

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

Nebraska Beef Packers, Inc.,  
Appellant,

v.

Sheridan County Board of Equalization,  
Appellee.

Case No: 14A 165, 14A 166, 14A 167, 14A  
168, 14A 169, 14A 170, 14A 171,  
& 14C 240

Decision and Order Affirming the Decisions  
of the Sheridan County  
Board of Equalization

**For the Appellant:**

Michael Scott Stanko, CEO  
Nebraska Beef Packers, Inc.,  
Pro Se

**For the Appellee:**

Dennis D. King  
Sheridan County Attorney

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

**I. THE SUBJECT PROPERTY**

The Subject Property consists of eight separate parcels located in Sheridan County, Nebraska. The legal description of each parcel is found at Exhibits 1-8. The property record card for each parcel is found at Exhibits 11-18.

**II. PROCEDURAL HISTORY**

For the parcel in Case No. 14A 165, the Sheridan County Assessor (the County Assessor) determined that the assessed value of the Subject Property was \$562,497 for tax year 2014. Nebraska Beef Packers, Inc. (the Taxpayer) protested this assessment to the Sheridan County Board of Equalization (the County Board) and requested an assessed valuation of \$163,977. The County Board determined that the taxable value for tax year 2014 was \$562,497.<sup>1</sup>

For the parcel in Case No. 14A 166, the County Assessor determined that the assessed value of the Subject Property was \$25,474 for tax year 2014. The Taxpayer protested this assessment

---

<sup>1</sup> Exhibit 1.

to the County Board and requested an assessed valuation of \$3,647. The County Board determined that the taxable value for tax year 2014 was \$25,474.<sup>2</sup>

For the parcel in Case No. 14A 167, the County Assessor determined that the assessed value of the Subject Property was \$332,656 for tax year 2014. The Taxpayer protested this assessment to the County Board. The County Board determined that the taxable value for tax year 2014 was \$332,656.<sup>3</sup>

For the parcel in Case No. 14A 168, the County Assessor determined that the assessed value of the Subject Property was \$5,001 for tax year 2014. The Taxpayer protested this assessment to the County Board and requested an assessed valuation of \$2,165. The County Board determined that the taxable value for tax year 2014 was \$5,001.<sup>4</sup>

For the parcel in Case No. 14A 169, the County Assessor determined that the assessed value of the Subject Property was \$2,409 for tax year 2014. The Taxpayer protested this assessment to the County Board and requested an assessed valuation of \$363. The County Board determined that the taxable value for tax year 2014 was \$2,409.<sup>5</sup>

For the parcel in Case No. 14A 170, the County Assessor determined that the assessed value of the Subject Property was \$1,876 for tax year 2014. The Taxpayer protested this assessment to the County Board and requested an assessed valuation of \$725. The County Board determined that the taxable value for tax year 2014 was \$1,876.<sup>6</sup>

For the parcel in Case No. 14A 171, the County Assessor determined that the assessed value of the Subject Property was \$221,669 for tax year 2014. The Taxpayer protested this assessment to the County Board and requested an assessed valuation of \$60,236. The County Board determined that the taxable value for tax year 2014 was \$217,097.<sup>7</sup>

For the parcel in Case No. 14C 240, the County Assessor determined that the assessed value of the Subject Property was \$49,038 for tax year 2014. The Taxpayer protested this assessment to the County Board and requested an assessed valuation of \$33,868. The County Board determined that the taxable value for tax year 2014 was \$49,038.<sup>8</sup>

---

<sup>2</sup> Exhibit 2.

<sup>3</sup> Exhibit 3.

<sup>4</sup> Exhibit 4.

<sup>5</sup> Exhibit 5.

<sup>6</sup> Exhibit 6.

<sup>7</sup> Exhibit 7.

<sup>8</sup> Exhibit 8.

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. The Commission held a hearing on September 22, 2015.

### III. STANDARD OF REVIEW

The Commission's review of the determination of the County Board of Equalization is de novo.<sup>9</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>10</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>11</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>12</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>13</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>14</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>15</sup>

---

<sup>9</sup> See, Neb. Rev. Stat. §77-5016(8) (2014 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>10</sup> *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

<sup>11</sup> *Id.*

<sup>12</sup> Neb. Rev. Stat. §77-5016(8) (2014 Cum. Supp.).

<sup>13</sup> *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

<sup>14</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>15</sup> *Bottof 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>16</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>17</sup> The Commission’s Decision and Order shall include findings of fact and conclusions of law.<sup>18</sup>

#### IV. VALUATION

##### A. 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>19</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>20</sup> The Courts have held that “[a]ctual value, market value, and fair market value mean exactly the same thing.”<sup>21</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>22</sup> All real property in Nebraska subject to taxation shall be assessed as of January 1.<sup>23</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>24</sup>

---

<sup>16</sup> Neb. Rev. Stat. §77-5016(8) (2014 Cum. Supp.).

<sup>17</sup> Neb. Rev. Stat. §77-5016(6) (2014 Cum. Supp.).

<sup>18</sup> Neb. Rev. Stat. §77-5018(1) (2014 Cum. Supp.).

<sup>19</sup> Neb. Rev. Stat. §77-112 (Reissue 2009).

<sup>20</sup> Neb. Rev. Stat. §77-112 (Reissue 2009).

<sup>21</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>22</sup> Neb. Rev. Stat. §77-131 (Reissue 2009).

<sup>23</sup> See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009)

<sup>24</sup> Neb. Rev. Stat. §77-201(1) (Reissue 2009).

Agricultural land and horticultural land shall be valued for purposes of taxation at seventy five percent of its actual value. Neb. Rev. Stat. §77-201 (2) (Reissue 2009). Agricultural land and horticultural land means a parcel of land which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land. Agricultural land and horticultural land does not include any land directly associated with any building or enclosed structure.<sup>25</sup>

“Parcel means a contiguous tract of land determined by its boundaries, under the same ownership, and in the same tax district and section.”<sup>26</sup> Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture.<sup>27</sup>

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

The Taxpayer provided no documentary evidence. Michael Scott Stanko offered the limited testimony that the Taxpayer believed the assessment process in Sheridan County for tax year 2014 lacked transparency in terms of the Taxpayer being able to discern how the Subject Property was assessed. No other evidence or testimony was offered by the Taxpayer.

## **V. CONCLUSION**

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 determination. The Commission also finds that there is not clear and convincing evidence that the County Board’s decision was arbitrary or unreasonable.

For all of the reasons set forth above, the decisions of the County Board should be affirmed.

## **VI. ORDER**

IT IS ORDERED THAT:

---

<sup>25</sup> Neb. Rev. Stat. §77-1359 (1) (Reissue 2009).

<sup>26</sup> Neb. Rev. Stat. §77-132 (Reissue 2009).

<sup>27</sup> Neb. Rev. Stat. §77-1359 (2) (Reissue 2009).

1. The decisions of the Sheridan County Board of Equalization determining the taxable value of the Subject Property for tax year 2014 are affirmed.
2. The taxable value of the Subject Property for tax year 2014 is:

14A 165	\$562,497
14A 166	\$25,474
14A 167	\$332,656
14A 168	\$5,001
14A 169	\$2,409
14A170	\$1,876
14A 171	\$217,097
14C 240	\$49,038

3. This Decision and Order, if no appeal is timely filed, shall be certified to the Sheridan County Treasurer and the Sheridan County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2014 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 year 2014.
7. This Decision and Order is effective for purposes of appeal on September 22, 2015.

Signed and Sealed: September 22, 2015

\_\_\_\_\_  
Robert W. Hotz, Commissioner

SEAL

\_\_\_\_\_  
Nancy J. Salmon, Commissioner

Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. §77-5019 (2014 Cum. Supp.) and other provisions of Nebraska Statutes and Court Rules.