

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Southern Hills Ranch II LLC,
Appellant,

v.

Blaine County Board of Equalization,
Appellee.

Case Nos: 19A 0041, 19A 0042, 19A 0043,
19A 0044, 19A 0045, 19A 0046, 19A 0047,
19A 0048, 19A 0049, 19A 0050, 19A 0051,
19A 0052, 19A 0053, 19A 0054, 19A 0055,
19A 0056, 19A 0057, 19A 0058, 19A 0059,
19A 0060, 19A 0061, 19A 0062, 19A 0063,
19A 0064, 19A 0065 & 19A 0066

Decision and Order Affirming
County Board of Equalization

Background

1. The Subject Properties are 26 parcels of agricultural land; legal descriptions for each parcel on appeal can be found in the case file.
2. The Blaine County Assessor (the Assessor) determined the assessed value of each parcel for tax year 2019. Southern Hills Ranch II LLC (the Taxpayer) protested each assessment and requested a lower value. The Blaine County Board of Equalization (the County Board) determined the taxable value of each parcel. The values determined and requested are shown in the following table:

Case Number	Assessed Value	Requested Value	Taxable Value
19A 0041	\$561,653	\$505,488	\$561,653
19A 0042	\$45,600	\$41,040	\$45,600
19A 0043	\$228,000	\$205,200	\$228,000
19A 0044	\$365,598	\$329,038	\$365,598
19A 0045	\$175,906	\$158,315	\$175,906
19A 0046	\$398,546	\$358,691	\$398,546
19A 0047	\$1,324	\$1,192	\$1,324
19A 0048	\$43,759	\$39,383	\$43,759
19A 0049	\$376,170	\$338,554	\$376,170
19A 0050	\$123,422	\$108,739	\$123,422
19A 0051	\$346,295	\$311,665	\$346,295
19A 0052	\$336,940	\$303,246	\$336,940
19A 0053	\$340,362	\$306,326	\$340,362
19A 0054	\$90,874	\$81,787	\$90,874
19A 0055	\$44,486	\$40,038	\$44,486
19A 0056	\$95,003	\$85,503	\$95,003
19A 0057	\$316,772	\$285,095	\$316,772
19A 0058	\$662,009	\$595,809	\$662,009
19A 0059	\$659,983	\$593,985	\$659,983
19A 0060	\$123,422	\$111,080	\$123,422

19A 0061	\$42,653	\$38,388	\$42,653
19A 0062	\$364,128	\$327,716	\$364,128
19A 0063	\$381,870	\$343,683	\$381,870
19A 0064	\$321,994	\$289,795	\$321,994
19A 0065	\$69,341	\$62,407	\$69,341
19A 0066	\$364,520	\$327,978	\$364,520

3. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
4. A Single Commissioner hearing was held on July 13, 2020, at the Custer County Judicial Center, 604 Heritage Drive, Broken Bow, Nebraska, before Commissioner James D. Kuhn.
5. Donald C. Fricke was present at the hearing for the Taxpayer.
6. April Warren (the Assessor) and Glenn Clark (County Attorney) were present for the County Board.

Applicable Law

7. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹
8. The Commission’s review of a determination of the County Board of Equalization is de novo.²
9. When considering an appeal a presumption exists that the “board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action.”³ That presumption “remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary. From that point forward, 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.”⁴
10. The order, decision, determination or action appealed from shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.⁵

¹ Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

² See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). “When an appeal is conducted as a ‘trial de novo,’ as opposed to a ‘trial de novo on the record,’ it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal.” *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).

³ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁴ *Id.*

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

11. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
12. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁷
13. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁸

Findings of Fact & Conclusions of Law

14. The Taxpayer stated the Subject Properties are being overvalued as evidenced in the Nebraska Farm Real Estate Market Highlights (NFREMH). The Taxpayer stated the NFREMH shows a decline in value for grazing land of 16%, hayland 40%, and irrigated cropland 19% over the 2015 to 2019 period. The Taxpayer stated there was a sale of grazing land in section 20-24-23 for \$700 per acre for a 100 acre tract of land. No property record file of this sale was provided as evidence.
15. The Taxpayer attributed the declining land values to the lower commodity prices for corn and cattle. The Taxpayer stated grazing land was worth \$745 per acre in 2015 whereas the land was worth \$640 per acre in 2018. No evidence of sales in Blaine County were provided to the Commission to verify these claims.
16. The Assessor stated there were higher sale prices for land in 2015 compared to more recent sales. The Assessor has not seen much change in agricultural land sales prices for the 2017 through 2019 period. The Assessor has talked with local independent appraisers and they agree that land values for the most part have remained steady.
17. The Assessor stated there were some changes to acre counts and land values. The Property Assessment Division issued some changes to some Land Valuation Groups (LVGs) that may have impacted some of the properties on appeal. There were not enough sales to see any downward trend in agricultural land values.
18. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
19. The Taxpayer has not adduced clear and convincing evidence that the determinations of the County Board are arbitrary or unreasonable and the decisions of the County Board should be affirmed.

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

⁷ Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 138 N.W.2d 641 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. County Bd. of Equal. of York Cty.*, 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

ORDER

IT IS ORDERED THAT:

1. The Decisions of the County Board of Equalization determining the taxable value of the Subject Properties for tax year 2019 are affirmed.
2. The taxable value of the Subject Properties for tax year 2019 is:

Case Number	2019 Taxable Value
19A 0041	\$561,653
19A 0042	\$45,600
19A 0043	\$228,000
19A 0044	\$365,598
19A 0045	\$175,906
19A 0046	\$398,546
19A 0047	\$1,324
19A 0048	\$43,759
19A 0049	\$376,170
19A 0050	\$123,422
19A 0051	\$346,295
19A 0052	\$336,940
19A 0053	\$340,362
19A 0054	\$90,874
19A 0055	\$44,486
19A 0056	\$95,003
19A 0057	\$316,772
19A 0058	\$662,009
19A 0059	\$659,983
19A 0060	\$123,422
19A 0061	\$42,653
19A 0062	\$364,128
19A 0063	\$381,870
19A 0064	\$321,994
19A 0065	\$69,341
19A 0066	\$364,520

3. This Decision and Order, if no further action is taken, shall be certified to the Blaine County Treasurer and the Blaine County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (Reissue 2018).
4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. Each Party is to bear its own costs in this proceeding.
6. This Decision and Order shall only be applicable to tax year 2019.

7. This Decision and Order is effective on August 14, 2020.

Signed and Sealed: August 14, 2020

James D. Kuhn, Commissioner