

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

MICHELLE ROBINSON, BOX BUTTE)
COUNTY ASSESSOR,)
)
Appellant,)
)
v.)
)
BOX BUTTE COUNTY BOARD OF)
EQUALIZATION)
)
and)
)
STEVEN L. & MELISSA M. O'LEARY,)
)
Appellees.)

Case No. 09R 023

DECISION AND ORDER
REVERSING THE DECISION OF
THE BOX BUTTE COUNTY BOARD OF
EQUALIZATION

The above-captioned case was called for a hearing on the merits of an appeal by Michelle Robinson, Box Butte County Assessor, ("County Assessor") to the Tax Equalization and Review Commission ("the Commission"). The hearing was held in the Hampton Inn, 301 W Hwy 26, Scottsbluff, Nebraska, on June 3, 2010, pursuant to an Order for Hearing and Notice of Hearing issued February 26, 2010. Commissioner Wickersham, Chairperson of the Commission, was the presiding hearing officer. Commissioner Warnes was absent. Commissioner Wickersham, as Chairperson, designated Commissioners Wickersham, Salmon, and Hotz as a panel of the Commission to hear the appeal. Commissioner Hotz was excused. Commissioner Salmon was present. The appeal was heard by a quorum of a panel of the Commission.

Michelle Robinson, Box Butte County Assessor, was present at the hearing. James L. Zimmerman appeared as legal counsel for the County Assessor.

No one appeared on behalf of the Box Butte County Board of Equalization ("the County Board").

Steven L. & Melissa M. O'Leary ("Taxpayers") were present at the hearing. No one appeared as legal counsel for the Taxpayers.

The Commission took statutory notice, received exhibits, and heard testimony.

The Commission is required to state its final decision and order concerning an appeal, with findings of fact and conclusions of law, on the record or in writing. Neb. Rev. Stat. §77-5018 (Reissue 2009). The final decision and order of the Commission in this case is as follows.

I. ISSUES

The County Assessor has asserted that taxable value of the subject property as of January 1, 2009, is not equalized with the taxable value of other real property. The issues on appeal related to that assertion are:

Whether the decision of the County Board determining the equalized taxable value of the subject property is unreasonable or arbitrary;

Whether the equalized taxable value of the subject property was determined by the County Board in a manner and an amount that is uniform and proportionate as required by Nebraska's Constitution in Article VIII §1; and

The equalized taxable value of the subject property on January 1, 2009.

II. FINDINGS OF FACT

The Commission finds and determines that:

1. The County Assessor may maintain the appeal.

2. The parcel of real property to which this appeal pertains ("the Subject Property") is described in the table below.
3. Actual value of the subject property placed on the assessment roll as of January 1, 2009, ("the assessment date") by the Box Butte County Assessor, value as proposed in a timely protest, and actual value as determined by the County Board is shown in the following table:

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Description: Lot A Blk 3 Lakefield formerly Lots 15 & 16, Alliance, Box Butte County, Nebraska.

	Assessor Notice Value	Taxpayer Protest Value	Board Determined Value
Land	\$11,925.00	\$11,925.00	\$11,925.00
Improvement	\$302,065.00	\$194,069.00	\$247,655.00
Total	\$313,990.00	\$205,993.00	\$259,580.00

4. An appeal of the County Board's decision was filed with the Commission.
5. The County Board was served with a Notice in Lieu of Summons and duly answered that Notice.
6. Steven L. & Melissa M. O'Leary was served with a Notice in Lieu of Summons and duly answered that Notice.
7. An Order for Hearing and Notice of Hearing issued on February 26, 2010, set a hearing of the appeal for June 3, 2010, at 3:00 p.m. MDST.
8. An Affidavit of Service, which appears in the records of the Commission, establishes that a copy of the Order for Hearing and Notice of Hearing was served on all parties.
9. Actual value of the subject property as of the assessment date for the tax year 2009 is:

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Land value	\$ 11,925.00
Improvement value	<u>\$223,640.00</u>
Total value	<u>\$235,565.00.</u>

**III.
APPLICABLE LAW**

1. Subject matter jurisdiction of the Commission in this appeal is over all questions necessary to determine taxable value. Neb. Rev. Stat. §77-5016(7) (Reissue 2009).
2. “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.” Neb. Rev. Stat. §77-112 (Reissue 2009).
3. 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 section 77-1371, (2) income approach, and (3) cost approach. Neb. Rev. Stat. §77-112 (Reissue 2009).

4. “Actual value, market value, and fair market value mean exactly the same thing.”
Omaha Country Club v. Douglas County Board of Equalization, et al., 11 Neb.App. 171, 180, 645 N.W.2d 821, 829 (2002).
5. Taxable value is the percentage of actual value subject to taxation as directed by section 77-201 of Nebraska Statutes and has the same meaning as assessed value. Neb. Rev. Stat. §77-131 (Reissue 2009).
6. All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation. Neb. Rev. Stat. §77-201(1) (Reissue 2009).
7. “Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this Constitution.” *Neb. Const.*, Art. VIII, §1.
8. Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value. *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).
9. The purpose of equalization of assessments is to bring the assessment of different parts of a taxing district to the same relative standard, so that no one of the parts may be compelled to pay a disproportionate part of the tax. *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991); *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623 (1999).

10. Equalization to obtain proportionate valuation requires a comparison of the ratio of assessed to actual value for the subject property and comparable property. See *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623 (1999).
11. Uniformity requires that whatever methods are used to determine actual or taxable value for various classifications of real property that the results be correlated to show uniformity. *Banner County v. State Board of Equalization*, 226 Neb. 236, 411 N.W.2d 35 (1987).
12. Property must be assessed uniformly and proportionately, even though the result may be that it is assessed at less than the actual value. *Equitable Life v. Lincoln County Bd. of Equal.*, 229 Neb. 60, 425 N.W.2d 320 (1988); *Fremont Plaza v. Dodge County Bd. of Equal.*, 225 Neb. 303, 405 N.W.2d 555 (1987).
13. The constitutional requirement of uniformity in taxation extends to both rate and valuation. *First Nat. Bank & Trust Co. v. County of Lancaster*, 177 Neb. 390, 128 N.W.2d 820 (1964).
14. In the evaluation of real property for tax purposes, where buildings and improvements are taxable as a part of the real estate, the critical issue is the actual value of the entire property, not the proportion of that value which is allocated to the land or to the buildings and improvements by the appraiser. *Bumgarner v. Valley County*, 208 Neb. 361, 303 N.W.2d 307 (1981).
15. If taxable values are to be equalized it is necessary for the appellant to establish by clear and convincing evidence that valuation placed on his or her property when compared with valuations placed on similar property is grossly excessive and is the result of systematic

will or failure of a plain legal duty, and not mere error of judgement. There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity. *Newman v. County of Dawson*, 167 Neb. 666, 94 N.W.2d 47 (1959).

16. A presumption exists that the County Board has faithfully performed its duties and has acted on competent evidence. *City of York v. York County Bd. Of Equalization*, 266 Neb. 297, 64 N.W.2d 445 (2003).
17. The presumption in favor of the county board may be classified as a principle of procedure involving the burden of proof, namely, an appellant has the burden to prove that action by a board of equalization fixing or determining valuation of real estate for tax purposes is unauthorized by or contrary to constitutional or statutory provisions governing taxation. *Gordman Properties Company v. Board of Equalization of Hall County*, 225 Neb. 169, 403 N.W.2d 366 (1987).
18. The presumption disappears if there is competent evidence to the contrary. *Id.*
19. 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. Neb. Rev. Stat. §77-5016 (8) (Cum. Supp. 2008).
20. Proof that the order, decision, determination, or action appealed from was unreasonable or arbitrary must be made by clear and convincing evidence. See, e.g., *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb.App. 171, 645 N.W.2d 821 (2002).

21. "Clear and convincing evidence means and is that amount of evidence which produces in the trier of fact a firm belief or conviction about the existence of a fact to be proved."
Castellano v. Bitkower, 216 Neb. 806, 812, 346 N.W.2d 249, 253 (1984).
22. A decision is "arbitrary" when it is made in disregard of the facts and circumstances and without some basis which could lead a reasonable person to the same conclusion. *Phelps Cty. Bd. of Equal. v. Graf*, 258 Neb 810, 606 N.W.2d 736 (2000).
23. A decision is unreasonable only if the evidence presented leaves no room for differences of opinion among reasonable minds. *Pittman v. Sarpy Cty. Bd. of Equal.*, 258 Neb 390, 603 N.W.2d 447 (1999).
24. "An owner who is familiar with his property and knows its worth is permitted to testify as to its value." *U. S. Ecology v. Boyd County Bd. Of Equalization*, 256 Neb. 7, 16, 588 N.W.2d 575, 581 (1999).
25. The County Board need not put on any evidence to support its valuation of the property at issue unless the appellant establishes the Board's valuation was unreasonable or arbitrary. *Bottorf v. Clay County Bd. of Equalization*, 7 Neb.App. 162, 580 N.W.2d 561 (1998).
26. An appellant, who only produced evidence that was aimed at discrediting valuation methods utilized by the County Board, failed to meet burden of proving that value of property was not fairly and proportionately equalized or that valuation placed upon property for tax purposes was unreasonable or arbitrary. *Beynon v. Board of Equalization of Lancaster County*, 213 Neb. 488, 329 N.W.2d 857 (1983).
27. An appellant must introduce competent evidence of actual value of the subject property in order to successfully claim that the subject property is overvalued. Cf. *Lincoln Tel. and*

Tel. Co. v. County Bd. Of Equalization of York County, 209 Neb. 465, 308 N.W.2d 515 (1981); *Arenson v. Cedar County*, 212 Neb. 62, 321 N.W.2d 427 (1982).

IV. ANALYSIS

The subject property is an improved parcel. The improvements on the subject property are a two story, 2,590 square foot single family residence, with a 1,520 square foot basement, and a 764 square foot attached garage and a yard shed. (E2:2). Actual value of the subject property as determined by the County Assessor was \$313,990. (E1:1). Actual value as determined by the County Board was \$259,580. (E1:1). The Taxpayer testified that he believed the County Board's value was one-half of the difference between the County Assessor's determination of actual value and his requested value. The explanation offered by the Taxpayer results in a value of \$259,991.5 ($(\$313,990 - \$205,993 = \$107,997 \div 2 = \$53,998.50)$ $(\$313,990 - \$53,998.5 = \$259,991.5)$). No other explanation for the County Board's determination appears in the record. For reasons stated below the Commission determines that the equalized taxable value of the subject property is \$235,565.

Actual value of the subject property was determined by the County Assessor relying on a table used to determine the per square foot value of a residence based on its age, quality of construction and condition. The table was received as Exhibit 2 page 7. The residence on the subject property was built in 2000, its quality is good and its condition is good. (E2:6). Using the table, the indicated per square foot value of the subject property is not indicated. The closest fit in the table is for a residence constructed between 1990-1999, good quality and good

condition with a range of per square foot values between 110 and 120. The value per square foot determined for the subject property is 117. (E2:6).

The assessment records allow consideration of two ages for residences, the chronological age based on the year built and the effective age. Effective age is the number of years of age of the improvement as indicated by its condition. If an improvement has had better-than-average maintenance, its effective age may be less than the actual age; if there has been inadequate maintenance, it may be greater. *Property Assessment Valuation*, 2nd Ed., International Association of Assessing Officers, 1996, 160 - 161. The table shown in Exhibit 2 page 7 was not used consistently based on either the chronological or effective ages shown in the records. A good quality residence built in 1998 in good condition was valued at 86 per square foot. (E3:9). The table indicates that the per square foot value should have been between 110 and 120. The effective age of the residence is 4 years. (E3:9). If effective age is used in the table the date range is 2000 to 2007 and the indicated range of values per square foot is not shown. The closest fit is in the 1990 to 1999 construction date range at 110 to 120. (E2:7) An average quality residence built in 1972 in good condition was valued at 71 per square foot. (E3:11). The table indicates that the per square foot value based on date of construction should have been between 85 and 95. (E2:7). The effective age of the residence is 6 years. (E3:11). If effective age is used in the table the date range is 2000 to 2007 and the indicated range of values per square foot is not shown. The closest fit is in the 1990 to 1999 construction date range at 100 to 110. (E2:7). An average quality residence built in 1979 in good condition was valued at 68 per square foot. (E3:13). The table indicates that the per square foot value based on date of construction should have been 85 to 95. (E2:7). The effective age of the residence is 10 years. (E3:13). If effective

age is used in the table the date range is 1990 to 1999 and the indicated range of values per square foot is 100 to 110. (E2:7). The evidence is that there is no correlation between the value per square foot and value per square foot as shown in the assessment records. It is not possible to determine the basis on which the County Board determined actual value of the subject property nor is it possible to determine the manner in which the County Assessor determined actual value of the parcels the Taxpayer offered for comparison.

Nebraska's Constitution requires that taxes be levied by valuation uniformly and proportionately. *Neb. Const.*, art. VIII, §1. Proportionality can be determined through a comparison of the ratio of taxable to actual value for a parcel with the ratio of taxable value to actual value of another parcel. *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623 (1999). Uniformity requires that, whatever methods are used to determine actual or taxable value for various classifications of real property, the results be correlated to show uniformity. *Banner County v. State Board of Equalization*, 226 Neb. 236, 411 N.W.2d 35 (1987). Courts in Nebraska have on review of equalization claims, placed a burden on a Taxpayer "to establish by clear and convincing evidence that valuation placed on his or her property when compared with valuations placed on similar property is grossly excessive and is (the) *sic* result of systematic will or failure of a plain legal duty, and not mere error of judgement." *Scribante v. Douglas County Board of Equalization*, 8 Neb. App. 25, 36, 588 N.W.2d 190, 197 (1999). The records demonstrate a plain failure to uniformly and proportionately value real property. The remedy if a lack of equalization is shown is a taxable value that reflects the lowest equalized value. See *Kearney Convention Center v. Buffalo County Board of Equalization*, 216 Neb. 292, 304 N.W.2d 620 (1984).

The residence shown in Exhibit 3 pages 9 and 10 is in good condition, built in 1998 with good quality construction with an effective age of 4 years. Those are the factors that should have determined its per square foot value at 110-120. It was valued at 86 per square foot. Valuation of the subject property on the same basis results in an equalized taxable value of \$235,565 composed of land \$11, 925, lump sums \$900 and the residence \$222,740 (2,590 X 86 = 222,740). The lump sum value is the value attributed to the yard shed. The County Assessor testified that the value of the fireplace, the wood deck, and the porch should have been included in the per square foot value of the residence. That methodology appears consistent with the record for the parcel shown at pages 9 & 10 of Exhibit 3.

Valuation of real property using mass appraisal techniques is not an exact science. It is not, however, a process that can be as inconsistent as shown in the records before the Commission. The Taxpayer is entitled to greater relief than was granted by the County Board.

V. CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction in this appeal.
2. The Commission has jurisdiction over the parties to this appeal.
3. The County Assessor has produced competent evidence that the County Board failed to faithfully perform its official duties and to act on sufficient competent evidence to justify its actions.

4. The County Assessor has adduced sufficient, clear and convincing evidence that the decision of the County Board is unreasonable or arbitrary and the decision of the County Board should be vacated and reversed.

**VI.
ORDER**

IT IS ORDERED THAT:

1. The decision of the County Board determining equalized taxable value of the subject property as of the assessment date, January 1, 2009, is vacated and reversed.
2. Equalized taxable value, for the tax year 2009, of the subject property is:

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Land value \$ 11,925.00

Improvement value \$223,640.00

Total value \$235,565.00.

3. This decision, if no appeal is timely filed, shall be certified to the Box Butte County Treasurer, and the Box Butte County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Reissue 2009).
4. Any request for relief, by any party, which is not specifically provided for by this order is denied.
5. Each party is to bear its own costs in this proceeding.
6. This decision shall only be applicable to tax year 2009.

7. This order is effective for purposes of appeal on July 7, 2010.

Nancy J. Salmon, Commissioner

SEAL

APPEALS FROM DECISIONS OF THE COMMISSION MUST SATISFY THE REQUIREMENTS OF NEB. REV. STAT. §77-5019 (REISSUE 2009), OTHER PROVISIONS OF NEBRASKA STATUTES, AND COURT RULES.

I concur in the result.

The analysis above considers two standards of review for review. One standard of review is stated as a presumption found in case law, the other is found as stated in statute. I do not believe consideration of two standards of review are required by statute or case law.

The Commission is an administrative agency of state government. See *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000). As an administrative agency of state government the Commission has only the powers and authority granted to it by statute. *Id.* The Commission is authorized by statute to review appeals from decisions of a county board of equalization, the Tax Commissioner, and the Department of Motor Vehicles. Neb. Rev. Stat. §77-5007 (Supp. 2007). In general, the Commission may only grant relief on appeal if it is shown that the order, decision, determination, or action appealed from was unreasonable or arbitrary. Neb. Rev. Stat. §77-5016(8) (Cum. Supp. 2008).

The Commission is authorized to review decision of a county board of equalization determining taxable values. Neb. Rev. Stat. §77-5007 (Supp. 2007). Review of county board of equalization decisions is not new in Nebraska law. As early as 1903 Nebraska Statutes provided

for review of County Board assessment decisions by the district courts. Laws 1903, c. 73 §124. The statute providing for review did not state a standard for that review. *Id.* A standard of review stated as a presumption was adopted by Nebraska's Supreme Court. See *State v. Savage*, 65 Neb. 714, 91 N.W. 716 (1902) (citing *Dixon Co. v. Halstead*, 23 Neb. 697, 37 N.W. 621 (1888) and *State v. County Board of Dodge Co.* 20 Neb. 595, 31 N.W. 117 (1887). The presumption was that the County Board had faithfully performed its official duties and had acted upon sufficient competent evidence to justify its actions. See *id.* In 1959, the legislature provided a statutory standard for review by the district courts of county board of equalization, assessment decisions. 1959 Neb Laws, LB 55, §3. The statutory standard of review required the District Court to affirm the decision of the county board of equalization unless the decision was arbitrary or unreasonable or the value as established was too low. *Id.* The statutory standard of review was codified in section 77-1511 of the Nebraska Statutes. Neb. Rev. Stat. §77-1511 (Cum. Supp. 1959). After adoption of the statutory standard of review Nebraska Courts have held that the provisions of section 77-5011 of the Nebraska Statutes created a presumption that the County Board has faithfully performed its official duties and has acted upon sufficient competent evidence to justify its actions. See, e.g., *Ideal Basic Indus. V. Nuckolls Cty. Bd. Of Equal.*, 231 Neb. 653, 437 N.W.2d 501 (1989). The presumption stated by the Court was the presumption that had been found before the statute was enacted.

Many appeals of decisions made pursuant to section 77-1511 were decided without reference to the statutory standard of review applicable to the district courts review of a county board of equalization's decision. See, e.g., *Grainger Brothers Company v. County Board of Equalization of the County of Lancaster*, 180 Neb. 571, 144 N.W.2d 161 (1966). In *Hastings*

Building Co., v. Board of Equalization of Adams County, 190 Neb. 63, 206 N.W.2d 338 (1973), the Nebraska Supreme Court acknowledged that two standards of review existed for reviews by the district court; one statutory requiring a finding that the decision reviewed was unreasonable or arbitrary, and another judicial requiring a finding that a presumption that the county board of equalization faithfully performed its official duties and acted upon sufficient competent evidence was overcome. No attempt was made by the *Hastings* Court to reconcile the two standards of review that were applicable to the District Courts.

The Tax Equalization and Review Commission was created in 1995. 1995 Neb. Laws, LB 490 §153. Section 77-1511 of the Nebraska Statutes was made applicable to review of county board of equalization assessment decisions by the Commission. *Id.* In 2001 section 77-1511 of Nebraska Statutes was repealed. 2001 Neb. Laws, LB 465, §12. After repeal of section 77-1511 the standard for review to be applied by the Commission in most appeals was stated in section 77-5016 of the Nebraska Statutes. Section 77-5016(8) requires a finding that the decision being reviewed was unreasonable or arbitrary. *Brenner v. Banner County Board of Equalization*, 276 Neb. 275, 753 N.W.2d 802 (2008). The Supreme Court has stated that the presumption which arose from section 77-1511 is applicable to the decisions of the Commission. *Garvey Elevators, Inc. V. Adams County Bd. of Equalization*, 261 Neb. 130, 621 N.W.2d 518 (2001).

The possible results from application of the presumption as a standard of review and the statutory standard of review are: (1) the presumption is not overcome and the statutory standard is not overcome; (2) the presumption is overcome and the statutory standard is not overcome; (3) the presumption is not overcome and the statutory standard is overcome; (4) and finally the presumption is overcome and the statutory standard is overcome. The first possibility does not

allow a grant of relief, neither standard of review has been met. The second possibility does not therefore allow a grant of relief even though the presumption is overcome because the statutory standard remains. See *City of York v. York County Bd of Equal.*, 266 Neb. 297, 664 N.W.2d 445 (2003). The third possibility requires analysis. The presumption and the statutory standard of review are different legal standards, and the statutory standard remains after the presumption has been overcome. See *id.* The burden of proof to overcome the presumption is competent evidence. *Id.* Clear and convincing evidence is required to show that a county board of equalization's decision was unreasonable or arbitrary. See, e.g., *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb.App. 171, 645 N.W.2d 821 (2002). Competent evidence that the county board of equalization failed to perform its duties or act upon sufficient competent evidence is not always evidence that the county board of equalization acted unreasonably or arbitrarily because the statutory standard of review remains even if the presumption is overcome. *City of York*, *supra*. Clear and convincing evidence that a county board of equalization's determination, action, order, or decision was unreasonable or arbitrary, as those terms have been defined, may however overcome the presumption that the county board of equalization faithfully discharged its duties and acted on sufficient competent evidence. In any event the statutory standard has been met and relief may be granted. Both standards of review are met in the fourth possibility and relief may be granted.

Use of the presumption as a standard of review has been criticized. See G. Michael Fenner, *About Presumptions in Civil Cases*, 17 Creighton L. Rev. 307 (1984). In the view of that author, the presumption should be returned to its roots as a burden of proof. *Id.* Nebraska's Supreme Court acknowledged the difficulty of using two standards of review and classified the

presumption in favor of the county board of equalization as a principle of procedure involving the burden of proof, namely, a taxpayer has the burden to prove that action by a board of equalization fixing or determining valuation of real estate for tax purposes is unauthorized by or contrary to constitutional or statutory provisions governing taxation. See *Gordman Properties Company v. Board of Equalization of Hall County*, 225 Neb. 169, 403 N.W.2d 366 (1987). Use of the *Gordman* analysis allows consideration of both the presumption and the statutory standard of review without the difficulties inherent in the application of two standards of review. It is within that framework that I have analyzed the evidence.

Wm R. Wickersham, Commissioner