

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

Delta Plaza LLC/Hy-Vee, Inc.,  
Appellant,

v.

Dodge County Board of Equalization,  
Appellee,

Case Nos: 12C 144 & 13C 045

Decision and Order Affirming the  
Determination of the Dodge County Board  
of Equalization

**For the Appellant:**

Brian S. Kruse,  
Rembolt Ludtke LLP.

**For the Appellee:**

Timothy E. Sopinski,  
Dodge County Attorney.

This appeal was heard before Commissioners Robert W. Hotz and Nancy J. Salmon.

**I. THE SUBJECT PROPERTY**

The Subject Property is a commercial parcel located at 840 East 23<sup>rd</sup> Street, Fremont, Dodge County, Nebraska. The parcel is improved with a 64,170 square foot supermarket built in 2004. The legal description of the parcel is and the property record cards for the Subject Property are found at Exhibits 3 and 4.

**II. PROCEDURAL HISTORY**

The Dodge County Assessor (the County Assessor) determined that the assessed value of the Subject Property was \$4,521,325 for tax years 2012 and 2013.<sup>1</sup> Delta Plaza LLC/HyVee, Inc. (the Taxpayer) protested these assessments to the Dodge County Board of Equalization (the County Board). The County Board determined that the taxable value for each of the tax years 2012 and 2013 was \$4,521,325.<sup>2</sup>

The Taxpayer appealed the decisions of the County Board to the Tax Equalization and Review Commission (the Commission). Prior to the hearing, the parties exchanged exhibits and submitted a Pre-Hearing Conference Report, as ordered by the Commission. The parties stipulated that the actual value of the Subject Property was the same for tax years 2012 and 2013.

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<sup>1</sup> See, E1; See also, E2.

<sup>2</sup> See, E1; See also, E2.

The Commission opened the hearing on July 22, 2014, and recessed the hearing until September 12, 2014, at which time the hearing was concluded.

### III. STANDARD OF REVIEW

The Commission's review of the determination by a County Board of Equalization is de novo.<sup>3</sup> When the Commission considers an appeal of a decision of a 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."<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. 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.<sup>5</sup>

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>6</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>7</sup>

A Taxpayer must introduce competent evidence of actual value of the subject property in order to successfully claim that the subject property is overvalued.<sup>8</sup> The County Board need not put on any evidence to support its valuation of the property at issue unless the taxpayer establishes the Board's valuation was unreasonable or arbitrary.<sup>9</sup>

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<sup>3</sup> See, Neb. Rev. Stat. §77-5016(8) (2012 Cum. Supp.), *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).

<sup>4</sup> *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

<sup>5</sup> *Id.*

<sup>6</sup> Neb. Rev. Stat. §77-5016(8) (2012 Cum. Supp.).

<sup>7</sup> *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

<sup>8</sup> Cf. *Josten-Wilbert Vault Co. v. Board of Equalization 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 Equalization of York County*, 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).

<sup>9</sup> *Bottorf v. Clay County Bd. of Equalization*, 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.”<sup>10</sup> The commission may also “take notice of judicially cognizable facts and in addition 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>11</sup> The Commission’s Decision and Order shall include findings of fact and conclusions of law.<sup>12</sup>

#### IV. VALUATION

##### A. Applicable Law

Under Nebraska law,

[a]ctual 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.<sup>13</sup>

“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.”<sup>14</sup> “Actual value, market value, and fair market value mean exactly the same thing.”<sup>15</sup> 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.<sup>16</sup> All real property in Nebraska subject to taxation shall be assessed as of January 1.<sup>17</sup> All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.<sup>18</sup>

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<sup>10</sup> Neb. Rev. Stat. §77-5016(8) (2012 Cum. Supp.).

<sup>11</sup> Neb. Rev. Stat. §77-5016(6) (2012 Cum. Supp.).

<sup>12</sup> Neb. Rev. Stat. §77-5018(1) (2012 Cum. Supp.).

<sup>13</sup> Neb. Rev. Stat. §77-112 (Reissue 2009).

<sup>14</sup> *Id.*

<sup>15</sup> *Omaha Country Club v. Douglas County Board of Equalization, et al.*, 11 Neb.App. 171, 180, 645 N.W.2d 821, 829 (2002).

<sup>16</sup> Neb. Rev. Stat. §77-131 (Reissue 2009).

<sup>17</sup> See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009).

<sup>18</sup> Neb. Rev. Stat. §77-201(1) (Reissue 2009).

## **B. Summary of the Evidence**

Kenneth Riggs, President of Real Estate Research Corporation, and a Nebraska-Certified General Appraiser, testified that he conducted an appraisal for the Subject Property as of the effective date of January 1, 2012.<sup>19</sup> Riggs conducted a cost approach, a sales comparison approach, and an income approach valuation for the Subject Property.<sup>20</sup> He then reconciled his approaches to derive a final opinion of value. Riggs testified that he gave the greatest weight to his sales comparison approach during the reconciliation.<sup>21</sup> He expressed a retrospective market value opinion of the Subject Property for tax year 2012 of \$3,380,000.<sup>22</sup>

Brittney King, the Dodge County Assessor since July, 2013, and appraiser with the County Assessor since September, 2012, testified that the Subject Property was assessed using the cost approach and Marshall and Swift costing tables contained in a computer assisted mass appraisal (CAMA) system.<sup>23</sup> King testified that commercial properties in Fremont were reviewed to ensure equalization.

Regarding her review of the appraisal report prepared by Riggs, King asserted her opinion that the external obsolescence assigned by Riggs in his cost approach was excessive, and that it was not calculated using a commonly accepted appraisal method. King also asserted that four of Riggs' comparable properties used in the sales comparison approach were purchased as part of a buyout of Bag 'N Save and No Frills supermarkets. King opined that this multi-property buyout may have influenced the sales prices.

King testified that the County Assessor switched assessment software between tax years 2011 and 2012. New cost values were determined on the 2012 appraisal tab, but most properties retained their 2011 assessed values. King asserted that the County Assessor compared the 2011 values with the current market data for tax year 2012 to ensure that the 2011 value was reasonable as of January 1, 2012.

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<sup>19</sup> See, E12:2. Riggs inspected the Subject Property on April 19, 2013.

<sup>20</sup> See, E12:50 (cost approach); See also, E12:69 (sales comparison approach); See also, E12:83 (income approach).

<sup>21</sup> E12:3.

<sup>22</sup> E12:3. The parties stipulated that the actual value of the Subject Property was the same for tax years 2012 and 2013.

<sup>23</sup> The Property Tax Administrator, not the Dodge County Assessor, performed the assessment function for both tax years 2012 and 2013. Under Neb. Rev. Stat. §77-1340.04, the Property Tax Administrator was required to relinquish the assessment function on July 1, 2013. The Dodge County Assessor resumed the assessment function as of July 1, 2013.

### C. Analysis

During appeals from a determination of the County Board, there is both a presumption in favor of the County Board's determination of taxable value and a burden of persuasion placed upon an appealing party.<sup>24</sup> The presumption in favor of the County Board's determination, and the burden of persuasion cannot be conflated and require separate analysis.<sup>25</sup>

The presumption is:

[T]hat a board of equalization has faithfully preformed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action. 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>26</sup>

Competent evidence is defined as relevant and material evidence or that evidence "which the very nature of the thing to be proven requires."<sup>27</sup> The Nebraska Supreme Court has held that, "when an independent appraiser using professionally approved methods of mass appraisal certifies that an appraisal was performed according to professional standards, the appraisal is considered competent evidence under Nebraska law."<sup>28</sup>

Riggs conducted an appraisal of the Subject Property and certified that it was performed according to professional appraisal standards. The Commission finds that the appraisal constitutes competent and relevant evidence concerning the County Board's determinations.<sup>29</sup> The Commission, therefore, finds that the presumption in favor of the County Board's determination is rebutted.

Having determined that the presumption in favor of the County Board's determination is rebutted, the reasonableness of the County Board's determination of value based upon the

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<sup>24</sup> See generally, *JQH La Vista Conference Center Development LLC v. Sarpy Cty. Bd. Of Equal.*, 285 Neb. 120, 825 N.W.2d 447 (2013).

<sup>25</sup> See, *JQH La Vista Conference Center Development LLC v. Sarpy Cty. Bd. Of Equal.*, 285 Neb. 120, 125-126, 825 N.W.2d 447, 452-453 (2013).

<sup>26</sup> See, *JQH La Vista Conference Center Development LLC v. Sarpy Cty. Bd. Of Equal.*, 285 Neb. 120, 124, 825 N.W.2d 447, 451-452 (2013) (citing *US Ecology v. Boyd Cty. Bd of Equal.*, 256 Neb. 7, 588 N.W.2d 575 (1999) and *Schmidt v. Thayer Cty. Bd. Of Equal.*, 10 Neb.App. 10, 624 N.W.2d 63 (2001)).

<sup>27</sup> *Black's Law Dictionary 6th Edition*, West Group, p. 284 (1990).

<sup>28</sup> *JQH La Vista Conference Center Development LLC v. Sarpy Cty. Bd. Of Equal.*, 285 Neb. 120, 126, 825 N.W.2d 447, 453 (2013) (citations omitted).

<sup>29</sup> See generally, E12.

evidence in the appeals is a question of fact.<sup>30</sup> The Taxpayer has the burden to show that the valuation determination by the County Board was unreasonable or arbitrary.<sup>31</sup> This burden is only met by clear and convincing evidence.<sup>32</sup> Where clear and convincing evidence shows that the County Board's determination was arbitrary or unreasonable, the Taxpayer is entitled to relief.<sup>33</sup>

King testified that the Subject Property was valued by the Property Tax Administrator (the PTA) using the cost approach. The cost approach is a statutorily permissible method of determining the assessed value of the Subject Property.<sup>34</sup> Nebraska Statutes do not require the use of more than one approach to value the Subject Property.<sup>35</sup>

When using the cost approach, the value indicated for the Subject Property for tax year 2012 was \$7,547,195,<sup>36</sup> and the value indicated for tax year 2013 was \$7,675,720.<sup>37</sup> King testified that it was determined that these cost approach values were not indicative of the market, and therefore the assessment officials gave notice of the value each tax year at the same value at which the Subject Property had been assessed in 2011, at \$4,521,325. King asserted that the County Board adopted the same values, as an "override,"<sup>38</sup> using similar reasoning. There was no evidence received indicating that the market had significantly changed from tax year 2011 to tax years 2012 and 2013. The Commission finds that nothing in King's testimony amounted to clear and convincing evidence that the taxable value of the Subject Property as determined by the County Board was arbitrary or unreasonable for tax years 2012 or 2013.

The Commission also finds that while Riggs' appraisal is competent evidence that rebuts the presumption in favor of the County Board, it does not constitute clear and convincing evidence that the County Board's determinations were unreasonable or arbitrary. Riggs testified that he conducted his appraisal in accordance with Uniform Standards of Professional Appraisal Practice

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<sup>30</sup> See, Neb. Rev. Stat. 77-5016(9) (Cum. Supp. 2012); See also, *JQH La Vista Conference Center Development LLC v. Sarpy Cty. Bd. Of Equal.*, 285 Neb. 120, 124-125, 825 N.W.2d 447, 451-452 (2013).

<sup>31</sup> See, Neb. Rev. Stat. 77-5016(9) (Cum. Supp. 2012); See also, *JQH La Vista Conference Center Development LLC v. Sarpy Cty. Bd. Of Equal.*, 285 Neb. 120, 124-125, 825 N.W.2d 447, 451-452 (2013).

<sup>32</sup> See, *JQH La Vista Conference Center Development LLC v. Sarpy Cty. Bd. Of Equal.*, 285 Neb. 120, 124-125, 825 N.W.2d 447, 451-452 (2013).

<sup>33</sup> Neb. Rev. Stat. § 5016(8) (Reissue 2009).

<sup>34</sup> Neb. Rev. Stat. §77-112 (Reissue 2009).

<sup>35</sup> See, *Schmidt v. Thayer County Bd. of Equalization*, 10 Neb.App. 10, 18, 624 N.W.2d 63, 69 - 70 (2001).

<sup>36</sup> Exhibit 4:2.

<sup>37</sup> Exhibit 3:2.

<sup>38</sup> See notations in the property record files of an "override" value for each tax year at Exhibit 3, page 1, and Exhibit 4, page 1.

(USPAP), but the Commission finds, as explained below, that each of the three appraisal approaches performed by Riggs are problematic.

In Riggs' cost approach, he asserted that the external obsolescence attributable to the Subject Property is equal to the capitalized difference between the market net operating income (NOI) and the NOI necessary to make an investment in the construction of a similar property economically feasible.<sup>39</sup> This is not a commonly accepted appraisal method for determining external obsolescence. External obsolescence is properly calculated by one of the following methods: capitalizing the income or rent losses attributable to negative influences; comparing paired sales; or determining market extracted depreciation.<sup>40</sup>

In Riggs' sales comparison approach, most of the transactions were the result of buyouts. Buyouts result from a purchase of an entire business entity, including all real and personal property as well as intangible assets. At the conclusion of the buyout, only the purchasing entity remains. Individual deeds are recorded for purposes of transferring ownership interests in real property that is part of the buyout, but factors other than real property market factors may contribute to the stated sales price in the transaction. For example, real property may become a bargaining chip in the negotiations of the total buyout price. In such instances, logic dictates that the sale price of the real property may reflect more than just the value of the real property and may include the value of the real property as part of the going concern value of the owning entity. Assessed values should be at market value.<sup>41</sup> Without independent verification that the buyout sales prices were based only on real property market factors, the Commission gives those sales prices little weight.

Further, Riggs' adjustments to the sales based upon the size of the population within 5 miles of the real properties' locations fails to take into account a greater concentration of supermarkets within Omaha than in the Subject Property's market.<sup>42</sup> Even though more people live within 5 miles of the alleged comparable properties than live within 5 miles of the Subject Property, there is no evidence that the alleged comparable properties actually receive a greater number of customers. Riggs assigned negative adjustments to the alleged comparable properties for a larger

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<sup>39</sup> See, E12:50-51.

<sup>40</sup> See, International Association of Assessing Officers, *Property Assessment Valuation*, at 291-94 (3rd ed. 2010).

<sup>41</sup> *Omaha Country Club v. Douglas County Board of Equalization, et al.*, 11 Neb.App. 171, 180, 645 N.W.2d 821, 829 (2002).

<sup>42</sup> See, E12:41-68.

populace within 5 miles of the properties because it provided a stronger “relative strength of the market for commercial use.”<sup>43</sup> The adjustment for the size of population additionally overrode any potential adjustment attributable to lower median incomes for residences near the alleged comparable properties.<sup>44</sup>

In Riggs’ income approach, he determined a market rental rate using properties that are not comparable to the Subject Property. The Subject Property is located a short distance from Omaha.<sup>45</sup> The comparable properties utilized to deduce market rent were situated in distinctly different market locations from the Subject Property, including: (1) Comparable 3 in Hastings, Nebraska; Comparable 4 in Des Moines, Iowa; and Comparable 5 in North Platte, Nebraska.<sup>46</sup> The Commission also notes that many of the comparable properties have been vacant for a significant amount of time.<sup>47</sup> While the appraisal report states that adjustments were made to the rental rates, the appraisal report does not quantify these adjustments.

The Commission finds that based on the foregoing problems associated with Riggs’ appraisal, it does not constitute clear and convincing evidence that the determinations of the County Board are unreasonable or arbitrary.

## V. EQUALIZATION

### A. Law

“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.”<sup>48</sup> Equalization is the process of ensuring that all taxable property is placed on the

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<sup>43</sup> See, E12:60.

<sup>44</sup> See, E12:61-68. Riggs’ comparable properties were located in Omaha, and the population within five miles of the alleged comparable properties had a lower median income. Because of the lower median income the customers of the alleged comparable properties would have less disposable income to spend at the supermarket. This results in a less desirable location for a supermarket and requires a positive adjustment to account for the Subject Property’s superiority in this field. Riggs acknowledges this in his appraisal report, but his negative adjustment for population size is so large that it nullifies the positive adjustment he gave to the alleged comparable properties to account for the lower median income. So, not only is his negative adjustment for population density not supported by data suggesting that the alleged comparable properties are actually superior, but the mistake overshadows the Subject Property’s superior median income. This would also result in an opinion of value that is below the actual market value.

<sup>45</sup> See, E12:72.

<sup>46</sup> See, E12:72-78. Any adjustments Riggs made to account for these different market factors were unexplained and were therefore unpersuasive.

<sup>47</sup> See, E12:75-77.

<sup>48</sup> *Neb. Const.*, Art. VIII, §1.



assessment rolls at a uniform percentage of its actual value.<sup>49</sup> 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.<sup>50</sup> In order to determine a proportionate valuation, a comparison of the ratio of assessed value to market value for both the subject property and comparable property is required.<sup>51</sup> 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.<sup>52</sup> Taxpayers are entitled to have their property assessed uniformly and proportionately, even though the result may be that it is assessed at less than the actual value.<sup>53</sup> The constitutional requirement of uniformity in taxation extends to both rate and valuation.<sup>54</sup> If taxable values are to be equalized it is necessary for 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 result of systematic will or failure of a plain legal duty, and not mere error of judgment [sic].”<sup>55</sup> There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.<sup>56</sup>

## **B. Summary of the Evidence**

The Taxpayer asserted that the Subject Property was not equalized with other supermarkets in Dodge County. The Taxpayer provided a list of alleged comparable properties indicating the assessed value per square foot of these properties.<sup>57</sup> The Taxpayer did not provide any competent evidence of the actual values of the alleged comparable properties other than their assessed values.

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<sup>49</sup> *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).

<sup>50</sup> *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).

<sup>51</sup> *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623 (1999).

<sup>52</sup> *Banner County v. State Board of Equalization*, 226 Neb. 236, 411 N.W.2d 35 (1987).

<sup>53</sup> *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).

<sup>54</sup> *First Nat. Bank & Trust Co. v. County of Lancaster*, 177 Neb. 390, 128 N.W.2d 820 (1964).

<sup>55</sup> *Newman v. County of Dawson*, 167 Neb. 666, 670, 94 N.W.2d 47, 49-50 (1959) (Citations omitted).

<sup>56</sup> *Id.* at 673, 94 N.W.2d at 50.

<sup>57</sup> See, E5:4.

King asserted that the Subject Property was not truly comparable to the alleged comparable properties and that significant differences in effective age, size, condition, and quality resulted in different values.

### C. Analysis

At least two tests exist for determining whether property within a taxing district is equalized: (1) does a comparison of the ratio of assessed value to actual value indicate that properties are assessed at different levels of value;<sup>58</sup> and (2) are substantially similar properties valued at materially different levels of value.<sup>59</sup>

The Taxpayer did not provide any ratios of the assessed values to the actual values for the Subject Property or any of the comparable properties. The Commission cannot analyze unknown ratios for purposes of determining whether the Subject Property's assessed value is grossly excessive.

The Taxpayer's assertion can be fairly characterized as an assertion that the County Assessor valued substantially similar properties at materially different levels. To determine whether substantially similar properties are valued at materially different levels of value, the Commission may review the assessed value per square foot of the areas of the Subject Property and the comparable properties.<sup>60</sup> Substantially similar properties and comparable properties mean the same thing.<sup>61</sup> Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.<sup>62</sup>

The Commission finds that the alleged comparable properties contained in Exhibit 5 differ substantially from the Subject Property in size, location, condition, quality, and effective age. The Commission finds that the Taxpayer's alleged comparable properties contained in Exhibit 5 are not comparable or substantially similar to the Subject Property. The differences in assessed value per square foot are attributable the differences between the Subject Property and the alleged comparable properties.

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<sup>58</sup> *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623 (1999).

<sup>59</sup> *Scribante v. Douglas County Board of Equalization*, 8 Neb.App. 25, 39, 588 N.W.2d 190, 199 (1999).

<sup>60</sup> See, *Scribante v. Douglas County Board of Equalization*, 8 Neb.App. 25, 39, 588 N.W.2d 190, 199 (1999).

<sup>61</sup> See, *Scribante v. Douglas County Board of Equalization*, 8 Neb.App. 25, 39, 588 N.W.2d 190, 199 (1999).

<sup>62</sup> See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

The Commission finds that there is not clear and convincing evidence that the valuation placed on the Subject Property when compared with valuations placed on similar property is grossly excessive.

## **VI. CONCLUSION**

The Commission finds that there is competent evidence to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its determinations. The Commission also finds that there is not clear and convincing evidence that the County Board's determinations were arbitrary or unreasonable. The Commission also finds that there is not clear and convincing evidence that the Subject Property's assessed values are grossly excessive.

For all of the reasons set forth above, the determinations of the Dodge County Board of Equalization should be affirmed.

## **VII. ORDER**

IT IS ORDERED THAT:

1. The decisions of the Dodge County Board of Equalization determining the value of the Subject Property for tax years 2012 and 2013 are affirmed.
2. The taxable value of the Subject Property for tax years 2012 and 2013 is \$4,521,325.
3. This Decision and Order, if no appeal is timely filed, shall be certified to the Dodge County Treasurer and the Dodge County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2012 Cum. Supp.).
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 years 2012 and 2013.

7. This Decision and Order is effective for purposes of appeal on October 8, 2014.

Signed and Sealed: October 8, 2014

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Robert W. Hotz, Commissioner

SEAL

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Nancy J. Salmon, Commissioner

Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. §77-5019 (2012 Cum. Supp.) and other provisions of Nebraska Statutes and Court Rules.