

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

WILLIAM E. REDINGER,	)	
	)	
Appellant,	)	Case No. 08R 335
	)	
v.	)	DECISION AND ORDER
	)	REVERSING THE DECISION OF
DOUGLAS COUNTY BOARD OF	)	THE DOUGLAS COUNTY BOARD OF
EQUALIZATION,	)	EQUALIZATION
	)	
Appellee.	)	

The above-captioned case was called for a hearing on the merits of an appeal by William E. Redinger ("the Taxpayer") to the Tax Equalization and Review Commission ("the Commission"). The hearing was held in the Commission's Hearing Room on the sixth floor of the Nebraska State Office Building in the City of Lincoln, Lancaster County, Nebraska, on February 10, 2010, pursuant to an Order for Hearing and Notice of Hearing issued December 4, 2009. Commissioner Warnes, Vice-Chairperson of the Commission was the presiding hearing officer. Commissioner Wickersham, Chairperson of the Commission was absent. Commissioner Warnes as Vice-Chairperson acting in the absence of the Chairperson designated, Commissioners Warnes, Salmon and Hotz as a panel of the Commission to hear the appeal. Commissioner Salmon was excused. Commissioners Hotz and Warnes were present. The appeal was heard by a quorum of a panel of the Commission.

William E. Redinger was present at the hearing. No one appeared as legal counsel for the Taxpayer.

Thomas S. Barrett, a Deputy County Attorney for Douglas County, Nebraska, was present as legal counsel for the Douglas County Board of Equalization ("the County Board").

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 (Cum. Supp. 2008). The final decision and order of the Commission in this case is as follows.

**I.  
ISSUES**

The Taxpayer has asserted that actual value of the subject property as of January 1, 2008, is less than actual value as determined by the County Board. The issues on appeal related to that assertion are:

Whether the decision of the County Board determining actual value of the subject property is unreasonable or arbitrary; and

The actual value of the subject property on January 1, 2008.

The Taxpayer has asserted that taxable value of the subject property as of January 1, 2008, 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, 2008.

**II.  
FINDINGS OF FACT**

The Commission finds and determines that:

1. The Taxpayer has a sufficient interest in the outcome of the above captioned appeal to 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, 2008, ("the assessment date") by the Douglas 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: CANDLEWOOD LOT 188 BLOCK 0 IRREG, Douglas County, Nebraska.

	Assessor Notice Value	Taxpayer Protest Value	Board Determined Value
Land	\$32,000.00	\$21,000.00	\$32,000.00
Improvement	\$177,700.00	\$150,300.00	\$177,700.00
Total	\$209,700.00	\$171,300.00	\$209,700.00

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. An Order for Hearing and Notice of Hearing issued on December 4, 2009, set a hearing of the appeal for February 10, 2010, at 11:00 a.m. CST.

7. 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.
8. Actual value of the subject property as of the assessment date for the tax year 2008 is:

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Land value	\$32,000.00
Improvement value	<u>\$126,411.00</u>
Total value	<u><u>\$158,411.00.</u></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) (Cum. Supp. 2008).
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 2003).
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 2003).

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 2003).
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) (Cum. Supp. 2008).
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. 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. *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 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 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, 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. *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. 2006).
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 taxpayer 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. A Taxpayer, who only produced evidence that was aimed at discrediting valuation methods utilized by the county assessor, 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. A Taxpayer 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) (determination of equalized taxable value) *Josten-Wilbert Vault Co. v. Board of Equalization for Buffalo County*, 179 Neb. 415, 138 N.W.2d 641 (1965) (determination of actual value).

#### **IV. ANALYSIS**

The subject property is a residential parcel improved with a 2 story house of 2,129 square feet built in 1980. (E23:1,2 and 5). The house is rated as good plus for quality and average for condition. (E23:1).

The Taxpayer testified that he disagreed with the total gross living area of the subject property as shown on the County's property record file. The Commission notes that the County Assessor originally assessed the improvement as having 1,728 square feet of gross living area (23:5), but this size had been changed to 2,129 square feet for valuation of the taxable valuation for 2008 after an exterior inspection including measurements. (E22:3-4, E23:1, E23:6, and E26:1). "The gross living area of a house is that area finished, above grade residential space; calculated by measuring the outside perimeter of the structure and includes only finished, habitable, above grade living space." *The Appraisal of Real Estate*, 13th Edition, The Appraisal Institute, 2008, p. 237. The market calculation detail used by the County to value the subject property was amended by Exhibit 26, page 1.

The appraiser for the County Assessor testified that he was not given access to do an interior inspection of the subject property when he requested same on April 1, 2009. On April 3, 2009 he performed an exterior inspection and increased the gross living area by 401 square feet.

The exterior inspection resulted in several other adjustments to the property records of the subject property. His notes are shown as Exhibit 22 page 3.

The Taxpayer testified that he had not measured the entire subject property, but only a portion located over the garage. He alleged that the area "over the garage" should not be considered as part of the living area of the house since it was neither finished nor heated. He testified that this area above the garage that should not be included in the living area of the house is 12 feet by 22 feet. He provided photo evidence of the condition to the area above his garage. (E20). . The Commission notes that a Taxpayer is not required to allow for an interior inspection by the County Assessor, but when the condition or size of the interior of the subject property is at issue, the Commission is in an unenviable position to judge the accuracy of the item in question when only the Taxpayer has had access and there is no independent validation.

The Assessor has the statutory duty to value residential real property at market value. Neb. Rev. Stat. §77-201 (Cum. Supp. 2004). An accurate description of the following characteristics is critical in order to determine actual or fair market value: quality of construction, style, age, size, amenities, functional utility, and condition. *Property Assessment Valuation, 2<sup>nd</sup> Ed.*, International Association of Assessing Officers, 1996, p. 98. The Assessor, in order to accurately describe these critical characteristics must inspect the subject property. Failure to do so carries its own penalties. *Grainger Bros. Co. v. County Bd. of Equalization of Lancaster Co.*, 180 Neb. 571, 580, 144 N.W.2d 161, 169 (1966). Given this mandate, where the Taxpayer refuses the Board's request to inspect the property, the provisions of the Adverse Inference Rule are triggered. *See Yarpe v. Lawless Distrib. Co.*, 7 Neb.App. 957, 962 - 963, 587 N.W.2d 417, 421 (1998). The provisions of this rule may be summarized as follows: where the Taxpayer

refuses to allow the Board to inspect the subject property, after challenging the assessed value as determined by the County, there is a presumption that the results of the inspection would militate against the Taxpayer's interest. The trier of fact is the sole judge of what probative force to give the fact that the Taxpayer refused the Board's request to inspect the property. "The relative convincing powers of the inferences to be drawn from that fact is for the determination of the trier of fact." *Id.* The Commission does not place great weight on the testimony of the Taxpayer associated with his allegation that the area above the garage should not have been added to the gross living area of the subject property given that he chose not to allow for an inspection of the subject property while at the same time alleging that the appraiser for the County did not account correctly for the physical characteristics of the subject property. The Commission gives greater weight to the testimony of the appraiser for the County who stated that he measured the subject property during his exterior inspection of the subject property on April 13, 2009 and found it to be 2,129 square feet.

The Taxpayer testified that he did not believe the comparables used by the County in either its first assessor's report, dated July 2, 2008, and found at Exhibit 6, page 2, or the second assessor's report, dated February 10, 2010, and found at Exhibit 22, page 1, were truly comparable to the subject property. Upon questioning, the appraiser for the County Assessor testified that the comparables used by the County were not adjusted to directly compare to the subject property and were only a part of those sales of properties that were used to value the subject property which was accomplished using mass Appraisal techniques using the sales comparison approach with multiple regression analysis. (E23:5).

The Taxpayer provided an analysis of many parcels which he alleged would show that the subject property was not valued uniformly or proportionately with other comparable parcels in the County. A list of the parcels provided is shown on Exhibits 2 pages 1 and 2. These parcels are listed in categories of parcels which had sold, parcels listed for sale, and parcels alleged to be near the subject property, and their assessed valuations for 2008.

The Commission finds that there is little probative value in the parcels which are listed for sale since the price at which someone lists a house for sale is not necessarily indicative of market value. In addition, there were no property record files provided by the Taxpayer for this group of parcels. The Commission's order for hearing requires that the property record files be provided for all parcels which the Taxpayer is going to use to compare to the subject property.

Similarly, the Taxpayer did not provide the property record files for those parcels located in the subdivision with the subject property, thus preventing the Commission from comparing them to the subject property.

The Taxpayer did provide the property record files for three parcels which had sold, but did not provide the records for the other parcels which had sold. (E11, E14, and E15). In addition, the Taxpayer provided three additional parcels for evidence in support of his appeal. (E12, E13, and E16). Thus, the Commission has before it as evidence the property record files for six parcels shown in Exhibits 11 to 16, that the Taxpayer has provided as evidence in support of his appeal in which he alleges that actual value of the subject property as of January 1, 2008, is less than actual value as determined by the County Board and that taxable value of the subject property as of January 1, 2008, is not equalized with the taxable value of other real property.

The Commission finds from its review of the six alleged comparable parcels that they are not comparable to the subject property without adjustments for differences in condition, quality, size and other physical characteristics. Examples of the differences in the parcels to the subject property include that the subject property has 2,129 square feet of gross living area while the alleged comparable parcels vary from 1,542, Exhibit 14, to 2,734 square feet, Exhibit 13. A second example is that the subject property was built in 1980, but the alleged comparable parcels vary in the year they were built from 1974, Exhibits 12 and 16, to 1997, Exhibit 11. There are other differences between the subject property and the alleged comparable parcels and yet no adjustments have been made by the Taxpayer in order to compare the alleged comparable parcels to the subject property.

“Comparing assessed values of other properties with the subject property to determine actual value has the same inherent weakness as comparing sales of other properties with the subject property. The properties must be truly comparable.” *DeBruce Grain, Inc. v. Otoe County Bd. of Equalization*, 7 Neb. App. 688, 697, 584 N.W.2d 837, 843 (1998).

“Comparable properties” share similar quality, architectural attractiveness (style), age, size, amenities, functional utility, and physical condition. *Property Assessment Valuation*, 2<sup>nd</sup> Ed., International Association of Assessing Officers, 1996, p. 98.

When using “comparables” to determine value, similarities and differences between the subject property and the comparables must be recognized. *Property Assessment Valuation*, 2<sup>nd</sup> Ed., 1996, p.103. Most adjustments are for physical characteristics. *Property Assessment Valuation*, 2<sup>nd</sup> Ed., 1996, p.105. “Financing terms, market conditions, location, and physical

characteristics are items that must be considered when making adjustments . . .” *Property Assessment Valuation*, 2<sup>nd</sup> Ed., 1996, p. 98.

The Taxpayer compared only the sale price and assessed valuations of the alleged comparables parcels to the subject property without making any adjustments for differences.

The Commission notes that three of the alleged comparable parcels used to compare to the subject property sold after January 1, 2008 and are shown as Exhibits 11, 14 and 15. These three parcels sold after the effective date that the County Assessor would have had to assess the subject property and would not have been known to the County Assessor.

However, one of the Taxpayer’s alleged comparable parcels, Exhibit 14, is of special concern to the Commission. The Commission notes that it has a different neighborhood adjustment factor, .71, compared to the factor used for the subject property, .98, and all of the other parcels provided which lie in the same neighborhood as the subject property. Testimony of the appraiser for the County was that all of the parcels in the neighborhood indicated as 59, with a neighborhood extension of 05650, should have the same neighborhood adjustment factor applied in order to be equalized. . The Commission notes that the parcel shown as Exhibit 14 is not the same as the subject property's 2 story style, but rather is a "townhouse." (E14). Upon questioning, the appraiser for the County Assessor testified that the "modeler" who prepared the market calculation detail shown as Exhibit 14, page 6, probably had both taken a reduction for the town house style, \$8,095.50, and used a different neighborhood factor of .71 in order to "bring the valuation more to the market." The appraiser for the County testified that all of the parcels located in the neighborhood of the subject property should have had applied to its improvements the same neighborhood adjustment factor. In this case that factor would be .98 to

match that applied to the subject property. The testimony of the appraiser for the County Assessor was that it would not be uniform treatment of the parcel if it were treated in any other manner. The Commission notes that the parcel shown in Exhibit 14, while not of the same style as the subject property, has had its improved valuation reduced by \$8,095.50, due to it being a “townhouse” and had a neighborhood factor of .71 applied to its improvement. (E14:6). The Commission finds that all other parcels provided as evidence in this appeal which are located in the neighborhood of the subject property had a neighborhood adjustment factor of .98 applied to their improvements for valuation purposes.

A neighborhood is defined as “a group of complementary land uses; a congruous grouping of inhabitants, buildings or business enterprises.” *The Appraisal of Real Estate*, 13th Edition, The Appraisal Institute, p. 55. The Commission finds the County Assessor did not apply a uniform neighborhood adjustment factor to all of the parcels located in the neighborhood of the subject property and this lack of uniform treatment was without explanation.

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). 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. *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).

“Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value. The purpose of equalization of

assessments is to bring assessments from different parts of the taxing district to the same relative standard, so that no one part is compelled to pay a disproportionate share of the tax. Where it is impossible to secure both the standards of the true value of a property for taxation and the uniformity and equality required by law, the latter requirement is to be preferred as the just and ultimate purpose of the law. If a taxpayer's property is assessed in excess of the value at which others are taxed, then the taxpayer has a right to relief. However, the burden is on the taxpayer to show by clear and convincing evidence that the valuation placed upon the taxpayer's property when compared with valuation placed on other similar property is grossly excessive.” *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597, 597 N.W.2d 623, 635 (1999).

Using the neighborhood adjustment factor applied to the parcel shown in Exhibit 14, .71, to the improvement of the subject property, the valuation of the improvement of the subject property is \$126,411 ( $\$178,044 \times .71 = \$126,411$ ). This reduced valuation of the improvement to the subject property when added to the land valuation of \$32,000 results in a total valuation for the subject property of \$158,411. The Commission finds that a valuation using a neighborhood adjustment factor of .98, when compared to the comparable parcel, Exhibit 14, using a neighborhood adjustment factor of .71, is grossly excessive.

Where “the discrepancy was not the result of an error of judgment but was a deliberate and intentional discrimination systematically applied” the Taxpayer’s right to relief is clear. “The right of the taxpayer whose property alone is taxed at 100 per cent of its true value is to have his assessment reduced to the percentage of that value at which others are taxed even though this is a departure from the requirement of statute. The conclusion is based on the

principle that where it is impossible to secure both the standards of the true value, and the uniformity and equality required by law, the latter requirement is to be preferred as the just and ultimate purpose of the law.” *Kearney Convention Center v. Buffalo County Board of Equalization*, 216 Neb. 292, 44 N.W.2d 620, 626 (1984). The Commission further finds that the discrepancy was not just an error of judgment but was a deliberate and intentional discrimination systematically applied.

There is a presumption that a board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action. The presumption remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence on appeal to the contrary. From that point on, 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. The burden of persuasion imposed on the complaining taxpayer is not met by showing a mere difference of opinion unless it is established by clear and convincing evidence that the valuation placed upon his property when compared to valuations placed on other similar property is grossly excessive and is the result of a systematic exercise of intentional will or failure of plain duty, and not mere errors of judgment. *US Ecology, Inc. v. Boyd County Bd of Equalization*, 256 Neb. 7, 15, 588 N.W.2d 575, 581 (1999).

The Commission finds that the Taxpayer has provided competent evidence to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its determination, and has provided clear and convincing evidence that the

County Board's decision was arbitrary or unreasonable. The appeal of the Taxpayer is granted to the extent that the taxable valuation of the subject property for 2008 is \$158,411.

**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 Taxpayer 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 Taxpayer 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 reversed.

**VI.  
ORDER**

**IT IS ORDERED THAT:**

1. The decision of the County Board determining actual value of the subject property as of the assessment date, January 1, 2008, is reversed.
2. Actual value, for the tax year 2008, of the subject property is:

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Land value	\$32,000.00
Improvement value	<u>\$126,411.00</u>
Total value	<u>\$158,411.00.</u>

3. This decision, if no appeal is timely filed, shall be certified to the Douglas County Treasurer, and the Douglas County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Cum. Supp. 2008).
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 2008.
7. This order is effective for purposes of appeal on March 3, 2010.

Signed and Sealed. March 3, 2010.

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Robert W. Hotz, Commissioner

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William C. Warnes, Commissioner

**SEAL**

**APPEALS FROM DECISIONS OF THE COMMISSION MUST SATISFY THE REQUIREMENTS OF NEB. REV. STAT. §77-5019 (CUM. SUPP. 2008), OTHER PROVISIONS OF NEBRASKA STATUTES, AND COURT RULES.**