

**BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW
COMMISSION**

BRENT J. NYFFELER
APPELLANT,

V.

PLATTE COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

CASE NOS: 20A 0048,
20A 0049, 20A 0050, 20A 0051,
20A 0052

DECISION AND ORDER
AFFIRMING THE DECISIONS
OF THE PLATTE COUNTY
BOARD OF EQUALIZATION

For the Appellant:

Brent J. Nyffeler
Pro Se

For the Appellee:

Breanna Flaherty
Deputy Platte County Attorney

These appeals were heard before Commissioners Robert W. Hotz and James D. Kuhn on January 23, 2023. Commissioner Hotz presided.

I. THE SUBJECT PROPERTY

The Subject Property consists of five distinct agricultural land parcels located in Platte County, Nebraska. The legal description and Property Record File (PRF) for each of the Subject Properties is found at Exhibits 36, 38, 40, 42, and 44.

II. PROCEDURAL HISTORY

The chart below shows the Case Number, the assessed value as determined by the Platte County Assessor (the Assessor), the assessment requested by Brent Nyffeler (the Taxpayer) at the time of the tax year 2020 protest, and the taxable value as determined by the Platte County Board of Equalization (the County Board) after a protest hearing for each of the five appeals in this consolidated proceeding.

Case No.	Assessed Value	Taxpayer Request	County Board Value
20A 0048	\$459,930	\$230,000	\$387,560 ¹
20A 0049	\$440,620	\$392,000	\$440,620 ²
20A 0050	\$238,055	\$205,457	\$238,055 ³
20A 0051	\$1,005,140	\$834,700	\$1,005,140 ⁴
20A 0052	\$498,530	\$466,252	\$498,530 ⁵

The Taxpayer appealed the protest decisions of the County Board to the Tax Equalization and Review Commission (the Commission). Prior to the hearing, the parties exchanged exhibits, as ordered by the Commission. At the hearing, the exhibits admitted into evidence included 1 to 5, 7, 9 to 57, and 59.

III. STANDARD OF REVIEW

The Commission's review of the County Board's determination is de novo.⁶ When the Commission considers an appeal of a decision of a

¹ Exhibit 1. The County Assessor indicated he "Adjusted Land Use," and as a result, recommended the assessed value of \$87,560 to the County Board at the time of the Protest proceedings.

² Exhibit 2.

³ Exhibit 3.

⁴ Exhibit 4.

⁵ Exhibit 5.

⁶ See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner County 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

county board of equalization, 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.⁷

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.⁸

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.⁹ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.¹⁰

The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.¹¹ The County Board need not put on any evidence to support its valuation of the property at issue unless the Taxpayer establishes that the County Board's valuation was unreasonable or arbitrary.¹²

is available at the time of the trial on appeal." *Koch v. Cedar County Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).

⁷ *Brenner v. Banner County Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

⁸ *Id.*

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

¹⁰ *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

¹¹ Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo County*, 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 County*, 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).

¹² *Bottorf v. Clay County Bd. of Equal.*, 7 Neb.App. 162, 580 N.W.2d 561 (1998).

In an appeal, the Commission may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based. The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.¹³ The Commission may take notice of judicially cognizable facts, may take notice of general, technical, or scientific facts within its specialized knowledge, and may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.¹⁴ The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁵

IV. APPLICABLE VALUATION LAW

Under Nebraska law,

Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and a willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property the analysis shall include a full description of the physical characteristics of the real property and an identification of the property rights valued.¹⁶

Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach using the guidelines in Neb. Rev. Stat. § 77-1371, (2) income approach, and (3) cost approach.¹⁷ Nebraska courts have held that actual value, market value, and fair market value mean exactly the same thing.¹⁸ Taxable value is the percentage of actual

¹³ Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

¹⁴ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

¹⁵ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹⁶ Neb. Rev. Stat. § 77-112 (Reissue 2018).

¹⁷ Neb. Rev. Stat. § 77-112 (Reissue 2018).

¹⁸ *Omaha Country Club* at 180, 829.

value subject to taxation as directed by Neb. Rev. Stat. § 77-201 and has the same meaning as assessed value.¹⁹ All real property in Nebraska subject to taxation shall be assessed as of January 1.²⁰ All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.²¹

V. VALUATION OF AGRICULTURAL LAND

Agricultural land and horticultural land shall be valued for purposes of taxation at seventy five percent of its actual value.²²

Agricultural land and horticultural land, shall be divided into classes and subclasses of real property under section 77-103.01, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Classes shall be inventoried by subclasses of real property based on soil classification standards developed by the Natural Resources Conservation Service of the United States Department of Agriculture as converted into land capability groups by the Property Tax Administrator. *Land capability groups²³ shall be Natural Resources Conservation Service specific to the applied use and not all based on a dryland farming criterion.* County assessors shall utilize soil surveys from the Natural Resources Conservation Service of the United States Department of Agriculture as directed by the Property Tax Administrator. Nothing in this section shall be construed to limit the classes and subclasses of real property that may be used by county

¹⁹ Neb. Rev. Stat. § 77-131 (Reissue 2018).

²⁰ See Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

²¹ Neb. Rev. Stat. § 77-201(1) (Reissue 2018).

²² Neb. Rev. Stat. § 77-201(2) (Reissue 2018).

²³ Land Capability Groups are groups of soils that are similar in their productivity and their suitability for most kinds of farming. It is a classification based on the capability classification, production, and limitations of the soils, the risk of damage when they are used for ordinary field crops, grassland, and woodlands, and the way they respond to treatment. Land Capability Groups are determined by the Department of Revenue, Property Assessment Division based upon the dryland capability classification. Title 350 Neb. Admin. Code, Chapter 14, Section 002.41, Revised 3/15/09 (emphasis added).

assessors or the Tax Equalization and Review Commission to achieve more uniform and proportionate valuations.²⁴

VI. FINDINGS OF FACT

The primary issue in these appeals is the Taxpayer's assertion that legislation enacted in 2019, LB 372, was improperly applied to determine the taxable value of the Subject Properties for tax year 2020.

A. Agricultural Assessments Prior to Tax Year 2020

Some context is necessary to understand the effect of the enactment of LB 372. In 2019, the Nebraska Legislature amended Neb. Rev. Stat. §77-1363 by inserting one sentence: "Land capability groups shall be Natural Resources Conservation Service specific to the applied use and not all based on a dryland farming criterion."²⁵ Our decision in this appeal is primarily based on our understanding of the effect this language has on the taxable value of agricultural land and horticultural land starting in tax year 2020.

Under Nebraska law, agricultural land and horticultural land²⁶ is a distinct class of real property and is divided into multiple subclasses.²⁷ Irrigated cropland, dryland cropland, and grassland are the most predominant use subclasses of agricultural land.

To properly assess a parcel of agricultural land, county assessors analyze each acre of the parcel. Fundamental to this analysis is identifying soil types. The process of identifying and analyzing soil types, and their ultimate productivity when put into either irrigated cropland, dryland cropland, or grassland uses, starts with information from the United States Department Agriculture, Natural Resources Conservation Service (NRCS). The NRCS assigns each soil type with a four-digit code and provides the soil type codes to the Property

²⁴ Neb. Rev. Stat. § 77-1363 (Cum. Supp. 2020) (emphasis added).

²⁵ LB 372, §1, and italicized above as codified in Neb. Rev. Stat. § 77-1363 (Cum. Supp. 2020).

²⁶ Hereinafter referred to as "agricultural land."

²⁷ Neb. Rev. Stat. § 77-103.01 (Reissue 2018).

Assessment Division (PAD) of the Nebraska Department of Revenue.²⁸ PAD then classifies each soil type into one of eight Land Capability Groupings (LCG) for irrigated cropland, dryland cropland, and grassland.²⁹ This soil conversion process conducted by PAD includes multiple soil types in each of these LCG's. As a result, the eight LCG's for each agriculture subclass are as follows:

Irrigated	1A1	1A	2A1	2A	3A1	3A	4A1	4A
Dry	1D1	1D	2D1	2D	3D1	3D	4D1	4D
Grass	1G1	1G	2G1	2G	3G1	3G	4G1	4G

Soils that are used for irrigated cropland are included under the designation "A." Soils used for dryland cropland are designated with a "D," and soils used for grassland are designated as "G." Soils deemed to be most productive are classified as 1A1, 1D1, and 1G1. Soils deemed to be least productive are classified as 4A, 4D, and 4G. All acres used for irrigated cropland, dryland cropland, and grassland are classified under one of these LCG's.

PAD provides the soil classifications for each county to each county assessor. Each county assessor is then required to utilize the soil surveys as directed by the Property Tax Administrator (PTA) of PAD.³⁰

Prior to the enactment of LB 372, PAD classified each four-digit soil type it received from the NRCS in an LCG, based upon a dryland capability classification per Rules & Regulations.³¹ For example, soil type 6525, when used as dryland cropland, was classified as LCG 2D1,

²⁸ An example of this can be seen in the third column of Exhibit 36, labeled "soil."

²⁹ An LCG is defined as, "a grouping of various soils according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to average management." Title 350 Neb. Admin. Code, Chapter 14, Section 004.08E, Revised 3/15/09.

³⁰ Neb. Rev. Stat. § 77-1363 (Cum. Supp. 2020) ("County assessors shall utilize soil surveys from the Natural Resources Conservation Service of the United States Department of Agriculture as directed by the Property Tax Administrator.").

³¹ "Land Capability Groups are determined by the Department of Revenue, Property Assessment Division based upon the dryland capability classification." Title 350 Neb. Admin. Code, Chapter 14, Section 002.41, Revised 3/15/09.

with a productivity level of 2.³² PAD then relied upon the dryland cropland capability classification for soil type 6525 to also classify the irrigated cropland and the grassland at the productivity level of 2A1 and 2G1, respectively.

PAD directed assessors to use for each soil type the same productivity level that was designated for dryland cropland for both irrigated cropland and grassland.³³

B. Agricultural Assessments for Tax Year 2020

As a result of the enactment of LB 372, the classification of agricultural land as described above changed. Rather than designating the irrigated cropland and grassland productivity levels at the same level that those soil types had when used as dryland cropland, the productivity level for each soil type when used as irrigated cropland or as grassland was independent of the dryland cropland productivity level. For tax year 2020, PAD directed the County Assessor to use these classifications for the assessment of agricultural land in Platte County.

C. Agricultural Assessments by the Platte County Assessor for Tax Year 2020

Tom Placzek, the Platte County Assessor, testified that he had been directly involved in the assessment of the Subject Properties for both tax years 2019 and 2020. Placzek testified that the reclassification of soil types and LCG's from tax year 2019 to tax year 2020 was one factor in the change of values for many agricultural properties that were located in the same market area as the Subject Properties.³⁴ He

³² See, Exhibit 40:3. We are using the term "productivity level" to identify the numeral within each LCG.

³³ See, Title 350 Neb. Admin. Code, Chapter 14, Section 002.41.

³⁴ The Subject Properties were all located in market area 3, an area generally between the Loup River and the Platte River. See Exhibits 9:2, 11:2, 13:2, 15:4, 17:4, 37:1, and 38:1. The County Assessor utilized two market areas to assess agricultural land in Platte County, market area 3 and market area 6. See, 2020 Reports & Opinions of the Property Tax

also testified that two other factors had an effect on tax year 2020 values: the correction of acre measurements by soil type, and the application of market information from seven sales. We take up each of these three factors in turn.

1. The County Assessor Correctly Applied Soil Type and LCG Classifications

Placzek testified that when determining the value per acre for each parcel for tax year 2020, he applied the soil classifications and LCG’s as provided to him by PAD in the form of a spreadsheet. Per the PRF’s, the Subject Properties contained eight of these soil types with at least one of the uses of irrigated cropland, dryland cropland, or grassland, where the 2020 productivity level was different from the 2019 productivity level.³⁵ These soil types, the 2019 classifications, and the 2020 classifications are shown in the chart below:

	2019	2019	2019	2020	2020	2020
Soil	Dryland	Irrigated	Grassland	Dryland	Irrigated	Grassland
2288		2A			2A1	
2331		3A			2A	
6525	2D1	2A1	2G1	1D	1A	1G
8470		2A			2A1	
8530	2D	2A		2D1	2A1	

Based upon these soil types and LCG’s provided by PAD to the County Assessor, each of the five Subject Properties had at least one LCG reclassified from tax year 2019 to Tax year 2020. In one of the

Administrator, Exhibit 71, page 34, from the Statewide Equalization Proceedings for Tax year 2020.

³⁵ See, Exhibits 9:3 and 9:2, 11:3 and 11:2, 13:3 and 13:2, 15:5 and 15:4, 17:5 and 17:4, 37:1 and 37:2, and 38:1 and 38:2.

Subject Properties (20A 0050), at least one LCG from all three uses of irrigated cropland, dryland cropland, and grassland were reclassified.

Arrayed as applied to each Subject Property, the soil classification changes from 2019 to 2020 were as follows:

Case No.	Soil Type	2019 LCG	2020 LCG	Exhibits
20A 0049	6525	2A1	1A	38:2-3
20A 0049	8470	2A	2A1	38:2-3
20A 0049	8530	2A	2A1	38:2-3
20A 0049	8530	2D	2D1	38:2-3
20A 0050	6525	2A1	1A	40:2-3
20A 0050	8530	2A	2A1	40:2-3
20A 0050	6525	2D1	1D	40:2-3
20A 0050	6525	2G1	1G	40:2-3
20A 0050	8530	2A	2A1	40:2-3
20A 0052	2288	2A	2A1	44:4-5
20A 0052	2331	3A	2A	44:4-5

Thus, in the tax year 2020 assessments of the Subject Properties, the County Assessor utilized the soil types and LCG's provided by PAD, and correctly believed Neb. Rev. Stat. § 77-1363, as amended by LB 372, required it.

Therefore, we find that by using the soil type and LCG classifications as directed by PAD the County Assessor's actions were consistent with the requirements of Neb. Rev. Stat. § 77-1363, as amended. As noted above, before tax year 2020, the regulation required that LCG's be based upon the dryland cropland capability classification,³⁶ while the statute was silent on the point. Once amended, however, the statute required the LCG classifications of

³⁶ Land Capability Groups are determined by the Department of Revenue, Property Assessment Division based upon the dryland capability classification. Title 350 Neb. Admin. Code, Chapter 14, Section 002.41, Revised 3/15/09.

irrigated cropland and grassland to no longer be based upon the dryland cropland classifications for tax year 2020.³⁷

As a matter of statutory interpretation, we find that while the regulation has the force and effect of statutory law,³⁸ the more recent statute conflicts with the requirements of the regulation on the same subject matter.³⁹ As such, the more recent statute controls.⁴⁰ After following this rule of statutory construction, we simply give the statutory language its “plain and ordinary meaning”⁴¹ and conclude that the methodology followed by the County Assessor and affirmed by the County Board was consistent with the requirements of Neb. Rev. Stat. § 77-1363, as amended.

The Taxpayer offered no persuasive evidence that the County Board determinations, which relied upon the County Assessor’s actions and were consistent with the assessments done by the County Assessor, were arbitrary or unreasonable.

2. The County Assessor Properly Applied Corrected Acre Measurements of Agricultural Land that Resulted in Changes From Tax Year 2019 to Tax Year 2020

Placzek also included corrected acre measurements in the tax year 2020 PRF’s. This was done with the parcels in Case Nos. 20A 0048,⁴² 20A 0049,⁴³ 20A 0050,⁴⁴ and 20A 0052.⁴⁵ The Taxpayer offered

³⁷ “Land capability groups shall be Natural Resources Conservation Service specific to the applied use and not all based on a dryland farming criterion.” Neb. Rev. Stat. § 77-1363.

³⁸ “Agency regulations properly adopted and filed with the Secretary of State of Nebraska have the effect of statutory law.” *Ash Grove Cement Co. v. Nebraska Dept. of Rev.*, 306 Neb. 947, 963, 947 N.W.2d 731, 743 (2020).

³⁹ *Bergan Mercy Health Sys. v. Haven*, 260 Neb. 846, 859-60, 620 N.W.2d 339, 349 (2000).

⁴⁰ See, *Mauler v. Pathfinder Irr. Dist.* 244 Neb. 217, 219, 505 N.W.2d 691, 693 (1993).

⁴¹ *In re Adoption of Yasmin S.*, 308 Neb. 771, 774, 956 N.W.2d 704, 706 (2021).

⁴² See, Exhibits 36:3 and 36:2.

⁴³ See, Exhibits 38:3 and 38:2.

⁴⁴ See, Exhibits 40:3 and 40:2.

⁴⁵ See, Exhibits 44:5 and 44:4.

no persuasive evidence that these changes in acre counts were arbitrary or unreasonable.

3. The County Assessor Properly Considered Market Data From Seven Qualified Sales to Determine the Value Per Acre for Each LCG in Market Area 3

For tax year 2020, the County Assessor utilized agricultural sales in the three years prior to the effective date of January 1, 2020.⁴⁶ For market area 3, there were 7 qualified sales.⁴⁷ The County Assessor analyzed these sales to determine the values per acre for each LCG for each use, including irrigated cropland, dryland cropland, and grassland. These per acre values are shown in Exhibit 45, as prepared by the County Assessor. The three-year period for market area 3 sales analyzed for tax year 2019 included 11 sales.⁴⁸ The per acre values for each LCG for tax year 2019 are shown at Exhibit 46.

Sales from October 1, 2015, to September 30, 2016, were used for tax year 2019 but not for tax year 2020. Sales from October 1, 2016, to September 30, 2018, were used for both tax years 2019 and 2020. Sales from October 1, 2018, to September 30, 2018, were used for tax year 2020 but not for tax year 2019. As a result, the values per acre for tax year 2020 for each of the 8 LCG's in market area 3 for irrigated cropland, dryland cropland and grassland were not the same as they were for tax year 2019, as can be seen in Exhibits 45 and 46.

Placzek testified he applied the values per acre for each LCG consistently for all agricultural parcels in market area 3 including all of the Subject Properties. We find that these assessment practices were reasonable, and the County Board's reliance on them was not arbitrary

⁴⁶ For tax year 2020, the three-year period began October 1, 2016, and ended September 30, 2019. Title 350 Neb. Admin. Code, Chapter 17, Section 003.05C, Revised 07/05/2017.

⁴⁷ Exhibit 50:1, Exhibits 51-57. See also, 2020 Reports & Opinions of the Property Tax Administrator, Platte County, pages 15-16, and 31-33, from the Statewide Equalization Proceedings for tax year 2020.

⁴⁸ For tax year 2019, the three-year period began October 1, 2015, and ended September 30, 2018. See, Title 350 Neb. Admin. Code, Chapter 17, Section 003.05C, Revised 07/05/2017. See also, 2019 Reports & Opinions of the Property Tax Administrator, Platte County, pages 15-17, and 27-28, from the Statewide Equalization Proceedings for tax year 2019.

or unreasonable. The Taxpayer offered no persuasive evidence otherwise.

D. Improper Actions Taken by the County Board and by PAD that Affected the Protest and Appeal Process

We include this subsection in an attempt to provide clarity and completeness to the record relating to these appeals. The County Board's communications to the Taxpayer included two contrary positions which appeared to cause confusion for the Taxpayer.⁴⁹ For each Subject Property, only one decision is on appeal in these proceedings, as described above. But, after giving notice to the Taxpayer of that decision for each appeal,⁵⁰ the County Board soon after sent another communication to the Taxpayer stating a contrary point of view.⁵¹

Placzek testified that after PAD provided him with LCG's, after he had provided notices of assessed values to the Taxpayer for tax year 2020, and after the Taxpayer had filed protests for each property, all as described above, PAD provided Placzek with valuation options for some of the LCG's that had been affected by the requirements of LB 372.⁵² Among the options outlined was a suggestion on June 29, 2020, that "dryland and irrigated LCGs with a significant value change" could be "spotted back to the prior year classification."⁵³ This included soil types 6754, 6812, and 8476 for Platte County.

It is noteworthy to this discussion, and Placzek emphasized the point in his testimony, that none of the Taxpayer's Subject Properties

⁴⁹ The County Board decisions affirming the assessments for all five appeals were mailed to the Taxpayer on July 24, 2020. Two weeks later, on August 7, 2020, the County Board sent letters to the Taxpayer regarding all seven appeals stating the Board, "is on your side regarding your June tax protest." Exhibits 1-5, 15.

⁵⁰ Exhibits 1-5.

⁵¹ Exhibit 15.

⁵² Exhibit 14:1 includes a copy of a June 29, 2020, email from PAD's Field Operations Manager, Sarah Scott, to Placzek outlining per acre valuation options and suggestions. It is important to note that this communication was made more than one year after the Governor approved LB 372.

⁵³ *Id.*

contained any acres of any of these three soil types. In other words, even had Placzek followed the suggestions made by PAD on June 29, 2020, that specific classifications be “spotted back” to the prior year’s classification, that alone would have had no effect on the tax year 2020 assessed values of the Subject Properties. Placzek testified that he interpreted the June 29, 2020, communication, and a meeting with PAD that preceded it, as a suggestion that he should not follow the requirements of LB 372 because by doing so some parcels would have increases in their overall assessments.

During the same time period, PAD made similar communications to the County Board. The June 29, 2020, communication from PAD to Placzek was also provided by PAD to the County Board Chairperson, Jerry Engdahl, after its July 14, 2020, protest decisions affirming the assessments.⁵⁴ Additionally, in a letter to County Board Chairperson Engdahl, dated July 9, 2020, the PTA, Ruth Sorensen, summarized the process PAD followed after the enactment of LB 372, and then stated, “County Assessors were encouraged to adjust the valuation structures prior to March 19, 2020, to avoid increases to agricultural land because the current market for the majority of the state is flat to declining.”⁵⁵ As explained above, Placzek testified that he refused to make adjustments to the LCGs that were originally provided to him by PAD. In response to Placzek’s actions, Sorensen’s July 9, 2020, letter concluded, “This is unfortunate, as affected agricultural landowners will bear a disproportionate tax burden without corrective action.”⁵⁶

Placzek testified that he disagreed with the corrective actions that were being advocated by the PTA because he believed he was being discouraged from following the requirements of LB 372. Specifically, he stated that he refused to assess market area 3 using the majority of the state as the basis, as suggested by the PTA. He asserted the

⁵⁴ Exhibit 17.

⁵⁵ Exhibit 16.

⁵⁶ Exhibit 16:2. It should be noted it is irrelevant to these proceedings whether the PTA’s assertions were true. Any relevance to this proceeding is limited to provide clarification to the actions of the parties in response to those assertions.

assessments for Platte County should not be based upon generalized statewide sales statistics.

Placzek was correct. The PTA's corrective actions, as suggested in emails and letters, were not authorized or required by Neb. Rev. Stat. § 77-1330 as they did not constitute laws, rules, regulations, manuals, or directives.⁵⁷ In each of PAD's communications to the County Assessor and to the County Board, the record clearly indicates that PAD was advocating for assessments that would result in certain desired assessment outcomes. In this context, the suggestion to "spot back" an LCG classification would be contrary to the express requirements of LB 372 as codified at Neb. Rev. Stat. § 77-1363. To read the statute otherwise would be to give LB 372 no effect.

Thus, while we have noted the actions taken by PAD and by the County Board, as described in Part VI, Section D, of this Order, we do not suggest they were the basis for the County Board's initial protest decisions that are the subject of this appeal. Thus, while these actions were improper, they have no probative value in our determinations relating to the decisions of the County Board on July 14, 2020.

VII. CONCLUSIONS OF LAW

The Commission finds that there is not competent evidence to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its decisions on July 14, 2020. The Commission also finds that there is not clear and convincing

⁵⁷ "The Property Tax Administrator and Tax Commissioner shall prepare, issue, and annually revise guides for county assessors in the form of property tax laws, rules, regulations, manuals, and directives. The Property Tax Administrator and Tax Commissioner may issue such directives without the necessity of compliance with the terms of the Administrative Procedure Act relating to the promulgation of rules and regulations. The assessment and appraisal function performed by counties shall comply with the standards, and county assessors shall continually use the materials in the performance of their duties...." Neb. Rev. Stat. § 77-1330(1) (Reissue 2018).

evidence that these County Board decisions on July 14, 2020, were arbitrary or unreasonable.

For the reasons set forth above, the determinations of the County Board under review in these appeals should be affirmed.

VIII. ORDER

IT IS ORDERED THAT:

1. The decisions made by the Platte County Board of Equalization on July 14, 2020, determining the taxable values of the Subject Properties for tax year 2020 are affirmed.
2. The taxable values of the Subject Properties for tax year 2020 are as follows:

Case No.	Taxable Value Land	Taxable Value Improvement	Total Taxable Value
20A 0048	\$387,560	N/A	\$387,560
20A 0049	\$440,620	N/A	\$440,620
20A 0050	\$238,055	N/A	\$238,055
20A 0051	\$911,930	\$93,210	\$1,005,140
20A 0052	\$479,400	\$19,130	\$498,530

3. This Decision and Order, if no appeal is timely filed, shall be certified to the Platte County Treasurer and the Platte 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 2020. This Decision and Order is effective for purposes of appeal on April 11, 2023.⁵⁸

Signed and Sealed: April 11, 2023

SEAL



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner

⁵⁸ Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. § 77-5019 (Reissue 2018) and other provisions of Nebraska Statutes and Court Rules.