

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

ROSE M NELSON  
APPELLANT,

V.

MORRILL COUNTY BOARD  
OF EQUALIZATION, STEVE  
ERDMAN  
APPELLEES.

CASE NO: 24A 0603

DECISION AND ORDER  
REVERSING THE DECISION  
OF THE MORRILL COUNTY  
BOARD OF EQUALIZATION

**I. BACKGROUND**

1. The Subject Property is an improved agricultural parcel in Morrill County, parcel number 200117397.
2. The Morrill County Assessor (the County Assessor) assessed the Subject Property at \$196,875 for tax year 2024.
3. Steve Erdman (the Taxpayer) protested this value to the Morrill County Board of Equalization (the County Board) and requested an assessed value of \$180,758 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$180,758 for tax year 2024.
5. The County Assessor appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on October 2, 2025, at Fairfield Inn and Suites by Marriott, 902 Winter Creek Drive, Scottsbluff, NE 69361, before Commissioner Jackie S. Russell.
7. Robert Brenner, Attorney, and Rose M. Nelson, County Assessor, were present at the hearing for the Appellant.
8. Kirk Fellhoelter, County Attorney, was present for the County Board.

9. Steve Erdman was present for the Taxpayer.

## II. APPLICABLE LAW

10. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
11. The Commission's review of a determination of the County Board of Equalization is *de novo*.<sup>2</sup>
12. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>3</sup>
13. The first involves a presumption 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.<sup>4</sup> 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.<sup>5</sup>
14. The second burden of proof requires that 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.<sup>6</sup> The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

<sup>2</sup> 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, 759 N.W.2d 464, 473 (2009).

<sup>3</sup> *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, \_\_\_ N.W.3d \_\_ (2025). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus. v. Nuckolls Cty. Bd. of Equal.*, 231 Neb. 653, 654-55, 437 N.W.2d 501, 502 (1989)).

<sup>4</sup> *Pinnacle Enters.*, 320 Neb. at 309, \_\_\_ N.W.3d at \_\_\_ (quoting *Cain v. Custer Cty. Bd. of Equal.*, 315 Neb. 809, 818, 1 N.W.3d 512, 521 (2024)). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus.*, 231 Neb. at 654-55, 437 N.W.2d at 502).

<sup>5</sup> *Pinnacle Enters.*, 320 Neb. at 309, \_\_\_ N.W.3d at \_\_\_.

<sup>6</sup> *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

of the board.<sup>7</sup>

15. 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.<sup>8</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>9</sup>

16. The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.<sup>10</sup> 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.<sup>11</sup>

17. 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.<sup>12</sup> The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.<sup>13</sup> 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.<sup>14</sup> The Commission's

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<sup>7</sup> *Pinnacle Enters.*, 320 Neb. at 309, \_\_\_ N.W.3d at \_\_\_. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

<sup>8</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>9</sup> *Pinnacle Enters.*, 320 Neb. at 309, \_\_\_ N.W.3d at \_\_\_; *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

<sup>10</sup> 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) *abrogated on other grounds by Potts v. Bd. of Equalization*, 213 Neb. 37, 328 N.W.2d 175 (1982); *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).

<sup>11</sup> *Wheatland Indus., LLC v. Perkins Cty. Bd. of Equalization*, 304 Neb. 638, 935 N.W.2d 764 (2019) (quoting *Bottorf v. Clay Cty. Bd. of Equal.*, 7 Neb. App. 162, 168, 580 N.W.2d 561, 566 (1998)).

<sup>12</sup> Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

<sup>13</sup> *Id.*

<sup>14</sup> Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

Decision and Order shall include findings of fact and conclusions of law.<sup>15</sup>

### **III. FINDINGS OF FACT & CONCLUSIONS OF LAW**

18. The Subject Property is a one-story, single-family home built in 1952 on a rural residential parcel in market area 3 of Morrill County. The parcel is comprised of 14.82 acres with the following classification breakdown: 1 homesite acre, 1 outbuilding acre, 1.78 acres attributed to roads and ditches, 0.45 acres of Land Capability Group (LCG) 4G grassland, and 10.59 acres of LCG 1A irrigated land. The Appellees argued land valuation only.
19. Ms. Nelson argued that the County Board arbitrarily and unreasonably lowered the value of the Subject Property with insufficient evidence, creating dis-equalization amongst agricultural land values
20. Agricultural and horticultural land are an exception to the general rule in Nebraska that all taxable real property “shall be valued at actual value for purposes of taxation.”<sup>16</sup>
21. Agricultural land and horticultural land constitutes a separate and distinct class of property for purposes of property taxation and is valued at seventy-five percent of its actual value.<sup>17</sup>
22. Under § 77-112, actual value of real property for purposes of taxation may be determined using professionally accepted mass appraisal methods, including, but not limited to, (1) the sales comparison approach, taking into account factors such as location, zoning, and current functional use; (2) the income approach; and (3) the cost approach. This statute does not require use of all the specified factors, but requires use of applicable statutory factors, individually or in combination, to

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<sup>15</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

<sup>16</sup> Neb. Rev. Stat. § 77-201(1) (Cum. Supp. 2022).

<sup>17</sup> Neb. Rev. Stat. § 77-201(2) (Cum. Supp. 2022).

determine actual value of real estate for tax purposes.<sup>18</sup>

23. “[U]nder §§ 77-103.01, 77-112, and 77-1363, assessors are not limited to a single method of determining the actual value of property for tax purposes. Rather, assessors are charged with a duty to consider a wide range of relevant factors in order to arrive at a proper assessment which does not exceed actual value.”<sup>19</sup>

24. Ms. Nelson stated that a revaluation was completed for rural homesite acres and agricultural land for 2024. The increases (or decreases) to each property in the market study area were dependent upon the property data components and comparable sales within the study period with the results being uniformly applied to all applicable parcels. Agricultural land acre values are based on land capabilities and soil classification within each market area as detailed on page 32 of the “Reports and Opinions (R&O) of the Property Tax Administrator (PTA) for Morrill County.”

25. Mr. Erdman argued that not enough sales exist to adequately perform a sales comparison analysis for valuation purposes in Morrill County. Mr. Erdman then supplied two 2025 Property Record Files (PRFs) from Morrill County, opining that they were the best indicators of value for the Subject Property.

26. The two submitted PRFs represented sales from 2023. The Simpson property sold for \$35,000 with vacant agricultural land in market area 3. The land totaled 16.18 acres with 13.71 acres of LCG 1A irrigated land, LCG 0.47 acres of 4A1 irrigated land, and 2 acres roads and ditches. Stuart Land, LLC sold for \$35,000 with vacant agricultural land in market area 4. The land totaled 27.34 acres with 15.5 acres of LCG 1A irrigated land, 2.89 acres of LCG 2A irrigated land, 0.40 acres of LCG 4A1 irrigated land, 4.69 acres of LCG 4G grassland, and 3.86 acres of LCG 4G1 grassland.

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<sup>18</sup> *Cain v. Custer Cty. Bd. of Equal.*, 298 Neb. 834, 845, 906 N.W.2d 285, 295 (2018).

<sup>19</sup> *Id.*, 298 Neb. at 853, 906 N.W.2d at 299.

27. Both properties presented by Mr. Erdman have different land capability groups as compared to the Subject Property as well as differing market areas. A Land Capability Group (LCG) is 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.<sup>20</sup> A LCG is determined for each kind of soil and its current land use.<sup>21</sup> The market area differences are found on page 15 of the R&O and constitute different analyses of the agricultural property.
28. Mr. Erdman provided an analysis of an average price per acre based on these two sales which was also provided to the County Board of Equalization at the time of the protest to support his requested valuation.
29. “Simply averaging the results of the adjustment process to develop an averaged value fails to recognize the relative comparability of the individual transactions as indicated by the size of the total adjustments and the reliability of the data and methods used to support the adjustments.”<sup>22</sup>
30. The documents provided by the Appellant indicate that a market exists between LCGs that have created differing values<sup>23</sup> created by analyzing 36 sales across three market areas in Morrill County.<sup>24</sup>
31. Within the provided R&O document, it is the expert opinion of the PTA that the assessment practices of the Morrill County Assessor’s office have met generally accepted mass appraisal standards and that the statistics provided according to Neb. Rev. Stat. §77-1327, are representative of the population and statistically reliable. The Commission agrees.
32. The R&O further states in the Agricultural Correlation section on pages 15-16 that in market area 3 there were adjustments

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<sup>20</sup> 350 Neb. Admin. Code ch. 14, § 004.08E (3/2009).

<sup>21</sup> 350 Neb. Admin. Code ch. 14, § 004.08E (3/2009).

<sup>22</sup> Appraisal Institute, *The Appraisal of Real Estate* 389 (14th ed. 2013).

<sup>23</sup> R&O document at p. 32.

<sup>24</sup> R&O document at p. 30-31.

across all agricultural properties as indicated in the assessment actions. There was also a comprehensive view by the PTA of the statistical review, the assessment practices of the county assessor, and the agricultural market in the surrounding counties to support that land values in Morrill County are assessed uniformly and according to generally accepted mass appraisal techniques. This analysis included the rural residential improvements and outbuildings which the PTA stated demonstrated equalized valuation.

33. The Appellant has produced sufficient competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
34. The Appellant has adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be vacated.

#### **IV. ORDER**

##### **IT IS ORDERED THAT:**

1. The decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2024 is vacated and reversed.
2. The taxable value of the Subject Property for tax year 2024 is:

Land	\$ 54,875
<u>Improvements</u>	<u>\$142,000</u>
Total	\$196,875

3. This Decision and Order, if no further action is taken, shall be certified to the Morrill County Treasurer and the Morrill County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
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 2024.
7. This Decision and Order is effective on January 16, 2026.

Signed and Sealed: January 16, 2026



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Jackie S. Russell, Commissioner