

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Josephine A. Krenisky,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case No: 12C 064

Decision Affirming
County Board of Equalization

GENERAL BACKGROUND & PROCEDURAL HISTORY

1. The Subject Property is a commercial parcel improved with a 5,760 square foot commercial facility located at 8938 L Street, Omaha, Nebraska. The legal description of the Subject Property is contained in the Case File.
2. The Douglas County Assessor assessed the Subject Property at \$285,100 for tax year 2012.
3. Josephine A. Krenisky (herein referred to as the “Taxpayer”) protested this value to the Douglas County Board of Equalization (herein referred to as the “County Board”).
4. The County Board determined that the assessed value of the Subject Property was \$285,100 for tax year 2012.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (herein referred to as the “Commission”).
6. A Single Commissioner hearing was held on August 26, 2013, at the State Office Building, in Omaha, Nebraska, before Commissioner Thomas D. Freimuth.
7. Josephine A. Krenisky, the Taxpayer, and her husband, Mike Krenisky, were present at the hearing.
8. Linda Rowe, an employee of the Douglas County Assessor’s Office, was present for the County Board.

SUMMARY OF HEARING DOCUMENTS & STATEMENTS

9. The Assessment Report submitted by the County Board at the hearing before the Commission indicates that the County Board’s \$285,100 determination for tax year 2012 includes \$141,200 for land and \$143,900 for the improvement components. The Commission notes that the Assessment Report’s property valuation history (“PVAL” page) indicates that the County Board’s determinations for tax years 2009 and 2010 amounted to \$230,000 (land: \$141,200; improvements: \$88,800) and increased to \$285,100 (land: \$141,200; improvements: \$143,900) in tax year 2011 based on a reappraisal (see “RA” notation on PVAL page) by the County Assessor.
10. The Assessment Report indicates that the Douglas County Assessor’s Office performed an exterior and interior inspection of the Subject Property on October 25, 2010.
11. The 2012 Property Profile contained in the Assessment Report states that the Subject Property’s 5,760 square foot improvement is classified by the County as “Storage Warehouse” under “Occupancy” code 406. The 2012 Property Profile also states that a

commercial operation doing business as CrossFit Health Club is situated on the Subject Property.

12. The Assessment Report contains a Commercial Income Worksheet that is the basis of the County Assessor's \$285,100 notice value and the County Board's determination for tax year 2012. The County Board's determination is based on the following income approach factors: \$5.50 rental rate; 10% vacancy & collection loss rate; 10% expense ratio; and a 9% capitalization rate applied to net operating income in the amount of \$25,660.80.
13. The Assessment Report contains a document entitled "Commercial Sales Comparables" that sets forth three storage warehouses in the Subject Property's market area with 2012 assessed values that amount to \$49.50, \$60.75 and \$49.50 per sq. ft. (the Subject Property is assessed at \$49.50 per sq. ft. for tax year 2012). The County provided Property Record Profiles for these parcels at the hearing that contain Income Worksheets, which indicate that the County Board's determination for all three was based on the same income approach factors as those noted above for the Subject Property, except as noted below in the next paragraph for the property located at 4524 South 79th Street.
14. The County's chart of three alleged comparable sales include transactions in 2008, 2009 and 2011. These transactions generated sales prices amounting to:
 - \$345,000 in October 2008 (8930 H Street, which is in close proximity to the Subject Property located at 8938 L Street; 6,960 sq. ft. vs. Subject Property's 5,760 sq. ft.; 2012 Assessed Value: \$344,522 - \$49.50 per sq. ft.);
 - \$270,000 in March 2009 (4524 South 79th Street; 4320 sq. ft.; 2012 Assessed Value: \$262,438 - \$60.75 per sq. ft.; Note: the income approach factors used by the County for this parcel were as follows: \$6 rental rate; 10% vacancy & collection loss rate; 10% expense ratio; and 8% capitalization rate); and
 - \$425,000 in October 2011 (12875 Deauville Drive; 8,540 sq. ft.; 2012 Assessed Value: \$422,733 - \$49.50 per sq. ft.).
15. The Taxpayer asserted that the County Board overvalued the Subject Property with the use of an unreasonable or arbitrary income approach model. The Taxpayer did not submit income approach information for the Subject Property or comparable properties.
16. In support of its overvaluation assertion, the Taxpayer submitted documentation that charted 26 sales of "warehouses" that occurred in the period 2010 – 2012. The Taxpayer stated that she acquired chart information from the Douglas County Assessor's website via its sales search function, including tax year 2012 assessment details for each parcel.
17. Based on this chart, the Taxpayer asserted that the actual value of the Subject Property should be lowered to \$209,606.
18. The Taxpayer's documentation provides that the above-noted \$209,606 opinion of value is derived by multiplying the square footage of the Subject Property (5,760 sq. ft.) times the \$36.39 per square foot sale value of 8906 L Street. This parcel, which is located two buildings away from the Subject Property, sold for \$500,000 in December 2011 and was assessed at \$35.87 for tax year 2012 (versus the Subject Property's \$49.50 per sq. ft. assessment).
19. In support of the Taxpayer's opinion of the value, the sales chart includes the following averages derived from the 26 transactions analyzed:

- \$540,425 average sale price;
- \$555,440 average total assessed value for tax year 2012;
- \$2.60 average assessment per sq. ft. of land component (vs. \$6.69 for Subject Property);
- \$21.28 average assessment per sq. ft. of improvement component (vs. \$24.98 for Subject Property - $\$143,900 \div 5,760 \text{ sq. ft.} = \24.98);
- \$29.40 average total assessment per sq. ft. (vs. \$49.50 for Subject Property - $\$285,100 \div 5,760 \text{ sq. ft.}$); and
- \$27.54 average sale per sq. ft.

20. The Taxpayer's documentation used averages referenced above to derive valuations for the Subject Property for purposes of supporting her \$209,606 opinion of value. Following are these supporting calculations:

- $\$177,466 - [21,113 \text{ sq. ft.} \times \$2.60 \text{ average land assessment per sq. ft.}] + [5,760 \text{ sq. ft.} \times \$21.28 \text{ average improvement assessment per sq. ft.}]$;
- $\$169,344 - 5,760 \text{ sq. ft.} \times \$29.40 \text{ average total assessment per sq. ft.}$; and
- $\$158,630 - 5,760 \text{ sq. ft.} \times \$27.54 \text{ average sale per sq. ft.}$.

STANDARD OF REVIEW

21. The Commission's review of the determination of the County Board of Equalization is de novo.¹ "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."²
22. 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."³ 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."⁴
23. 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.⁵

¹ 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).

² *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).

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

⁴ *Id.*

⁵ Neb. Rev. Stat. §77-5016(8) (2010 Cum. Supp.).

24. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶

GENERAL VALUATION LAW

25. A Taxpayer must introduce competent evidence of actual value of the subject property in order to successfully claim that the subject property is overvalued.⁷
26. “Actual value, market value, and fair market value mean exactly the same thing.”⁸
27. Taxable value is the percentage of actual value subject to taxation as directed by Nebraska Statutes section 77-201 and has the same meaning as assessed value.⁹
28. All real property in Nebraska subject to taxation shall be assessed as of January 1.¹⁰
29. All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.¹¹
30. Nebraska Statutes section 77-112 defines actual value as follows:

Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. 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. 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.¹²

VALUATION ANALYSIS

31. The Taxpayer asserted that the actual value of the Subject Property amounted to \$209,606 for tax year 2012. In support of this assertion, the Taxpayer submitted documentation that included analysis of 26 parcels outlined above.
32. The Taxpayer did not submit a fee appraisal of the Subject Property at the hearing before the Commission. The Commission also notes that the Taxpayer did not submit Property Profiles for any of the 26 parcels analyzed. The Commission further notes that the Taxpayer did not submit income approach information for the Subject Property or comparable properties.

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

⁷ 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).

⁸ *Omaha Country Club v. Douglas County Board of Equalization, et al.*, 11 Neb.App. 171, 180, 645 N.W.2d 821, 829 (2002).

⁹ Neb. Rev. Stat. §77-131 (Reissue 2009).

¹⁰ See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009).

¹¹ Neb. Rev. Stat. §77-201(1) (Reissue 2009).

¹² Neb. Rev. Stat. § 77-112 (Reissue 2009).

33. The Taxpayer's opinion of value relies in part on the use of assessed values of storage warehouses in Douglas County. This approach is not a commonly accepted mass appraisal technique for determining the actual value of real property under Nebraska Statutes section 77-112.
34. The valuation approaches identified under Nebraska Statutes section 77-112 include the sales comparison approach, the income approach, the cost approach, and other professionally accepted mass appraisal methods. The Taxpayer's use of assessed values of storage warehouses is not identified as an appropriate approach under Nebraska Statutes section 77-112. Additionally, the Taxpayer did not provide evidence that this approach is a professionally accepted mass appraisal or fee appraisal technique. Therefore, while assessed values can provide the basis for relief in the equalization context as discussed below, the Commission is unable to place significant weight on the Taxpayer's \$209,606 opinion of value to the extent it relies on the use of assessed values of storage warehouses in Douglas County.
35. The Taxpayer's opinion of value also relies in part on the use of sales of storage warehouses in Douglas County. The Taxpayer's approach can best be described as an attempt to value the Subject Property using the sales comparison approach.
36. As noted above, the Taxpayer's opinion of value is supported by the average sale value per square foot of 26 storage warehouses (5,760 sq. ft. x \$27.54 average sale price = \$158,630).
37. Averaging is not an acceptable part of the sales comparison approach. "Simply averaging the results of the adjustment process to develop an averaged value fails to recognize the relative comparability of the individual transactions as indicated by the size of the total adjustments and the reliability of the data and methods used to support the adjustments."¹³
38. The sales comparison approach has a defined systematic procedure that requires, among other actions, that the appraiser "[l]ook for differences between the comparable sale properties and the subject property using all appropriate elements of comparison. Then adjust the price of each sale property, reflecting how it differs, to equate it to the subject property or eliminate that property as a comparable. This step typically involves using the most similar sale properties and then adjusting for any remaining differences."¹⁴
39. The elements of comparison include real property rights conveyed in the sales, any financing terms, condition of the sale, expenditures made immediately after purchase, market conditions, location, physical characteristics, economic characteristics, use and zoning, and any non-realty components of value.¹⁵ Consideration of many of these characteristics is required under Nebraska Statutes section 77-1371, which provides that "[c]omparable sales are recent sales of properties that are similar to the property being assessed in significant physical, functional, and location characteristics and in their contribution to value."¹⁶
40. The Taxpayer's \$209,606 opinion of value does not provide analysis regarding adjustments based on the elements of comparison referenced above. In this regard, the Taxpayer did not submit Property Profiles maintained by the Douglas County Assessor's Office for any of the 26 sale parcels analyzed, including the \$36.39 per square foot sale

¹³ *The Appraisal of Real Estate*, 13th Edition, Appraisal Institute, 2008, at p. 308.

¹⁴ *The Appraisal of Real Estate*, 13th Edition, Appraisal Institute, 2008, at pgs. 301 - 302.

¹⁵ *The Appraisal of Real Estate*, 13th Edition, Appraisal Institute (2008) at 141.

¹⁶ Neb. Rev. Stat. §77-1371 (Reissue 2009).

value of 8906 L Street. Thus, the Commission is unable to place significant weight on the Taxpayer's sales comparison valuation. The Commission notes, however, that while a fee appraisal of the Subject Property was not presented at the hearing, a certified appraiser would derive assistance from the detailed information analyzed by the Taxpayer.

41. The mass appraisal income capitalization model used by the County Assessor to derive its \$285,100 notice valuation for tax year 2012 requires the analysis and use of competitive market information.¹⁷ In this regard, *The Appraisal of Real Estate* published by The Appraisal Institute states: "To derive pertinent income and expense data, an appraiser investigates comparable sales and rentals or competitive income-producing properties of the same type in the same market. . . . Appraisers try to obtain all income and expense data from the income-producing properties used as comparables."¹⁸ "Vacancy and collection loss is commonly expressed as a percentage of potential annual gross income, and it should be based on market research, not the actual rental history of a property."¹⁹ "Published studies are useful, but the appraiser must still develop operating expense ratios from comparable properties in the subject property's market or verify the applicability of the published ratios to this market."²⁰ Finally, *The Appraisal of Real Estate* states that the income approach "employs capitalization rates and multipliers extracted from market data."²¹
42. In addition to market data, the income approach also requires analysis of subject property income and expense information.²²
43. With respect to the proper use of the income approach in the mass appraisal context, "gross income, allowable expenses, net incomes, gross income multipliers, and overall rates can all be estimated in one of two basic ways: by developing typical per-unit values through stratification, often using spreadsheet software, or through statistical models."²³ In order to avoid reflecting differences in management, it is acceptable for an appraiser to use median vacancy, collection loss ratio and income per unit when valuing a property under the income approach.²⁴ Whether the appraiser uses actual subject property income/expense information or estimated medians is "a matter of appraiser judgment" based upon whether the reported actual figures appear reasonable or typical when compared to the median figure for the model.²⁵
44. *Mass Appraisal of Real Property* states the basic concept that for purposes of ad valorem taxation of real property, only the value of the real property and not that value of the business which is attributable to individual management style or experience is to be valued. The use of estimated figures instead of actual figures for each business is intended to prevent the inappropriate taxation of management.²⁶
45. Because of these principles of mass appraisal, it is not enough to rebut the presumption in favor of the County Board for the Taxpayer to present evidence that there is a difference

¹⁷ Fisher and Martin, *Income Property Valuation*, Dearborn Financial Publishing, Inc., 2004, at p. 43.

¹⁸ *The Appraisal of Real Estate*, 13th Edition, The Appraisal Institute, 2008, at p. 473.

¹⁹ *Mass Appraisal of Real Property*, International Association of Assessing Officers, 1999, at 404.

²⁰ *The Appraisal of Real Estate*, 13th Edition, The Appraisal Institute, 2008, at p. 494.

²¹ *The Appraisal of Real Estate*, 13th Edition, The Appraisal Institute, 2008, at p. 499.

²² *The Appraisal of Real Estate*, 13th Edition, The Appraisal Institute, 2008, at p. 466.

²³ *Mass Appraisal of Real Property*, International Association of Assessing Officers, 1999, at p. 132.

²⁴ *Mass Appraisal of Real Property*, International Association of Assessing Officers, 1999, at p. 158.

²⁵ *Mass Appraisal of Real Property*, International Association of Assessing Officers, 1999, at p. 158.

²⁶ *Mass Appraisal of Real Property*, International Association of Assessing Officers, 1999, at p. 158.

between the Subject Property’s actual figures and the estimates utilized by the County Assessor and adopted by the County Board in its determination. The Taxpayer must show something more in the form of clear and convincing evidence that the County Assessor or County Board inappropriately derived the estimated figures, or inappropriately included the Subject Property in a model comprised of incomparable properties, or any other error or calculation that evidences that the model or process utilized by the County Assessor and/or relied upon by the County Board determined the value of the Subject Property in such a way that the decision was “made in disregard of the facts or circumstances and without some basis which would lead a reasonable person to the same conclusion”²⁷ or evidences that there is “no room for differences of opinion among reasonable minds.”²⁸

46. The Taxpayer did not submit income approach information for the Subject Property or comparable properties.
47. The Commission finds that the Taxpayer did not present sufficient Subject Property data or local market data to demonstrate that the County Board’s decision based on the income approach for tax year 2012 was unreasonable or arbitrary.
48. The Commission notes that valuation guidance is available in the case where a Taxpayer determines that it is not cost effective to obtain a fee appraisal. For example, the Commission is allowed by statute and by its rules and regulations to consider many publications that provide guidance regarding the sales comparison approach, the income approach and the cost approach. These publications, which are listed at the Commission’s “Rules/Regulations” website link (Chapter 5, section 031), can be found at area public libraries and law school libraries. Guidance regarding valuation techniques can also be found at the Commission’s “Decisions” website link.
49. The Commission also notes that section 8 of the Order for Single Commissioner Hearing issued to the parties in this matter at least 30 days prior to the hearing provides as follows:

NOTE: *Copies of the County’s Property Record File [Property Profile] for any parcel you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County’s web page is **not** a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*²⁹

GENERAL EQUALIZATION LAW

50. “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.”³⁰ Equalization is the process of ensuring that all taxable property is

²⁷ *Phelps Cty. Bd. of Equal. v. Graf*, 258 Neb 810, 606 N.W.2d 736 (2000) (citations omitted) (defining “arbitrary”).

²⁸ See, *Pittman v. Sarpy Cty. Bd. of Equal.*, 258 Neb 390, 401-02, 603 N.W.2d 447, 455-56 (1999) (defining “unreasonable”).

²⁹ The Commission notes that the term “Property Record File” has the same meaning as “Property Record Card” and “Property Profile.” The term Property Profile is used in this Order because that is the term used at the top of Douglas County’s Property Record Card documentation contained in the Assessment Report.

³⁰ *Neb. Const.*, Art. VIII, §1.

placed on the assessment rolls at a uniform percentage of its actual value.³¹ 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.³²

51. 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.³³
52. 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.³⁴ 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.³⁵
53. The constitutional requirement of uniformity in taxation extends to both rate and valuation.³⁶ 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].”³⁷ “There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.”³⁸
54. “To set the valuation of similarly situated property, i.e. comparables, at materially different levels, i.e., value per square foot, is by definition, unreasonable and arbitrary, under the Nebraska Constitution.”³⁹

EQUALIZATION ANALYSIS

55. The Taxpayer asserted that the Subject Property was overvalued in comparison to the assessed valuations of storage warehouses located in Douglas County, including the 2012 assessed value of the commercial parcel located at 8906 L Street. This parcel, which is located two buildings away from the Subject Property, sold for \$500,000 (\$36.39 per sq. ft.) in December 2011 and was assessed at \$35.87 for tax year 2012 (versus the Subject Property’s \$49.50 per sq. ft. assessment).
56. The documentation submitted by the Taxpayer in support of her assertion is derived from the Douglas County Assessor’s website. Property Profiles were not submitted for any of the 26 parcels charted by the Taxpayer.
57. The County’s representative stated that she could not opine regarding the similarity of the Subject Property in comparison to the 26 parcels submitted by the Taxpayer because Property Profiles were not submitted.

³¹ *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).

³² *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).

³³ *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623 (1999).

³⁴ *Banner County v. State Board of Equalization*, 226 Neb. 236, 411 N.W.2d 35 (1987).

³⁵ *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).

³⁶ *First Nat. Bank & Trust Co. v. County of Lancaster*, 177 Neb. 390, 128 N.W.2d 820 (1964).

³⁷ *Newman v. County of Dawson*, 167 Neb. 666, 670, 94 N.W.2d 47, 49-50 (1959) (Citations omitted).

³⁸ *Id.* at 673, 94 N.W.2d at 50.

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

58. As indicated previously, an order for equalization requires evidence that either: (1) similar properties were assessed at materially different values;⁴⁰ or (2) a comparison of the ratio of assessed value to market value for the Subject Property and other real property **regardless of similarity** indicates that the Subject Property was not assessed at a uniform percentage of market value.⁴¹
59. The Commission is unable to evaluate whether the one or more of the 26 properties submitted by the Taxpayer are similarly situated or comparable for equalization analysis purposes because Property Profiles were not provided.
60. The Commission further finds that the Taxpayer did not produce sufficient evidence of the market value of the properties submitted for comparison, in order to determine whether the ratio of one or more assessed to market values was less than 100% for tax year 2012. Thus, the Commission is unable to determine whether the Subject Property was assessed at an excessive percentage of market value in comparison to the properties presented for consideration by the Taxpayer.
61. The Commission notes that the Taxpayer's sales analysis of 26 storage warehouses in Douglas County discloses that the average land assessment for these properties is \$2.60, while the land assessment for the Subject Property is \$6.69. The County, however, relied on the income approach to value the Subject Property and the three comparables included in its Assessment Report. The income approach values land and improvements in a composite manner without distinguishing between the land and improvement components (i.e., land and improvements are valued together, unlike the cost approach). Additionally, the County's documentation indicates that the income approach applied to the Subject Property and the three County Assessment Report comparables for tax year 2012 involved uniform application (for summary of this application, see section above entitled "Summary of Hearing Documents and Statements"). Therefore, the Commission finds that the Taxpayer did not present sufficient information regarding land valuation disparities to demonstrate that the County Board's decision based on the income approach for tax year 2012 was unreasonable or arbitrary.

CONCLUSION

62. 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.
63. The Taxpayer has not adduced sufficient, clear and convincing evidence that the determination of the County Board is unreasonable or arbitrary and the decision of the County Board should be affirmed.

ORDER

IT IS ORDERED THAT:

1. The decision of the Douglas County Board of Equalization determining the value of the Subject Property for tax year 2012 is Affirmed.
2. That the taxable value of the Subject Property for tax year 2012 is \$285,100.

⁴⁰ See, *Scribante v. Douglas County Board of Equalization*, 8 Neb.App. 25, 39, 588 N.W.2d 190, 199 (1999).

⁴¹ See, *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623, 635 (1999).

3. This decision and order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas 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 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 2012.
7. This order is effective on March 10, 2014.

Signed and Sealed: March 10, 2014.

Thomas D. Freimuth, Commissioner