

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

Ronald E. Seeker and Beverly A. Seeker  
Revocable Living Trust, Ronald A. and  
Beverly A. Seeker,  
Appellant,

v.

Hitchcock County Board of Equalization,  
Appellee.

Case No: 16A 0066 & 16A 0067

Decision and Order Affirming Hitchcock  
County Board of Equalization

Background

1. The Subject Property is two agricultural parcels, with a legal descriptions of: Pt Sec 7-2-32 cont. 235 acres in case 16A 0066 and Pt N ½ SW ¼ 12-2-33 Cont. 475.8 acres in case 16A 0067.
2. The Hitchcock County Assessor (the County Assessor) assessed the Subject Property at \$203,595 in case 16A 0066 and \$593,705 in case 16A 0067 for tax year 2016.
3. The Taxpayer protested this value to the Hitchcock County Board of Equalization (the County Board) and requested an assessed value of \$180,000 in case 16A 0066 and \$456,545 in case 16A 0067 for tax year 2016.
4. The County Board determined that the taxable value of the Subject Property was \$191,775 in case 16A 0066 and \$614,455 in case 16A 0067 for tax year 2016.
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 June 1, 2017 at the Hampton Inn, North Platte, Nebraska, before Commissioner Nancy J Salmon.
7. Ronald A. and Beverly A. Seeker were present at the hearing on behalf of the Taxpayers.
8. D. Eugene Garner, Hitchcock County Attorney, was present for the County Board.

Applicable Law

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
10. The Commission’s review of the determination of the County Board of Equalization is de novo.<sup>2</sup>

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

<sup>2</sup> See, Neb. Rev. Stat. §77-5016(8) (2016 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).

11. When considering an appeal 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>3</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>4</sup>
12. 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>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
14. 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>7</sup>
15. The Commission’s Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

#### Findings of Fact & Conclusions of Law

16. The Taxpayer indicated to the Commission that he simply wished to express his displeasure with how his property subject to the Conservation Reserve Enhancement Program was valued.
17. The Taxpayer did not provide any evidence to support his position.
18. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
19. 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.

#### ORDER

#### IT IS ORDERED THAT:

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<sup>3</sup> *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

<sup>4</sup> *Id.*

<sup>5</sup> Neb. Rev. Stat. §77-5016(9) (2016 Cum. Supp.).

<sup>6</sup> *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

<sup>7</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>8</sup> Neb. Rev. Stat. §77-5018(1) (2016 Cum. Supp.).

1. The Decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2016, is Affirmed.
2. The taxable value of the Subject Property for tax year 2016 is:

Case 16A 0066

Land	\$191,775
Total	\$191,775

Case 16A 0067

Land	\$503,600
<u>Improvements</u>	<u>\$110,855</u>
Total	\$614,455

3. This Decision and Order, if no further action is taken, shall be certified to the Hitchcock County Treasurer and the Hitchcock County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2016 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 2016.
7. This Decision and Order is effective on June 12, 2017.

Signed and Sealed: June 12, 2017

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Nancy J Salmon, Commissioner