

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Bernard J. Morello,
Appellant,

v.

Douglas County Board of Equalization
Appellee

Case No: 11A 138, 11A 139, 11A 140,
11A 141, 11A 142, 12A 084, 12A 085,
12A 086, 12A 087, 12A 088, 13A 119,
13A 120, 13A 121, 13A 122, & 13A 123

Decision and Order Reversing the
Determinations of the Douglas County
Board of Equalization in Case Nos. 11A
138, 11A 139, 11A 140, 11A 141, 11A 142,
12A 084, 12A 085, 12A 086, 12A 087,
12A 088, 13A 119, 13A 120, 13A 121, &
13A 123 and Affirming the Determination
of the Douglas County Board of
Equalization in Case No. 13A 122

For the Appellant:

Larry Forman,
Hillman, Forman, Childers & McCormack

For the Appellee:

Malina M. Dobson,
Deputy Douglas County Attorney

The appeals were heard before Commissioners Robert W. Hotz and Nancy J. Salmon.

I. THE SUBJECT PROPERTY

The Subject Property consists of five parcels of agricultural property located in Douglas County, Nebraska that received special valuation for tax years 2011, 2012, and 2013. The legal descriptions and property record cards for the Subject Property are found in Exhibit 16 for Case No. 11A 138, Exhibit 17 for Case No. 12A 084, Exhibit 18 for case No. 13A 119, Exhibit 19 for Case No. 11A 139, Exhibit 20 for Case No. 12A 085, Exhibit 21 for Case No. 13A 120, Exhibit 22 for Case No. 11A 140, Exhibit 23 for Case No. 12A 086, Exhibit 24 for Case No. 13A 121, Exhibit 25 for Case No. 11A 141, Exhibit 26 for Case No. 12A 087, Exhibit 27 for Case No. 13A 122, Exhibit 28 for Case No. 11A 142, Exhibit 29 for Case No. 12A 088, and Exhibit 30 for Case No. 13A 123.

II. PROCEDURAL HISTORY

The Douglas County Assessor determined that the assessed value of the Subject Property in Case Nos. 11A 138, 12A 084, and 13A 119, consisting of parcel number 0110540003, was \$186,130 for tax year 2011,¹ \$227,230 for tax year 2012,² and \$279,540 for tax year 2013.³ Bernard J. Morello (the Taxpayer) protested these assessments to the Douglas County Board of Equalization (the County Board). The County Board determined that the taxable value was \$186,130 for tax year 2011,⁴ \$227,230 for tax year 2012,⁵ and \$279,540 for tax year 2013.⁶

The Douglas County Assessor determined that the assessed value of the Subject Property in appeals 11A 139, 12A 085, and 13A 120, consisting of parcel number 0110890000, was \$169,940 for tax year 2011,⁷ \$206,100 for tax year 2012,⁸ and \$255,060 for tax year 2013.⁹ The Taxpayer protested these assessments to the County Board. The County Board determined that the taxable value was \$169,940 for tax year 2011,¹⁰ \$206,100 for tax year 2012,¹¹ and \$255,060 for tax year 2013.¹²

The Douglas County Assessor determined that the assessed value of the Subject Property in appeals 11A 140, 12A 086, and 13A 121, consisting of parcel number 0113280006, was \$257,370 for tax year 2011,¹³ \$302,600 for tax year 2012,¹⁴ and \$383,030 for tax year 2013.¹⁵ The Taxpayer protested these assessments to the County Board. The County Board determined that the taxable value was \$257,370 for tax year 2011,¹⁶ \$302,600 for tax year 2012,¹⁷ and \$383,030 for tax year 2013.¹⁸

¹ E1.

² E2.

³ E3.

⁴ E1.

⁵ E2.

⁶ E3.

⁷ E4.

⁸ E5.

⁹ E6.

¹⁰ E4.

¹¹ E5.

¹² E6.

¹³ E7.

¹⁴ E8.

¹⁵ E9.

¹⁶ E7.

¹⁷ E8.

¹⁸ E9.

The Douglas County Assessor determined that the assessed value of the Subject Property in appeals 11A 141, 12A 087, and 13A 122, consisting of parcel number 0113320000, was \$76,400 for tax year 2011,¹⁹ \$80,320 for tax year 2012,²⁰ and \$85,800 for tax year 2013.²¹ The Taxpayer protested these assessments to the County Board. The County Board determined that the taxable value was \$76,400 for tax year 2011,²² \$80,320 for tax year 2012,²³ and \$85,800 for tax year 2013.²⁴

The Douglas County Assessor determined that the assessed value of the Subject Property in appeals 11A 142, 12A 088, and 13A 123, consisting of parcel number 0114400002, was \$106,640 for tax year 2011,²⁵ \$123,890 for tax year 2012,²⁶ and \$157,400 for tax year 2013.²⁷ The Taxpayer protested these assessments to the County Board. The County Board determined that the taxable value was \$106,640 for tax year 2011,²⁸ \$123,890 for tax year 2012,²⁹ and \$157,400 for tax year 2013.³⁰

The Taxpayer appealed the decisions of the County Board to the Tax Equalization and Review Commission (Commission). Prior to the hearing, the parties exchanged exhibits and submitted a Pre-Hearing Conference Report, as ordered by the Commission. The Commission ordered the consolidation of all five parcels for all three tax years for purposes of the hearing. The Commission held Motion Hearings on January 3, 2014 and March 20, 2014, and held a hearing on the merits of these appeals on March 21, 2014.

III. STANDARD OF REVIEW

The Commission's review of the determination of the County Board of Equalization is de novo.³¹ When the Commission considers an appeal of a decision of a County Board of

¹⁹ E10.

²⁰ E11.

²¹ E12.

²² E10.

²³ E11.

²⁴ E12.

²⁵ E13.

²⁶ E14.

²⁷ E15.

²⁸ E13.

²⁹ E14.

³⁰ E15.

³¹ 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). "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

Equalization, a presumption exists that the “board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action.”³²

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.³³

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.³⁴ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.³⁵

A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.³⁶ 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.³⁷

In an appeal, the commission “may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based. The commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.”³⁸ The commission may also “take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within its specialized

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).

³² *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

³³ *Id.*

³⁴ Neb. Rev. Stat. §77-5016(8) (2012 Cum. Supp.).

³⁵ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

³⁶ 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).

³⁷ *Bottorf v. Clay County Bd. of Equalization*, 7 Neb.App. 162, 580 N.W.2d 561 (1998).

³⁸ Neb. Rev. Stat. §77-5016(8) (2012 Cum. Supp.).

knowledge...,” and may “utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.”³⁹

IV. VALUATION

A. Law

Under Nebraska law,

[a]ctual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm’s length transaction, between a willing buyer and a willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property the analysis shall include a full description of the physical characteristics of the real property and an identification of the property rights valued.⁴⁰

“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.”⁴¹ The Courts have held that “[a]ctual value, market value, and fair market value mean exactly the same thing.”⁴² 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.⁴³ All real property in Nebraska subject to taxation shall be assessed as of January 1.⁴⁴ All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.⁴⁵

“Agricultural land which has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses, shall be assessed as provided in subsection (3) of section 77-201 if the land meets the qualifications of this subsection and an application of such special valuation is filed and approved pursuant to section 77-1345.”⁴⁶ “Special valuation means the value that the land would have for agricultural and horticultural purposes or uses without regard to the actual value the land would have for other

³⁹ Neb. Rev. Stat. §77-5016(6) (2012 Cum. Supp.).

⁴⁰ Neb. Rev. Stat. §77-112 (Reissue 2009).

⁴¹ *Id.*

⁴² *Omaha Country Club v. Douglas County Board of Equalization, et al.*, 11 Neb.App. 171, 180, 645 N.W.2d 821, 829 (2002).

⁴³ Neb. Rev. Stat. §77-131 (Reissue 2009).

⁴⁴ See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009).

⁴⁵ Neb. Rev. Stat. §77-201(1) (Reissue 2009).

⁴⁶ Neb. Rev. Stat. §77-1343(1) (Reissue 2009).

purposes or uses.”⁴⁷ When determining the special value of real property the assessor must use sales of similar properties which are not subject to influences for purposes or uses other than agricultural or horticultural purposes.⁴⁸

Agricultural land and horticultural land shall be valued for purposes of taxation at seventy five percent of its actual value.⁴⁹ Agricultural land and horticultural land means a parcel of land which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land. Agricultural land and horticultural land does not include any land directly associated with any building or enclosed structure.⁵⁰

“Parcel means a contiguous tract of land determined by its boundaries, under the same ownership, and in the same tax district and section.”⁵¹

B. Summary of the Evidence

The Douglas County Assessor determined that all sales of agricultural land in Douglas County for tax years 2011, 2012, and 2013 were affected by the value of the properties for uses other than agricultural or horticultural uses.⁵² Therefore, the Douglas County Assessor determined the agricultural property in Douglas County should receive special valuation under Nebraska law. Nebraska law defines special valuation as “the value land would have for agricultural or horticultural purposes or uses without regard to the actual value the land would have for other purposes or uses.”⁵³ If real property qualifies for special valuation, the assessor is required to assess the real property at its special value, instead of its actual value.⁵⁴ It is undisputed that the Subject Property in the above captioned appeals was agricultural land and horticultural land which was qualified for special valuation.

⁴⁷ Neb. Rev. Stat. §77-1343(5) (Reissue 2009).

⁴⁸ 350 Neb. Admin. Code, ch. 11 §005.02 (03/09).

⁴⁹ Neb. Rev. Stat. §77-201 (2) (Reissue 2009).

⁵⁰ Neb. Rev. Stat. §77-1359 (1) (Reissue 2009).

⁵¹ Neb. Rev. Stat. §77-132 (Reissue 2009).

⁵² See, E16:14-16; E17:13-14; E18:12-14; E19:13-15; E20:12-13; E21:12-14; E22:12-14; E23:12-13; E24:12-14; E25:13-15; E26:11-12; E27:11-13; E28:13-15; E29:13-14; and E30:11-13.

⁵³ Neb. Rev. Stat. §77-1343(5) (Reissue 2009).

⁵⁴ See, Neb. Rev. Stat. §77-1344(1) (Reissue 2009).

The Douglas County Assessor valued the Subject Property at its special valuation using a methodology as contained in the Assessment Reports.⁵⁵ In all three tax years, the Douglas County Assessor obtained sales data from sales of agricultural parcels located in other counties.⁵⁶ In 2011, the Douglas County Assessor ran two models based on the sales data: (1) a model consisting of sales of “at least 70% predominant use of irrigated cropland, dry cropland and grassland” from Burt, Cass, Dodge, Johnson, Nemaha, Pawnee, Otoe, and Richardson Counties; and (2) a model consisting of sales of “at least 90% predominant use” from only Burt, Johnson, Nemaha, Pawnee, and Richardson Counties.⁵⁷ The Douglas County Assessor gave greater weight to the results of the second model because the agricultural land and horticultural land in those counties was more similar to Douglas County.⁵⁸ The Douglas County Assessor concluded that the analysis “revealed that the soil productivity rating for each sale did not tend to correlate with the sale price.”⁵⁹ Based on this observation, the Douglas County Assessor did not assess special valuation property by land capability group (LCG),⁶⁰ but instead assigned a flat per acre value based upon the use of the land; whether dry, grass, or irrigated.⁶¹

The Douglas County Assessor constructed a single model for tax year 2012 utilizing 243 sales of “at least 95% predominant use and 321 [sales] with at least 80% predominant use” from Burt, Cass, Johnson, Otoe, Nemaha, Pawnee, and Richardson Counties.⁶² The Douglas County Assessor again concluded that “the soil productivity rating for each sale did not tend to correlate with the sale price.”⁶³

In tax year 2013, the Douglas County Assessor again constructed a single model. This time the data consisted of “213 sales that had at least 90% predominant use and 294 [sales] with at least 80% predominant use” from Burt, Cass, Dodge, Otoe, Saunders, and Washington

⁵⁵ See, E16:14-16; E17:13-14; E18:12-14; E19:13-15; E20:12-13; E21:12-14; E22:12-14; E23:12-13; E24:12-14; E25:13-15; E26:11-12; E27:11-13; E28:13-15; E29:13-14; and E30:11-13.

⁵⁶ See, E16:14-16; E17:13-14; E18:12-14; E19:13-15; E20:12-13; E21:12-14; E22:12-14; E23:12-13; E24:12-14; E25:13-15; E26:11-12; E27:11-13; E28:13-15; E29:13-14; and E30:11-13.

⁵⁷ E16:14; E19:13; E22:12; E25:13; and E28:13.

⁵⁸ See, E16:14; E19:13; E22:12; E25:13; and E28:13.

⁵⁹ E16:14; E19:13; E22:12; E25:13; and E28:13.

⁶⁰ Land capability groups are “groups of soils that are similar in their productivity and their suitability for most kinds of farming. It is a classification based on the capability classification, production, and limitations of the soils, the risk of damage when they are used for ordinary field crops, grassland, and woodlands, and the way they respond to treatment. Land Capability Groups are determined by the Department of Revenue, Property Assessment Division based upon the dryland capability classification.” 350 Neb. Admin. ch. 14 §002.41 (03/09).

⁶¹ See, E16:14; E19:13; E22:12; E25:13; and E28:13.

⁶² E17:13; E20:12; E23:12; E26:11; and E29:13.

⁶³ E17:13; E20:12; E23:12; E26:11; and E29:13.

Counties.⁶⁴ Again the Douglas County Assessor concluded that “the soil productivity rating for each sale did not tend to correlate with the sale price.”⁶⁵

Stan Mlotek, an employee of the Douglas County Assessor, testified that he had primary responsibility for determining the assessed values of special valuation properties in Douglas County.⁶⁶ He asserted that the Douglas County Assessor relied upon agricultural sales from other counties to determine the assessed value of the Subject Property.⁶⁷ He stated that the Douglas County Assessor had not assigned different levels of valuation to the different LCG’s since 2007.

Mlotek further testified that the Douglas County Assessor had determined that sales in Douglas County were not affected by whether or not real property was located within either a flood plain or a flood way. He testified that almost all of the agricultural and horticultural real property in Douglas County was either in a flood plain or a flood way. Mlotek asserted that the Douglas County Assessor did not know whether sales taken from other counties to determine the assessed value for special valuation property were located in a flood plain or flood way. However, Mlotek asserted the sales that the Douglas County Assessor used were from counties which had similar topography and geological features as compared to Douglas County. Mlotek asserted that because these characteristics were the same, the effect on value caused by a flood plain or flood way designation would already have been taken into account when determining the special valuation of the Subject Property.

Michael Lunkwitz, an employee of the Douglas County Assessor, testified that he was responsible for the assessment of special valuation property in Douglas County prior to Mlotek taking over those responsibilities. Lunkwitz testified that he authored the Assessment Reports

⁶⁴ E18:12; E21:12; E24:12; E27:11; and E30:11.

⁶⁵ E18:12; E21:12; E24:12; E27:11; and E30:11.

⁶⁶ During the hearing, Mlotek affirmed that his testimony concerning the County Assessor’s methodology for determining the special valuation of the Subject Property would be the same for all parcels of real property that are the subject of these appeals, and for all tax years.

⁶⁷ Mlotek also testified that the sales used to determine that the LCG’s did not have a statistically significant effect on the sale price were taken from Douglas County. However, the Commission has reviewed the totality of the evidence, including the Assessment Reports found in Exhibits 16-30 and further testimony from Michael Lunkwitz, and finds that this assertion is not supported by the record.

for tax years 2011 and 2012, and that the Douglas County Assessor valued the Subject Property using the methodology described in those reports.⁶⁸

The Commission is authorized to take notice of the Reports and Opinions of the Property Tax Administrator as contained in exhibits from Statewide Equalization proceedings.⁶⁹ In connection with tax year 2011, the Commission reviewed the Reports and Opinions for Burt,⁷⁰ Johnson,⁷¹ Nemaha,⁷² Pawnee,⁷³ and Richardson Counties,⁷⁴ the same counties utilized by the Douglas County Assessor. The Commission's review indicated that the assessor in each of these counties assigned an individual level of value for each LCG for dry and grass use. Additionally, the Commission notes, with some exceptions, that the greater the soil capability, the higher the value of the agricultural and horticultural real property.⁷⁵

In connection with tax year 2012, the Commission reviewed the Reports and Opinions for Burt,⁷⁶ Cass,⁷⁷ Johnson,⁷⁸ Otoe,⁷⁹ Nemaha,⁸⁰ Pawnee,⁸¹ and Richardson Counties,⁸² the same counties utilized by the Douglas County Assessor. Similarly, the Commission's review indicated that in each of these counties an individual level of value for each LCG for dry and grass use was assigned. Again, the Commission notes, with some exceptions, that the greater the soil

⁶⁸ See, E16; E17; E19; E20; E22; E23; E25; E26; E28; and E29.

⁶⁹ See, 442 Neb. Admin. Code, ch. 5 §031.02 (06/11). See also, Neb. Rev. Stat. §77-5016(3)(2012 Cum. Supp.) (authorizing the Commission to consider and utilize certain published sources without inclusion in the record). The Commission will refer to the Reports and Opinions of the Property Tax Administrator by their exhibit numbers from the Commission's Annual Statewide Equalization Proceedings Maintained by the Commission and available on the Commission's web site.

⁷⁰ 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11.

⁷¹ 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 49.

⁷² 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 64.

⁷³ 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 67.

⁷⁴ 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 74.

⁷⁵ See, 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:65-66; Exhibit 66:66-67; Exhibit 64:53-55; Exhibit 49:53-55; and Exhibit 74:52-54. The Commission notes a few instances where real property with a lower soil capability was valued higher than real property with a higher soil capability. See, e.g., Richardson County, Market Area 44, Dry, 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 74:53; and Johnson County, Market Area 1, Grass, 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 49:53. The Commission is aware that other appropriate agricultural influences may have influenced the value of agricultural properties in the comparable counties, however, in the specific instances where county assessors valued soil types with higher capabilities lower than soil types with lesser capabilities, the Commission has no explanation for the decision.

⁷⁶ 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11.

⁷⁷ 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13.

⁷⁸ 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 49.

⁷⁹ 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 66.

⁸⁰ 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 64.

⁸¹ 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 67.

⁸² 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 74.

capability, the higher the value of the agricultural and horticultural real property.⁸³ The Commission also notes that for tax year 2012, the Douglas County Assessor assigned a special value of \$2,900 per acre for LCG's 3D1, 3D, 4D1, and 4D.⁸⁴ This is a higher per acre special valuation than the assessed agricultural and horticultural value in any of the counties which the Douglas County Assessor considered comparable to the Subject Property.⁸⁵ Similarly, the Douglas County Assessor assigned a special valuation of \$1,400 per acre for LCG's 2G, 3G, and 4G.⁸⁶ Again, this is a higher per acre special valuation than the assessed agricultural and horticultural value in any of the counties which the Douglas County Assessor considered comparable to the Subject Property.⁸⁷ The Commission also notes that the County Assessor in Cass County determined that sales prices of agricultural and horticultural properties in Cass County were influenced by non-agricultural and non-horticultural uses, and thus agricultural and horticultural properties in Cass County required special valuation.⁸⁸

In relation to tax year 2013, the Commission reviewed the Reports and Opinions for Burt,⁸⁹ Cass,⁹⁰ Dodge,⁹¹ Otoe,⁹² Saunders,⁹³ and Washington Counties,⁹⁴ the same counties utilized by the Douglas County Assessor. Similarly, the Commission's review indicated that in each of these counties an individual level of value for each LCG for dry and grass use was assigned.

⁸³ See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:36; Exhibit 13:36; Exhibit 49:36; Exhibit 64:37; Exhibit 66:38; Exhibit 67:35; and Exhibit 74:37. The Commission notes a few instances where real property with a lower soil capability was valued higher than real property with a higher soil capability. See, e.g., Richardson County, Market Area 50, Grass, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 74:37; and Burt County, Market Area 1, Grass and Market Area 2, Grass, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:36. The Commission is aware that other appropriate agricultural influences may have influenced the value of agricultural properties in the comparable counties, however, in the specific instances where county assessors valued soil types with great capabilities lower than soil types with lesser capabilities the Commission has no explanation for the decision.

⁸⁴ See E17:5, E20:4, E23:5, E26:5, E29:5.

⁸⁵ See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:36; Exhibit 13:36; Exhibit 49:36; Exhibit 64:37; Exhibit 66:38; Exhibit 67:35; and Exhibit 74:37.

⁸⁶ See E17:5, E23:5, E29:5.

⁸⁷ See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:36; Exhibit 13:36; Exhibit 49:36; Exhibit 64:37; Exhibit 66:38; Exhibit 67:35; and Exhibit 74:37.

⁸⁸ See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13:39.

⁸⁹ 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11.

⁹⁰ 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13.

⁹¹ 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 27.

⁹² 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 66.

⁹³ 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 78.

⁹⁴ 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 89.

Again, the Commission notes, with some exceptions, that the greater the soil capability, the higher the value of the agricultural and horticultural real property.⁹⁵

For 2013, the County Assessor in Cass County again determined that sales prices of agricultural and horticultural properties in Cass County were influenced by non-agricultural and non-horticultural uses, and thus agricultural and horticultural properties in Cass County required special valuation.⁹⁶ Similarly, the County Assessor in Dodge County determined that sales prices in several market areas were influenced by non-agricultural and non-horticultural uses, and thus agricultural and horticultural properties in several market areas in Dodge County required special valuation.⁹⁷ Also, the County Assessor for Saunders County concluded that Saunders County is “completely influenced” and the agricultural and horticultural land required special valuation.⁹⁸ Similarly, the County Assessor for Washington County concluded that sales in Washington County “are not purely for agricultural purposes and as a result, the assessor bases agricultural land values on non-influenced values from other counties.”⁹⁹

C. Analysis

When evaluating the Douglas County Assessor’s methodology used to determine the special valuation of agricultural and horticultural properties in Douglas County, the Commission is mindful that Nebraska law requires the Douglas County Assessor to undertake the difficult process of creating a theoretical market for agricultural and horticultural real property in Douglas County.

1. Flood Plain and Flood Way

The Taxpayer alleged that the value of the Subject Properties should be reduced because of their location in a flood plain or flood way. The Taxpayer did not, however, provide any data or

⁹⁵ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:37; Exhibit 13:38; Exhibit 27:42; Exhibit 66:36; Exhibit 78:37; and Exhibit 89:38. The Commission does note a few instances where property with a lower soil capability was valued at more than real property with a higher soil capability. See, for example, Burt County, Market Area 1, Dry, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:37; and Dodge County, Market Area 1, Grass, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 27:42. The Commission is aware that other appropriate agricultural influences may have influenced the value of agricultural properties in the comparable counties, however, in the specific instances where county assessors valued soil types with great capabilities lower than soil types with lesser capabilities the Commission has no explanation for the decision.

⁹⁶ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13:34, 39-40.

⁹⁷ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 27:43-45.

⁹⁸ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 78:34.

⁹⁹ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 89:33.

opinions quantifying the impact of flood plain or flood way designations on the special value of agricultural and horticultural property in Douglas County.

Additionally, no source of information quantifying this impact is available to the Commission in statutorily noticed sources. The Commission finds that there is insufficient evidence to determine whether flood way or flood plain designations in Douglas County influence the special valuation of agricultural and horticultural property.

2. Influenced Sales

Mlotek indicated that the Douglas County Assessor only used sales from counties with comparable topography and geological characteristics. However, the agricultural and horticultural sales in several of the counties utilized by the Douglas County Assessor were influenced by the potential use of the properties for non-agricultural or non-horticultural purposes. The county assessors for these counties concluded that their counties or portions thereof required special valuation.

Even though the topography and geological characteristics of these counties are similar to Douglas County, it was unreasonable for the Douglas County Assessor to examine influenced sales to determine the uninfluenced special value of Douglas County agricultural and horticultural property. Any conclusions about uninfluenced agricultural and horticultural values derived from data consisting of influenced sales are inherently flawed.

Some of the County Douglas County Assessor's comparable counties are also special value counties, including Cass County for tax year 2012,¹⁰⁰ and Cass,¹⁰¹ Dodge,¹⁰² Saunders,¹⁰³ and Washington Counties for tax year 2013.¹⁰⁴ It appears this methodology involved, at least to some degree, valuing agricultural and horticultural property in Douglas County based upon the sales of influenced properties from these comparable counties. The Commission finds that such a methodology to determine the special valuation of the agricultural and horticultural property in

¹⁰⁰ See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13:33.

¹⁰¹ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13:33.

¹⁰² See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 27:42-43.

¹⁰³ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 78:34.

¹⁰⁴ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 89:33.

Douglas County is unreasonable. By including influenced sales in the analysis, Douglas County special valuation properties were not valued as though uninfluenced.

The Commission's review of the Reports and Opinions, as indicated in Section B of this opinion, revealed that although the Douglas County Assessor obtained the data used in its models from comparable counties, it arrived at significantly different conclusions than did the assessors in these comparable counties concerning the significance of soil capabilities and the actual value of agricultural land.¹⁰⁵ Particularly in tax year 2012, the Douglas County Assessor determined that the special value for 3D1, 3D, 4D1, and 4D land capability groups was \$2,900 dollars.¹⁰⁶ This exceeded the assessed value for these same land capability groups in every county the Douglas County Assessor deemed was comparable.¹⁰⁷ Similarly, the Douglas County Assessor valued the LCG's 2G, 3G1, 3G, 4G1, and 4G at \$1,400,¹⁰⁸ again, in excess of the assessed value for these same LCG's in all of the counties which the Douglas County Assessor deemed were comparable.¹⁰⁹

The Commission finds that certain agricultural influences may cause soil types with varying capabilities to have similar market values, or when there are uncommon instances where LCG's with higher capabilities are valued lower than LCG's with lower soil capability. In these circumstances, where regression analysis done by multiple county assessors has resulted in contrary conclusions, and the Douglas County Assessor's regression analysis used to make this determination included influenced sales, the Commission finds that the Douglas County Assessor's conclusion that soil capability does not affect the special valuation of agricultural and horticultural land in Douglas County is unreasonable.

¹⁰⁵ See, E16-30 (Subject Property property record cards); See also, 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:65-66; Exhibit 66:66-67; Exhibit 64:53-55; Exhibit 49:53-55; and Exhibit 72:52-54; 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:36; Exhibit 13:36; Exhibit 49:36; Exhibit 66:38; Exhibit 64:37; Exhibit 67:35; and Exhibit 74:37; See also, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:37; Exhibit 13:38; Exhibit 27:42; Exhibit 66:36; Exhibit 78:37; and Exhibit 89:38.

¹⁰⁶ See, E17, E20, E23, E26, and E29.

¹⁰⁷ See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:36; Exhibit 13:36; Exhibit 49:36; Exhibit 66:38; Exhibit 64:37; Exhibit 67:35; and Exhibit 74:37.

¹⁰⁸ See, E17, E20, E23, E26, and E29.

¹⁰⁹ See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:36; Exhibit 13:36; Exhibit 49:36; Exhibit 66:38; Exhibit 64:37; Exhibit 67:35; and Exhibit 74:37.

3. Special Valuation Determination

Having found that the County Board's determinations were unreasonable, and based upon the unique evidence in these appeals, the Commission appears to have three adjudicative options, each unsatisfying for different reasons: (1) to affirm the County Board's determinations, even though unreasonable, if the Commission is to conclude that there is not enough evidence to determine the special valuation of the Subject Property; (2) to use unconventional but reasonable methods to determine the special valuation of the Subject Property; or (3) to order the reassessment of all special valuation agricultural land in Douglas County for all three tax years.¹¹⁰ The Commission will not order the reassessment of all special value property in Douglas County for tax years 2011, 2012, and 2013 because it would be "excessive compared to the problems addressed."¹¹¹ Based on the evidence before it in these appeals, the Commission will not affirm unreasonable determinations of the special valuation of agricultural or horticultural properties by a County Board when a reasonable, though somewhat unconventional, method for determining the special valuation of the Subject Property is available. Given the unique nature of this case, the Commission will apply an adjudicative remedy to determine the special valuation of the Subject Property using the reasonable methods available to the Commission as explained below.

The Commission notes with significant emphasis that the method applied by the Commission to determine the special valuation of the Subject Property is an adjudicative remedy, applied only to these specific appeals. Nothing in the Commission's order should be construed as endorsing the method as the preferred method to be used by assessment officials for determining the special valuation of agricultural property in Nebraska.

The special values per acre of differing soil capabilities as reported for Cass County in 2012,¹¹² and Cass,¹¹³ Dodge,¹¹⁴ Saunders,¹¹⁵ and Washington Counties for tax year 2013,¹¹⁶ were based on uninfluenced sales of real property sold for agricultural and horticultural purposes

¹¹⁰ See, Neb. Rev. Stat. §77-5017(1)(2012 Cum. Supp.).

¹¹¹ Neb. Rev. Stat. §77-5017(1)(2012 Cum. Supp.).

¹¹² See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13:33.

¹¹³ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13:33.

¹¹⁴ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 27:42-43.

¹¹⁵ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 78:34.

¹¹⁶ See, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 89:33.

excluding the influenced sales in those counties. In other words, while it was unreasonable for Douglas County to use influenced sales from these comparable counties to draw conclusions concerning the special valuation of real property in Douglas County, it is not unreasonable to look at the special values of LCG's in these counties because the methodologies employed by the county assessors in these counties avoided the use of influenced sales of real property.¹¹⁷ The Commission finds that the most reasonable adjudicative remedy for determining the special valuation of the Subject Property in these specific appeals and based upon the specific evidence before the Commission in these appeals is to review the special valuations for counties which the Douglas County Assessor asserted had agricultural land most comparable to the agricultural land in Douglas County and determine the median for each LCG, and then apply the median to the actual LCG's of the Subject Property.¹¹⁸

The Commission has reviewed the Dry and Grass special values or assessed values for Burt, Johnson, Nemaha, Pawnee, and Richardson Counties for tax year 2011, and finds that the LCG's of the Subject Property should be valued as follows: 1D1 = \$2,340; 2D1 = \$2,285; 2D = \$1,798; 3D1=\$1,525; 3D = \$1,813; 2G = \$,993; 3G = \$,983; 4G = \$737; and all other LCG's as contained in the property records cards.¹¹⁹

The Commission has reviewed the Dry and Grass special or assessed values for Burt, Cass, Johnson, Otoe, Nemaha, Pawnee, and Richardson Counties for tax year 2012, and finds that the LCG's of the Subject Property should be valued as follows: 1D1 = \$2,950; 2D1 = \$2,652; 2D = \$2,369; 3D1=\$2,250; 3D = \$2,357; 2G = \$1,162; 3G = \$1,135; 4G = \$729; and all other LCG's as contained in the property records cards.¹²⁰

The Commission has reviewed the Dry and Grass special or assessed values for Burt, Cass, Dodge, Otoe, Saunders, and Washington Counties for tax year 2013, and finds that the LCG's of the Subject Property should be valued as follows: 1D1 = \$4,500; 2D1 = \$4,010; 2D = \$3,780;

¹¹⁷ See, 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 13:33; See also, 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:37; Exhibit 13:38; Exhibit 27:42; Exhibit 66:36; Exhibit 78:37; and Exhibit 89:38.

¹¹⁸ Portions of the Subject Property are classified as 2GT, 3GT, 4GT, 1GT1, 2GT1, Waster, River, and Home Site. See, E16-30. There are no report special values for any of these subclasses in comparable counties. The Commission determines that it does not have sufficient evidence to reasonably determine the special value for any GT use property or Waste. The Commission finds that River and Home Site are not agricultural uses and would not have a special value.

¹¹⁹ See, Table 1, 2011 Average Assessed Values.

¹²⁰ See, Table 2, 2012 Average Assessed Values.

3D1=\$3,285; 3D = \$3,240; 2G = \$1,508; 3G = \$1,299; 4G = \$1,020; and all other LCG's as contained in the property records cards.¹²¹

Therefore, applying the median of the LCG's from the comparable counties for each tax year, the Commission finds as follows:

The special valuation of the Subject Property in Case No. 11A 138 is \$140,208.¹²²

The special valuation of the Subject Property in Case No. 12A 084 is \$183,953.¹²³

The special valuation of the Subject Property in Case No. 13A 119 is \$271,221.¹²⁴

The special valuation of the Subject Property in Case No. 11A 139 is \$121,224.¹²⁵

The special valuation of the Subject Property in Case No. 12A 085 is \$162,651.¹²⁶

The special valuation of the Subject Property in Case No. 13A 120 is \$228,348.¹²⁷

The special valuation of the Subject Property in Case No. 11A 140 is \$178,217.¹²⁸

The special valuation of the Subject Property in Case No. 12A 086 is \$243,793.¹²⁹

The special valuation of the Subject Property in Case No. 13A 121 is \$354,538.¹³⁰

¹²¹ See, Table 3, 2013 Average Assessed Values.

¹²² $(37.26 \text{ acres} \times \$1,798) + (20.94 \text{ acres} \times \$1,525) + (6.00 \text{ acres} \times \$1,813) + (6.98 \text{ acres} \times \$,993) + (18.71 \text{ acres} \times \$,983) + (3.43 \text{ acres} \times \$750) + (1.27 \text{ acres} \times \$750) + (1.7 \text{ acres} \times \$750) + (5.6 \text{ acres} \times \$50) + 1.3 \text{ acres} \times \$0 = \$140,208$. See, E16:6 (listing acres of subclasses found on the Subject Property).

¹²³ $(37.26 \text{ acres} \times \$2,369) + (20.94 \text{ acres} \times \$2,250) + (6.00 \text{ acres} \times \$2,357) + (6.98 \text{ acres} \times \$1,162) + (18.71 \text{ acres} \times \$1,135) + (3.43 \text{ acres} \times \$750) + (1.27 \text{ acres} \times \$750) + (1.7 \text{ acres} \times \$750) + (5.60 \text{ acres} \times \$50) + (1.30 \text{ acres} \times \$0) = \$183,953$. See, E17:5 (listing acres of subclasses found on the Subject Property).

¹²⁴ $(37.26 \text{ acres} \times \$3,780) + (20.94 \text{ acres} \times \$3,285) + (6.00 \text{ acres} \times \$3,240) + (6.98 \text{ acres} \times \$1,508) + (18.71 \text{ acres} \times \$1,299) + (3.43 \text{ acres} \times \$1,100) + (1.27 \text{ acres} \times \$1,100) + (1.70 \text{ acres} \times \$1,100) + (5.6 \text{ acres} \times \$50) + (1.30 \text{ acres} \times \$0) = \$271,221$. See, E18:5 (listing acres of subclasses found on the Subject Property).

¹²⁵ $(.20 \text{ acres} \times \$1,798) + (23.73 \text{ acres} \times \$1,525) + (44.40 \text{ acres} \times \$1,813) + (5.67 \text{ acres} \times \$737) = \$121,224$. See, E19:5 (listing acres of subclasses found on the Subject Property).

¹²⁶ $(0.2 \text{ acres} \times \$2,369) + (23.73 \text{ acres} \times \$2,250) + (44.40 \text{ acres} \times \$2,357) + (5.67 \text{ acres} \times \$729) = \$162,651$. See, E20:4 (listing acres of subclasses found on the Subject Property).

¹²⁷ $(0.2 \text{ acres} \times \$3,780) + (23.73 \text{ acres} \times \$3,285) + (44.40 \text{ acres} \times \$3,240) + (5.67 \text{ acres} \times \$1,020) = \$228,348$. See, E21:5 (listing acres of subclasses found on the Subject Property).

¹²⁸ $(90.45 \text{ acres} \times \$1,525) + (48.94 \text{ acres} \times \$750) + (8.75 \text{ acres} \times \$50) + (15.69 \text{ acres} \times \$200) = \$178,217$. See, E22:4 (listing acres of subclasses found on the Subject Property).

¹²⁹ $(90.45 \text{ acres} \times \$2,250) + (48.94 \text{ acres} \times \$750) + (8.75 \text{ acres} \times \$50) + (15.69 \text{ acres} \times \$200) = \$243,793$. See, E23:5 (listing acres of subclasses found on the Subject Property).

¹³⁰ $(90.45 \text{ acres} \times \$3,285) + (48.94 \text{ acres} \times \$1,100) + (8.75 \text{ acres} \times \$50) + (15.69 \text{ acres} \times \$200) = \$354,538$. See, E24:5 (listing acres of subclasses found on the Subject Property).

The special valuation of the Subject Property in Case No. 11A 141 is \$75,298.¹³¹

The special valuation of the Subject Property in Case No. 12A 087 is \$79,995.¹³²

The Commission notes that applying the median values to the Subject Property in Case No. 13A 122 indicates a special valuation of \$91,331.¹³³ The Douglas County Assessor and County Board determined the special valuation of the Subject Property in Case No. 13A 122 was \$85,800.¹³⁴ There is no evidence that the Taxpayer was given notice in these proceedings of a higher value than \$85,800 for tax year 2013. The Commission's Rules and Regulations do not allow the Commission to set taxable value of real property at an amount higher than previously noticed to the Taxpayer by the Douglas County Assessor, County Board of Equalization, or Property Tax Administrator without specific notice from the opposing party prior to the hearing that the opposing party intends to offer evidence and assert that the taxable value for the Subject Property is higher than any previously noticed value.¹³⁵ The Commission notes that the County Board did not assert during the hearing that the taxable value should be increased above that previously noticed, and that no notice as required by the Commission's Rules and Regulations was ever perfected. The Commission finds that it cannot set the taxable value of the Subject Property at an amount higher than previously noticed to the Taxpayer by the Douglas County Assessor, County Board of Equalization, or Property Tax Administrator in these appeals. Therefore, the Commission finds that the special valuation of the Subject Property in Case No. 13A 122 is \$85,800 for tax year 2013.

The special valuation of the Subject Property in Case No. 11A 142 is \$95,702.¹³⁶

The special valuation of the Subject Property in Case No. 12A 088 is \$108,754.¹³⁷

¹³¹ (6.63 acres x \$2,340) + (1.20 acres x \$1,813) + (0.2 x \$50) + (1.49 acres x \$200) + (5.73 acres x \$10,000) (Cabin Site) + (0.75 acres x \$0) = \$75,298. See, E25:4 (listing acres of subclasses found on the Subject Property).

¹³² (6.63 acres x \$2,950) + (1.20 acres x \$2,357) + (0.2 acres x \$50) + (1.49 acres x \$200) + (5.73 acres x \$10,000) (Cabin Site) + (0.75 acres x \$0) = \$79,995. See, E26:4 (listing acres of subclasses found on the Subject Property).

¹³³ (6.63 acres x \$4,500) + (1.20 acres x \$3,240) + (0.2 acres x \$50) + (1.49 acres x \$200) + (5.73 acres x \$10,000) (Cabin Site) + (0.75 acres x \$0) = \$91,331. See, E27:4 (listing acres of subclasses found on the Subject Property).

¹³⁴ E12.

¹³⁵ 442 Neb. Admin. Code, ch 5, §016.02A (06/06/11).

¹³⁶ (6.5 acres x \$2,340) + (5.00 acres x \$2,285) + (11.32 acres x \$1,813) + (7.67 acres x \$983) + (9.00 acres x \$737) + (12.5 acres x \$750) + (23.59 acres x \$750) + (4.50 acres x \$750) + (7.57 acres x \$50) + (17.75 acres x \$200) + (1.42 acres x \$0) = \$95,702. See, E28:5 (listing acres of subclasses found on the Subject Property).

The special valuation of the Subject Property in Case No. 13A 123 is \$153,698.¹³⁸

V. CONCLUSION

The Commission finds that there is competent evidence to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its determination. The Commission also finds that there is clear and convincing evidence that the County Board's decision was arbitrary or unreasonable.

VI. ORDER

IT IS ORDERED THAT:

1. The decisions of the Douglas County Board of Equalization determining the value of the Subject Property in Case nos. 11A 138, 11A 139, 11A 140, 11A 141, 11A 142, 12A 084, 12A 085, 12A 086, 12A 087, 12A 088, 13A 119, 13A 120, 13A 121, and 13A 123 are vacated and reversed.¹³⁹ The decision of the Douglas County Board of Equalization determining the value of the Subject Property in Case No. 13A 122 is affirmed.
2. The special valuations of the Subject Property for tax year 2011 are:

	11A 138
Total	\$140,208
	11A 139
Total	\$121,224
	11A 140
Total	\$178,217
	11A 141
Total	\$75,298

¹³⁷ (6.5 acres x \$2,950) + (5.00 acres x \$2,652) + (11.32 acres x \$2,357) + (7.67 acres x \$1,135) + (9.00 acres x \$729) + (12.50 acres x \$750) + (23.59 acres x \$750) + (4.5 acres x \$750) + (7.57 acres x \$50) + (17.75 acres x \$200) + (1.42 acres x \$0) = \$108,754. See, E29:5 (listing acres of subclasses found on the Subject Property).

¹³⁸ (6.5 acres x \$4,500) + (5 acres x \$4,010) + (11.32 acres x \$3,240) + (7.67 acres x \$1,299) + (9.00 acres x \$1,020) + (12.5 acres x \$1,100) + (23.59 acres x 1,100) + 4.5 acres x \$1,100) + (7.57 acres x \$50) + (17.75 acres x \$200) + (1.42 acres x \$0) = \$153,698. See, E30:4 (listing acres of subclasses found on the Subject Property).

¹³⁹ Assessed value, as determined by the County Board, was based upon the evidence at the time of the Protest proceeding. At the appeal hearing before the Commission, both parties were permitted to submit evidence that may not have been considered by the County Board at the protest proceeding.

11A 142

Total \$95,702

3. The special valuations of the Subject Property for tax year 2012 are:

12A 084

Total \$183,953

12A 085

Total \$162,651

12A 086

Total \$243,793

12A 087

Total \$79,995

12A 088

Total \$108,754

4. The special valuations of the Subject Property for tax year 2013 are:

13A 119

Total \$271,221

13A 120

Total \$228,348

13A 121

Total \$354,538

13A 122

Total \$85,800

13A 123

Total \$153,698

5. This Decision and Order, 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 (2012 Cum. Supp.).

6. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
7. Each party is to bear its own costs in this proceeding.
8. This Decision and Order shall only be applicable to tax years 2011, 2012, and 2013.
9. This Decision and Order is effective for purposes of appeal on June 18, 2014.

Signed and Sealed: June 18, 2014

Robert W. Hotz, Commissioner

SEAL

Nancy J. Salmon, Commissioner

Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. §77-5019 (2010 Cum. Supp.) and other provisions of Nebraska Statutes and Court Rules.

Table 1
2011 Average Assessed Values¹⁴⁰

	1D1	1D	2D1	2D	3D1	3D	4D1	4D	1G1	1G	2G1	2G	3G1	3G	4G1	4G
Burt Area 1	2970	2785	2635	2520	2091	2120	1695	1405	1286	1296	1223	1019	1105	1129	1070	870
Burt Area 2	3390	3275	3025	2890	2763	2760	2095	1605	1442	1405	1574	1035	1275	1164	1166	984
Nemaha Area 1	2413	2579	2166	2534	2190	1774	988	850	1625	1965	1655	758	759	1017	778	865
Nemaha Area 8100	2266	2299	1955	2726	1271	2595	1482	861	2037	2012	1743	980	893	994	761	843
Nemaha Area 8300	2455	2485	2270	1661	1439	1851	1157	865	1706	1937	1732	974	1018	971	757	812
Johnson Area 1	2507	2268	2309	1718	1600	1615	1074	870	1291	1719	1466	1249	1291	1236	966	687
Johnson Area 2	2444	2254	2310	1872	1900		1142	984	1091	1397	1199	1108	1201		872	697
Johnson Area 3	1853	1836	1795	1367	1380		864	743	932	1313	1221	1005	1113		794	622
Richardson Area 41	2077	1719	2614	1723	1212	1567	1133	663	966	1119	630	786	868	830	665	614
Richardson Area 44	1918	1710	2299	1645	1079	1378	892	590	876	1010	493	733	799	768	639	546
Richardson Area 45	2244	2304	1969	1996	1924	2024	1608	1194	1113	1154	659	834	845	840	694	478
Pawnee	2200	1950	1374	1550	1450	1250	1050	900	1078	1206	889	1206	1073	938	834	777
Ave	2,395	2,289	2,227	2,017	1,692	1,893	1,265	961	1,287	1,461	1,207	974	1,020	989	833	733
Median	2,340	2,284	2,285	1,798	1,525	1,813	1,138	868	1,200	1,355	1,222	993	1,046	983	786	737

¹⁴⁰ 2011 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:65-66; Exhibit 66:66-67; Exhibit 64:53-55; Exhibit 49:53-55; and Exhibit 72:52-54.

Table 2
2012 Average Assessed Values¹⁴¹

	1D1	1D	2D1	2D	3D1	3D	4D1	4D	1G1	1G	2G1	2G	3G1	3G	4G1	4G
Burt Area 1	3,565	3,340	3,160	3,025	2,506	2,545	2,035	1,685	1,556	1,554	1,477	1,222	1,326	1,337	1,281	1,047
Burt Area 1	3,460	3,340	3,085	2,950	2,818	2,815	2,135	1,635	1,470	1,435	1,607	1,057	1,304	1,196	1,188	1,005
Cass	2,790	2,768	2,660	2,369	2,250	2,249	2,310	1,898	1,030	1,060	970	790	860	860	830	630
Johnson	2,465	2,276	2,310	1,882	1,950	1,962	1,185	1,000	1,288	1,666	1,453	1,204	1,251	1,236	940	679
Otoe 7000	2,950	2,650	2,650	1,830	1,720		1,580	770	1,006	1,106	1,026	1,157	992		996	677
Otoe 8000	3,300	3,300	3,050	2,500	2,500	2,500	1,900	1,100	1,217	1,232	1,174	1,282	1,140	1,111	1,037	729
Nemaha	2,933	2,991	2,652	2,038	1,718	2,267	1,471	1,018	1,763	2,031	1,906	1,162	1,200	1,158	977	830
Pawnee	2,200	2,200	1,542	1,615	1,525	1,250	1,150	1,150	1,097	1,457	1,046	1,254	1,129	945	919	846
Richardson	3,074	2,874	2,523	2,592	2,473	2,446	2,095	1,649	1,032	1,140	871	973	928	879	829	700
Ave	2,971	2,860	2,626	2,311	2,162	2,254	1,762	1,323	1,273	1,409	1,281	1,122	1,126	1,090	1,000	794
Median	2,950	2,874	2,652	2,369	2,250	2,357	1,900	1,150	1,217	1,435	1,174	1,162	1,140	1,135	977	729

¹⁴¹ 2012 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:36; Exhibit 13:36; Exhibit 49:36; Exhibit 66:38; Exhibit 64:37; Exhibit 67:35; and Exhibit 74:37.

Table 3
2013 Average Assessed Values¹⁴²

	1D1	1D	2D1	2D	3D1	3D	4D1	4D	1G1	1G	2G1	2G	3G1	3G	4G1	4G
Burt 1	4,455	4,175	3,950	3,780	3,135	3,180	2,545	2,105	1,909	1,838	1,825	1,511	1,553	1,579	1,518	1,253
Burt 2	4,500	4,340	4,010	3,835	3,663	3,660	2,775	2,125	1,902	1,834	2,085	1,373	1,626	1,512	1,519	1,301
Cass	3,770	3,740	3,590	3,210	3,030	3,030	3,120	2,570	1,230	1,232	1,044	1,040	1,020	1,020	980	742
Dodge	4,870	4,530	4,215	3,920	3,285	3,170	2,875	2,365	1,549	1,643	1,405	1,508	1,661	1,381	1,387	1,204
Otoe 7000	3,120	3,120	2,950	2,620	2,050		1,890	1,640	1,294	1,154	1,093	1,267	1,160		1,045	723
Otoe 8000	3,800	3,800	3,600	3,200	2,500	3,046	2,300	1,998	1,468	1,494	1,411	1,557	1,408	1,373	1,274	870
Saunders 1	4,709	4,500	4,300	3,850	3,700	3,300	2,417	2,229	1,619	1,389	1,926	1,866	2,125	1,135	1,214	1,062
Saunders 2	4,898	4,699	4,500	4,050	3,900	3,489	2,807	2,641	1,826	1,569	1,446	1,707	1,371	1,225	1,256	986
Washington	4,550	4,465	4,200	3,640	3,415	3,350	2,580	1,945	1,845	1,645	1,510	1,345	1,319	1,185	1,130	1,020
Ave	4,297	4,152	3,924	3,567	3,186	3,278	2,590	2,180	1,627	1,533	1,527	1,464	1,471	1,301	1,258	1,018
Median	4,500	4,340	4,010	3,780	3,285	3,240	2,580	2,125	1,619	1,569	1,446	1,508	1,408	1,299	1,256	1,020

¹⁴² 2013 Statewide Equalization, Reports & Opinions of the Property Tax Administrator, Exhibit 11:37; Exhibit 13:38; Exhibit 27:42; Exhibit 66:36; Exhibit 78:37; and Exhibit 89:38.