

that is, alleged negligence did not exist in the absence of the defendants' duty to protect Wilson and breach of that duty.

The summary judgments of the district court in favor of F & H Construction and Taylor Plumbing are, therefore, affirmed.

AFFIRMED.

CHIEF INDUSTRIES, INC., APPELLEE, v. HALL COUNTY BOARD OF
EQUALIZATION, APPELLANT.

428 N.W.2d 919

Filed September 16, 1988. No. 87-137.

1. **Constitutional Law: Taxation: Valuation.** Neb. Const. art. VIII, § 1, provides in relevant part that except for motor vehicles, taxes shall be levied by valuation uniformly and proportionately upon all tangible property.
2. **Taxation: Valuation.** A taxpayer is entitled to have its property in a county assessed uniformly and proportionately with other property in the county even though the result may be that it is assessed at less than actual value.

Appeal from the District Court for Hall County: WILLIAM H. RILEY, Judge. Affirmed.

Jerom E. Janulewicz, Deputy Hall County Attorney, for appellant.

Norman H. Wright, of Fraser, Stryker, Veach, Vaughn, Meusey, Olson, Boyer & Bloch, P.C., for appellee.

HASTINGS, C.J., BOSLAUGH, WHITE, CAPORALE, SHANAHAN, GRANT, and FAHRNBRUCH, JJ.

WHITE, J.

The district court for Hall County reduced the 1984 assessed value of two parcels of real estate owned by appellee, Chief Industries, Inc., to 50 percent of actual value, to equalize the assessed value with the assessments of agricultural land in the county. The Hall County Board of Equalization appeals.

The evidence discloses that appellee's property was assessed at 100 percent of actual value. The evidence as to assessed value of agricultural land largely duplicates the evidence presented in

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Equitable Life v. Lincoln Cty. Bd. of Equal., ante p. 60, 425 N.W.2d 320 (1988).

The Department of Revenue study, see Neb. Rev. Stat. § 77-508.01 (Reissue 1986), reveals that assessed agricultural values in the county represented approximately 40 to 50 percent of actual value. Other studies prepared by appraisers for Chief Industries indicated a ratio of from 43 to 53 percent of assessed value of agricultural lands to actual value. All such studies were screened to consider only arm's-length transactions.

As in *Equitable Life*, supra, the county questioned the statistical methods of both the Department of Revenue and the private appraisers. The experts relied on by the appellant to establish the unreliability testified in both cases. Again the board introduced no sales-assessment ratios of its own to justify the valuation of agricultural land.

The presumption that attaches to the valuation of the board of equalization having been overcome, and the taxpayer having established that the valuation violated the uniformity provision of Neb. Const. art. VIII, § 1, the decision of the district court is correct and is hereby affirmed.

AFFIRMED.

ALBERT WAYNE ELLIOTT, APPELLANT, v. MIDLANDS ANIMAL
PRODUCTS, APPELLEE.

____ N.W.2d ____

Filed September 16, 1988. No. 87-867.

1. **Workers' Compensation: Appeal and Error.** The findings of fact by the Workers' Compensation Court after rehearing have the same force and effect as a jury verdict in a civil case and will not be set aside unless clearly wrong.
2. **Workers' Compensation: Proof.** The plaintiff has the burden of establishing a causal connection between the accident and any disability resulting therefrom.
3. ____: _____. The burden of proof is upon the plaintiff to show by a preponderance of the evidence that the disability sustained was caused by or related to the accident in question and was not the result of the normal progression of plaintiff's preexisting condition.