BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

HHRK FAMILY FARM, LLC APPELLANT, v. DAKOTA COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 25A 0570 DECISION AND ORDER AFFIRMING THE DECISION OF THE DAKOTA COUNTY BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an agricultural parcel in Dakota County, parcel number 220085838.
2. The Dakota County Assessor (the County Assessor) assessed the Subject Property at $999,930 for tax year 2025.
3. HHRK Family Farm, LLC (the Taxpayer) protested this value to the Dakota County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was $999,930 for tax year 2025.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on August 5, 2026, at the Tax Equalization and Review Commission Hearing Room, 500 S. 16th Street, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Paul and Karen Carlson were present at the hearing for the Taxpayer.
8. Christy Abts (Assessor), Melissa Collins (Deputy Assessor), and Sam Ferraro (Appraiser) were present for the County Board.

II. APPLICABLE LAW

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.[1]
10. The Commission's review of a determination of the County Board of Equalization is de novo.[2]
11. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.[3]
12. 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.[4] 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.[5]
13. 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.[6] The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.[7]

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[1] Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2024).

[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, 759 N.W.2d 464, 473 (2009).

[3] *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, 27 N.W.3d 1, 6 (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)).

[4] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6 (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).

[5] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.

[6] *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

[7] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

14. 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.[8] Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.[9]
15. The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.[10] 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.[11]
16. 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.[12] 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]

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[8] Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).
[9] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6; *Omaha Country Club v. Douglas County Bd. of Equal.,* 11 Neb. App. 171, 645 N.W.2d 821 (2002).
[10] 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).
[11] *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)).
[12] Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).
[13] *Id.*
[14] Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).
[15] Neb. Rev. Stat. § 77-5018(1) (Cum. Supp. 2024).

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is a vacant agricultural parcel with 161.60 total acres consisting of 145.35 dryland acres, 13.98 waste acres, and 2.27 acres for roads and ditches.
18. The Taxpayer argued that the Subject Property's value was arbitrary and unreasonable due to the percentage increase from the 2024 tax year.
19. The Taxpayer argued that the UNL agriculture survey showed a decline in dryland value for the Northeast area which the survey shows includes Dakota County.
20. The Commission must look to the value of the Subject Property as of January 1 of each tax year.[16]
21. The assessed value for real property may be different from year to year according to the circumstances.[17] For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.[18]
22. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value. [19]
23. 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.[20]
24. "Agricultural and horticultural land is valued for taxation purposes at 75 percent of its value, but the starting point for determining taxable value is still actual value."[21]

[16] Neb. Rev. Stat §77-1301(Cum. Supp. 2022)
[17] *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).
[18] *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).
[19] Title 350 Neb. Admin. Code, ch.10 § 003.01A (10/2014).
[20] Neb. Rev. Stat. § 77-201(2) (Reissue 2018); see Laws 2021, LB2, § 1.
[21] *Betty L. Green Living Tr. v. Morrill Cty. Bd. of Equal.*, 299 Neb. 933, 944, 911 N.W.2d 551, 559 (2018); 350 Neb. Admin. Code, ch. 14, § 002.54 (Mar. 15, 2009).

25. A determination of actual value may be made by using professionally accepted mass appraisal methods.[22] The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.[23]
26. No evidence was presented to show that the work of the UNL agriculture survey is a representation of market value using professionally accepted mass appraisal methods and therefore, the Commission gives little weight to it.
27. The Assessor stated there was a revaluation of the agricultural properties within Market Area 2 of which the Subject Property belongs. The increases (or decreases) to each property in the market study area were dependent upon the property data characteristics and comparable sales within the study period.
28. Property data characteristics for an agricultural property include the breakdown of soil types and their uses, as well as the Land Capability Group (LCG).
29. The Assessor stated that the Subject Property's value was set using a sales comparison analysis of agricultural properties in Dakota County, along with the soil type(s) and use(s), i.e. irrigated, dry, and grass, etc.
30. The Assessor provided several Property Record Files to show that properties located in Market Area 2 with the same soil type, use, and LCG are being treated uniformly in value per acre.
31. The Taxpayer argued that the percentage of increase across neighboring properties was smaller than the percentage increase to the Subject Property.
32. The Taxpayer did not provide PRFs of the neighboring properties discussed. Accordingly, the Commission cannot see the basis for the determination of assessed value for the properties presented by the Taxpayer or compare their property characteristics to the characteristics of the Subject Property. The Commission is unable to determine the contribution of the

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[22] Neb. Rev. Stat. § 77-112 (Reissue 2018).
[23] *Id.*

different characteristics of the properties presented by the Taxpayer to the Subject Property.[24]

33. If the neighboring properties had a different set of soil types and amount of acres per soil type than the Subject Property, the percentage of increase may be different according to the property characteristics and is not an indication that the agricultural land values are not uniform and proportionate to each other.
34. The Taxpayer has not 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.
35. The Taxpayer has not 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 affirmed.

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 2025 is affirmed.
2. The taxable value of the Subject Property for tax year 2025 is:

Total	$999,930

3. This Decision and Order, if no further action is taken, shall be certified to the Dakota County Treasurer and the Dakota County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.

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[24] For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on May 7, 2026, includes the following:

> **NOTE**: *Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page* ***is not*** *a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

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 2025.
7. This Decision and Order is effective on September 15, 2026.

SIGNED AND SEALED: September 15, 2026.

SEAL

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Jackie S. Russell, Commissioner