

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

JEFFREY A. BLANK,)	
)	
Appellant,)	Case No. 07R-138
)	
v.)	DECISION AND ORDER REVERSING
)	THE DECISION OF THE SARPY
SARPY COUNTY BOARD OF)	COUNTY BOARD OF EQUALIZATION
EQUALIZATION,)	
)	
Appellee.)	

The above-captioned case was called for a hearing on the merits of an appeal by Jeffrey A. Blank ("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 May 30, 2008, pursuant to an Order for Hearing and Notice of Hearing issued March 24, 2008. Commissioners Warnes, Salmon, and Hotz were present. Commissioner Wickersham was excused from participation by the presiding hearing officer. The appeal was heard by a panel of three commissioners pursuant to 442 Neb. Admin. Code, ch. 4, §11 (10/07). Commissioner Warnes was the presiding hearing officer.

Jeffrey A. Blank was present at the hearing without legal counsel.

Michael A. Smith, the County Attorney for Sarpy County, Nebraska, was present as legal counsel for the Sarpy 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. 2006). 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, 2007, 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, 2007.

The Taxpayer has asserted that taxable value of the subject property as of January 1, 2007, 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, 2007.

**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 is described as LOT 72 COVINGTON, Sarpy County, Nebraska, ("the subject property").
3. Actual value of the subject property placed on the assessment roll as of January 1, 2007, ("the assessment date") by the Sarpy County Assessor, value as proposed in a timely protest, and actual value as determined by the County Board is shown in the following table:

Case No. 07R-138

Description: LOT 72 COVINGTON, Sarpy County, Nebraska.

	Assessor Notice Value	Taxpayer Protest Value	Board Determined Value
Land	\$36,000.00	\$32,000.00	\$36,000.00
Improvement	\$368,038.00	\$275,397.00	\$368,038.00
Total	\$404,038.00	\$307,397.00	\$404,038.00

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. The Taxpayer was served with a Notice in Lieu of Summons and duly answered that Notice.
7. An Order for Hearing and Notice of Hearing issued on March 24, 2008, set a hearing of the appeal for May 30, 2008, at 11:00 a.m. CDST.

8. 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.
9. Actual value of the subject property as of the assessment date for the tax year 2007 is:

Land value	\$36,000.00
Improvement value	<u>\$357,984.00</u>
Total value	<u>\$393,984.00.</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) (Supp. 2007).
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. 2006).
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 to obtain proportionate valuation requires a comparison of the ratio of assessed to actual value for the subject property and comparable property. *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623, (1999).
9. 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).
10. 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).

11. 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).
12. 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).
13. 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).
14. 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).
15. 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).

16. The presumption disappears if there is competent evidence to the contrary. *Id.*
17. 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).
18. Proof that the order, decision, determination, or action 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).
19. "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).
20. 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).
21. 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).

22. “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).
23. 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).
24. A Taxpayer, who only produced evidence that was aimed at discrediting valuation methods utilized by 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).
25. 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 values); and *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 an improved residential lot. The improvement is a two story residence with 3,315 square feet of gross living area built in 2006. Exhibit 16:1.

The Taxpayer has appealed both the valuation of the subject property as well as alleging that taxable value of the subject property as of January 1, 2007, is not equalized with the taxable value of other real property.

One of the Taxpayers testified that the valuation of the subject property should be lowered because of the following. First, he paid too much for the subject property. The subject property was purchased by the Taxpayer on February 21, 2006 for a purchase price of \$400,884. In addition, the sale was adjusted to reflect the value of a fence added to the sale in the amount of \$6,816 for a total purchase price of \$407,700.

The Commission does not utilize the purchase price as the only or even the most important factor for its determination of actual value. The purchase price is but one indicia of the actual value. "It is true that the purchase price of property may be taken into consideration in determining the actual value thereof for assessment purposes, together with all other relevant elements pertaining to such issue; however, standing alone, it is not conclusive of the actual value of property for assessment purposes. Other matters relevant to the actual value thereof must be considered in connection with the sale price to determine actual value. Sale price is not synonymous with actual value or fair market value." *Forney v. Box Butte County Bd. of Equalization*, 7 Neb.App. 417, 424, 582 N.W.2d 631, 637 (1998).

"Evidence of sale price alone may not be sufficient to overcome the presumption that the board of equalization has valued the property correctly. But where, as in this case, the evidence discloses the circumstances surrounding the sale and shows that it was an arm's length transaction between a seller who was not under compulsion to sell and a buyer who was not

compelled to buy, it should receive strong consideration.” *Potts v. Board of Equalization of Hamilton County*, 213 Neb. 37, 48, 328 N.W.2d 175, 328 (1982).

The second reason the Taxpayer alleges that the taxable valuation should be lowered is the quality of the residence. The Commission notes that the itemizations of deficiencies listed by the Taxpayers on Exhibit 16:5 may include items of both “quality” and “condition”. “Quality is a term that is a subjective classification of a structure by an appraiser; intended to describe materials used, workmanship, architectural attractiveness, functional design, and the like. Quality class, or its synonym grade, is the key variable in most cost schedules.” *Property Appraisal and Assessment Administration*, Joseph K. Eckert, IAAO, 1990, page 658. From the same reference the term Condition is defined as “A judgement of the depreciation of an improvement.” *Id.*, page 638. The Taxpayer referred to Exhibit 16 page 5 as their itemization of the deficiencies for the subject property which were present on January 1, 2007. The County inspected the subject property on April 14, 2008, and a list of the findings is shown on Exhibit 16 page 4. The testimony of the Deputy County Assessor is that an adjustment was made for those items found by the Assessor and listed on Exhibit 16 page 4 which was estimated to have a value to cure deficiencies of \$8,603.69. The adjustment was given in the form of a reduction in the appreciation assigned to the property from 9% appreciation shown on Exhibit 12 page 2 to that of only 6% appreciation shown on Exhibit 16 page 2. The Taxpayer did not provide further evidence quantifying the alleged needed repairs to the subject property and the uncorrected water problem. The County’s use of a reduction in appreciation to the subject property versus an increase to depreciation was one of the concerns testified to by the Taxpayer, which is discussed further below.

Another concern of the Taxpayer was the correct square footage of the gross living area for the subject property. The Commission notes that this attribute was corrected by the county to be 3,315 square feet, Exhibit 16 page 2, versus the previous listing of 3,336 square feet shown on Exhibit 12 page 2.

The County's adjustments to the subject property resulted in a decrease of the County's opinion of actual value to that of \$393,984 which is a \$10,050 reduction in taxable valuation from that for which the Taxpayer had been originally assessed. Exhibit 16 page 2. This new opinion of actual valuation by the County is given great weight by the Commission. The Taxpayer provided as evidence an appraisal of the subject property. (E3). The Commission notes that this appraisal uses an effective date for valuation of the subject property as of January 14, 2008, one year later than the effective date for assessment by the County for 2007. Exhibit 3:5. Also, Exhibit 3 is intended to appraise the subject property for the specific purpose of a mortgage financial transaction. Exhibit 3:7. The alleged comparable properties utilized by the appraisal, Exhibit 3, were all sold after January 1, 2007, the effective date of assessment by the County for 2007, and were located outside of the subdivision of the subject property. The Commission gives little weight to the appraisal value shown in Exhibit 3.

The third concern of the Taxpayer was that the taxable value of the subject property as of January 1, 2007, is not equalized with the taxable value of other real property. The Taxpayer provided Exhibit 4 as a listing of alleged comparable properties to the subject property.

The Taxpayer testified that he had concerns regarding the quality of the subject property which is shown as Good + (45) on Exhibit 16:1. Further testimony by the Taxpayer was that he did agree that the quality of the subject property was Good +, but his concern was that other

properties had the same rating when it was his belief they were superior; however, the Taxpayer had not been inside the properties to which he referred. Exhibits 23 and 24 identify the attributes of a property with Good + rating and itemizes the attributes for this rating. The properties which the Taxpayer identified that he alleges were not rated correctly for quality include Lot 159, Lots 63, 64, and 68. (E4:1). After listening to the testimony of the Taxpayer, the Commission finds that the Taxpayer does not have competent knowledge to distinguish differences in the quality ratings between properties, does not have direct knowledge of those properties referred to in that he has not been in the properties which he alleges are not rated for quality correctly, and that the Taxpayer is using only some of the attributes associated with Good + (45) quality rating as shown in Exhibit 23. The attributes he used are in part listed on his Exhibit 9:2, which are but only a few of those attributes shown in Exhibit 23 associated with properties with Good + quality rating.

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).

The Taxpayer must show evidence of actual valuations from sales of comparable properties in order to show evidence that the taxable value of the subject property as of January 1, 2007, is not equalized with the taxable value of other real property. In this case, the Taxpayer only provided evidence of the assessed valuations for other alleged comparable properties.

The Taxpayer contends that the actual or fair market value of the subject property should be determined based on the taxable or “assessed” value per square foot of other parcels. A Taxpayer wishing to use taxable “assessed” values to prove actual or fair market value must show that the approach used is a professionally approved mass or fee appraisal approach and demonstrate application of the approach.

A determination of actual value may be made for mass appraisal and assessment purposes by using approaches identified in Nebraska Statutes. Neb. Rev. Stat. §77-112 (Reissue 2003). The approaches identified are the sales comparison approach, the income approach, the cost approach and other professionally accepted mass appraisal methods. *Id.* Comparison of assessed values is not identified in the Nebraska Statutes as an accepted approach for a determination of actual value for purposes of mass appraisal. *Id.* Because the method is not identified in statute, proof of its professional acceptance as an accepted appraisal approach would have to be produced. *Id.* No evidence has been presented to the Commission that comparison of assessed values is a professionally accepted mass or fee appraisal approach.

The Taxpayer in this case asks the Commission to presume that the taxable “assessed” value of each offered comparable is equal to its actual value. A presumption can arise that an assessor properly determined taxable “assessed” value. *Woods v. Lincoln Gas and Electric Co.*, 74 Neb. 526, 527 (1905), *Brown v. Douglas County*, 98 Neb. 299, 303 (1915), *Gamboni v. County*

of Otoe, 159 Neb. 417, 431, 67 N.W.2d 489, 499 (1954), *Ahern v. Board of Equalization*, 160 Neb. 709, 711, 71 N.W.2d 307, 309 (1955). A presumption can also arise that a County Board's determination of taxable "assessed" value is correct. *Constructor's Inc. v. Cass Cty. Bd. of Equal.*, 258 Neb. 866, 606 N.W.2d 786 (2000). A presumption is not, however, evidence of correctness in and of itself but may be classified as a principle of procedure involving the burden of proof. See, *Gordman Properties Company v. Board of Equalization of Hall County*, 225 Neb. 169, 403 N.W.2d 366 (1987).

The weight of authority is that assessed value is not in and of itself direct evidence of actual value. See, *Lienemann v. City of Omaha*, 191 Neb. 442, 215 N.W.2d 893 (1974). If however the "taxable 'assessed' value comparison approach" was shown to be a professionally accepted approach for determination of actual value, and that the taxable "assessed value of the proposed comparables was equal to actual value, further analysis would be required. Techniques for use of the approach would have to be developed. Techniques used in the sales comparison approach are instructive. In the sales comparison approach, a sale price is an indication of actual value for a sold property but must be adjusted to account for differences between properties to become an indicator of actual value for another property. *The Appraisal of Real Estate*, Twelfth Edition, Appraisal Institute, Chs 17, 18, 19 (2001). An analysis of differences and adjustments to the taxable "assessed" value of comparison properties would be necessary to obtain an indication of actual value for a subject property. See, *DeBruce Grain v. Otoe County Board of Equalization*, 7 Neb.App. 688, 584 N.W.2d 837 (1998). No adjustments or analysis of adjustments necessary to compensate for differences between the subject property and the taxable "assessed" values of other parcels was presented.

The Taxpayer provided Exhibit 4 as a listing of alleged comparable properties to the subject property. Exhibit 4 is a compilation of the Taxpayer's alleged comparable properties. From the testimony of the Taxpayer, the Commission finds that Exhibit 4 is not a compilation of sales, but merely the assessed valuation placed on these properties by the County. The Commission finds that only a fraction of the properties which are listed on Exhibit 4 are of the same style, located in the same subdivision, and have the same quality rating of Good +, 45.

“Comparable properties” share similar quality, architectural attractiveness (style), age, size, amenities, functional utility, and physical condition. *Property Assessment Valuation*, 2nd 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*, 2nd Ed., 1996, p.103. Most adjustments are for physical characteristics. *Property Assessment Valuation*, 2nd Ed., 1996, p.105. “Financing terms, market conditions, location, and physical characteristics are items that must be considered when making adjustments . . .” *Property Assessment Valuation*, 2nd Ed., 1996, p. 98

“Generally, evidence as to the sale of comparable property is admissible as evidence of market value, provided there is adequate foundation to show the evidence is material and relevant. The foundation evidence should show the time of sale, the similarity or dissimilarity of market conditions; the circumstances surrounding the sale, and other relevant factors affecting the market conditions at the time . . . The exact limits, either of similarity or difference, or of nearness or remoteness in point of time, depend upon the location and character of the properties and the circumstances of the case. . .” *Westgate Recreation Ass'n v. Papio-Missouri River Natural*

Resources Dist., 250 Neb. 10, 17, 547 N.W.2d 484, 492 (1996) (Citations omitted). The Commission finds that the alleged comparables used by the Taxpayer in Exhibit 4 are not comparable. Exhibit 4 does not provide sales information for the alleged comparable properties.

A taxpayer who offers no evidence that the subject property is valued in excess of its actual value and who only produces evidence that is aimed at discrediting the valuation methods utilized by county assessor fails to meet his or her burden of proving that the value of the property was not fairly and proportionately equalized or that valuation placed upon the 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).

The Commission, upon review of all of the evidence presented, finds that the Taxpayer has provided competent evidence to meet his burden to rebut the presumption that the County Board faithfully performed its duties and acted on sufficient competent evidence to justify its actions. The Commission has reviewed all of the evidence presented and finds that the Taxpayer has shown by the reasonableness of the evidence a different taxable valuation and has proven by 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 2007 is \$393,984.

**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 vacated and 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, 2007, is vacated and reversed.

2. Actual value, for the tax year 2007, of the subject property is:

Land value	\$36,000.00
Improvement value	<u>\$357,984.00</u>
Total value	<u>\$393,984.00.</u>

3. This decision, if no appeal is timely filed, shall be certified to the Sarpy County Treasurer, and the Sarpy County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Cum. Supp. 2006).
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 2007.

7. This order is effective for purposes of appeal on July 21, 2008.

Signed and Sealed. July 21, 2008.

Nancy J. Salmon, Commissioner

Robert W. Hotz, Commissioner

William C. Warnes, Commissioner

SEAL

APPEALS FROM DECISIONS OF THE COMMISSION MUST SATISFY THE REQUIREMENTS OF NEB. REV. STAT. §77-5019 (CUM. SUPP. 2006), OTHER PROVISIONS OF NEBRASKA STATUTES, AND COURT RULES.