odors and remote location in valuing the taxpayer's property.

"It was arbitrary for the [county] Board and TERC to ignore the effect that the nearby hog facility would have on the house's fair market value in the ordinary course of trade. No reasonable fact finder could conclude that in the real estate marketplace, a potential buyer would not notice and react economically, to having a large hog facility very nearby while living in a remote location."

Commentary. It will be interesting to see whether this decision encourages taxpayers living near livestock facilities to seek property tax reductions due to the impact of livestock odors on the value of their residence.

J. David Aiken, (402) 472-1848
Water & Agricultural Law Specialist
daiken@unl.edu

The court of appeals ruled that (1) failure to consider whether the house was overbuilt, and (2) failure to