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JUN 23 2009

BUTLER COUNTY APPRAISER

BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS

IN THE MATTER OF THE PROTEST
OF FAIRFIELD POLO ASSOCIATION
FOR THE YEAR 2007
IN BUTLER COUNTY, KANSAS

Docket No. 2008-6720-PR

AND

IN THE MATTER OF THE
EQUALIZATION APPEAL OF
FAIRFIELD POLO ASSOCIATION
FOR THE YEAR 2008
IN BUTLER COUNTY, KANSAS

Docket No. 2008-8393-EQ

ORDER

Now the above-captioned matters come on for consideration and decision by the Court of Tax Appeals of the State of Kansas. The Court conducted a hearing in these matters on April 24, 2009. The Taxpayer, Fairfield Polo Association, appeared by Scott Palecki, Attorney; Charles Curran, Attorney; and Michael Carney, President. The County appeared by Norman Manley, County Counselor; and Elysa Lovelady, Appraiser. The Court admitted Taxpayer Exhibit #1 and County Exhibits #1 and #2. County Exhibit #1 pertains to Docket No. 2008-6720-PR, and County Exhibit #2 pertains to Docket No. 2008-8393-EQ. Taxpayer Exhibit #1 pertains to both Docket No. 2008-6720-PR and 2008-8393-EQ. At the conclusion of the hearing, the Court left the record open for the parties to submit cases that they believed may be applicable to this matter, as well as a letter-sized copy of a demonstrative map presented at the hearing. The additional information has been received by the Court and is incorporated herein.

After considering all of the evidence and arguments presented, the Court finds and concludes as follows:

The Court has jurisdiction of the subject matter and the parties, as a tax protest has been properly and timely filed pursuant to K.S.A. 2008 Supp. 79-2005; and an equalization appeal has been properly and timely filed pursuant to K.S.A. 2008 Supp. 79-1609.

The subject matter of this tax protest and equalization appeal is as follows:

Real estate and improvements known as
1225 E Harry St, Andover, Butler County, Kansas,
also known as Parcel ID # 008-309-32-0-00-01-002.00-0.

The subject property is a 26.60-acre tract of land located in Butler County. The subject property contains a regulation sized polo field which has been utilized by the Taxpayer for polo practice and polo matches. The property is located in a flood plain. The Taxpayer presented photos of the property that demonstrate that the property is prone to flooding during heavy rains.

The Taxpayer is a for-profit-organization. Members of the organization pay membership dues. For tax year 2007, the subject property was utilized for practices and/or tournaments 10 to 15 times. In 2008, the property was not utilized for practices or tournaments, as the Taxpayer lacked the funds to keep the property maintained.

Prior to tax year 2007, the subject property was classified as Commercial. For tax years 2007 and 2008, the County changed the classification of the property to Other asserting that the use of the property was recreational in nature. The Taxpayer requests that the classification be returned to Commercial. Additionally, the Taxpayer requests that a waste value be applied to property due to the flooding.

K.S.A. 2008 Supp. 79-1439 sets forth the classification of property. The Court finds that K.S.A. 2008 Supp. 79-1439(b)(1)(F) allows for a commercial classification of property "used for commercial or industrial purposes. . ." The Court further finds that the subject property is utilized by a for-profit-corporation to carryout the purpose of the organization, i.e. to conduct polo matches. The Court concludes that subject property should be classified as Commercial.

The Court further finds that a waste value is only appropriate when property is classified as agricultural. In the instant matter, the subject property is not being utilized for agricultural purposes. While the subject property may be prone to flooding and an adjustment may need to be considered, the Taxpayer has not presented any information and/or evidence to establish what the reduction should be and the Court will not speculate as to the extent of a possible value reduction. The Court concludes that the Taxpayer' request for a waste value on the subject property must be denied.

IT IS THEREFORE ORDERED that, for the reasons stated above, the classification of the property shall be Commercial.

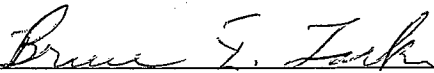
IT IS FURTHER ORDERED that the appropriate officials shall correct the county's records to comply with this Order, re-compute the taxes owed by the taxpayer and issue a refund for any overpayment.

Any party to this action who is aggrieved by this decision may file a written petition for reconsideration with this Court as provided in K.S.A. 2008 Supp. 77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Court's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Court of Tax Appeals, Docking State Office Building, Suite 451, 915 SW Harrison St., Topeka, KS 66612-1505. A copy of the petition, together with any accompanying documents, shall be mailed to all parties at the same time the petition is mailed to the Court. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Court within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute). If at 5:00 pm on the last day of the specified period the Court has not received a written petition for reconsideration of this order, no further appeal will be available.

IT IS SO ORDERED

THE KANSAS COURT OF TAX APPEALS

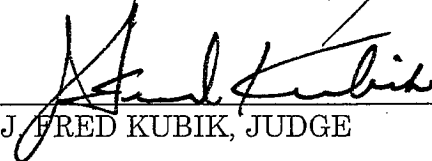




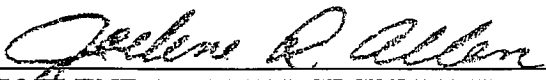
BRUCE F. LARKIN, CHIEF JUDGE



REBECCA W. CROTTY, JUDGE



J. FRED KUBIK, JUDGE



JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joelene R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket Nos. 2008-6720-PR and 2008-8393-EQ, and any attachments thereto, was placed in the United States Mail, on this 22nd day of June, 2009, addressed to:

Fairfield Polo Association
100 N Broadway No 500
Wichita, KS 67202

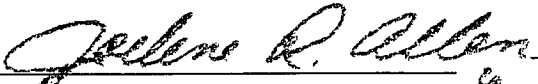
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Butler Co Courthouse
205 W Central
El Dorado KS 67042-2106

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka,
Kansas.


Joelene R. Allen, Secretary