

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Brad L. Moser,
Appellant,

v.

Lancaster County Board of Equalization,
Appellee.

Case Nos: 14A 073, 14A 074, 14A 075,
14A 076, 14A 077, 14A 078, 14A 079, &
14A 080

Decision and Order Reversing the Decisions
of the Lancaster County Board of
Equalization in Case Nos. 14A 073, 14A
074, 14A 075, 14A 076,
14A 077, 14A 078 & 14A 080

Decision and Order Affirming the Decision
of the Lancaster County Board of
Equalization in Case No.
014A 079

For the Appellant:
Brad & Mary Moser
Pro Se

For the Appellee:
Ryan M. Swaroff
Deputy Lancaster County Attorney

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

I. THE SUBJECT PROPERTY

The Subject Property consists of eight distinct parcels of agricultural land and horticultural land located in Lancaster County, Nebraska. The legal descriptions of the Subject Property are found at Exhibits 1-8. The property record cards for the Subject Property are found at Exhibits 9-16.

II. PROCEDURAL HISTORY

The parcel in Case No. 14A 073 is a 75.89 acre parcel.¹ The Lancaster County Assessor (the County Assessor) determined that the assessed value of the Subject Property was \$644,400 for

¹ Exhibit 9:6.

tax year 2014.² Brad L. Moser (the Taxpayer) protested this assessment to the Lancaster County Board of Equalization (the County Board). The Lancaster County Board of Equalization (the County Board) determined that the taxable value of the parcel for tax year 2014 was \$644,400.³

The parcel in Case No. 14A 074 is a 76.18 acre parcel.⁴ The County Assessor determined that the assessed value of the Subject Property was \$248,000 for tax year 2014.⁵ The Taxpayer protested this assessment to the County Board. The County Board determined that the taxable value of the parcel for tax year 2014 was \$248,000.⁶

The parcel in Case No. 14A 075 is a 78.94 acre parcel.⁷ The County Assessor determined that the assessed value of the Subject Property was \$249,400 for tax year 2014.⁸ The Taxpayer protested this assessment to the County Board. The County Board determined that the taxable value of the parcel for tax year 2014 was \$249,400.⁹

The parcel in Case No. 14A 076 is a 107.77 acre parcel.¹⁰ The County Assessor determined that the assessed value of the Subject Property was \$370,300 for tax year 2014.¹¹ The Taxpayer protested this assessment to the County Board. The County Board determined that the taxable value of the parcel for tax year 2014 was \$370,300.¹²

The parcel in Case No. 14A 077 is a 116.39 acre parcel.¹³ The County Assessor determined that the assessed value of the Subject Property was \$564,800 for tax year 2014.¹⁴ The Taxpayer protested this assessment to the County Board. The County Board determined that the taxable value of the parcel for tax year 2014 was \$564,800.¹⁵

² Exhibit 1.

³ Exhibit 1.

⁴ Exhibit 10:6.

⁵ Exhibit 2.

⁶ Exhibit 2.

⁷ Exhibit 11:6.

⁸ Exhibit 3.

⁹ Exhibit 3.

¹⁰ Exhibit 12:6.

¹¹ Exhibit 4.

¹² Exhibit 4.

¹³ Exhibit 13:10.

¹⁴ Exhibit 5.

¹⁵ Exhibit 5.

The parcel in Case No. 14A 078 is a 104.73 acre parcel.¹⁶ The County Assessor determined that the assessed value of the Subject Property was \$566,400 for tax year 2014.¹⁷ The Taxpayer protested this assessment to the County Board. The County Board determined that the taxable value of the parcel for tax year 2014 was \$566,400.¹⁸

The parcel in Case No. 14A 079 is a 158.51 acre parcel.¹⁹ The County Assessor determined that the assessed value of the Subject Property was \$536,500 for tax year 2014.²⁰ The Taxpayer protested this assessment to the County Board. The County Board determined that the taxable value of the parcel for tax year 2014 was \$536,500.²¹

The parcel in Case No. 14A 080 is a 77.28 acre parcel.²² The County Assessor determined that the assessed value of the Subject Property was \$234,400 for tax year 2014.²³ The Taxpayer protested this assessment to the County Board. The County Board determined that the taxable value of the parcel for tax year 2014 was \$234,400.²⁴

The Taxpayer appealed the decisions of the County Board to the Tax Equalization and Review Commission (the Commission). Prior to the hearing, the parties exchanged exhibits as ordered by the Commission. The Commission held a hearing on January 8 and January 27, 2016.

III. STANDARD OF REVIEW

The Commission's review of the determination of the County Board of Equalization is de novo.²⁵ When the Commission considers an appeal of a decision of a County Board of Equalization, a presumption exists that the "board of equalization has faithfully performed its

¹⁶ Exhibit 14:6.

¹⁷ Exhibit 6.

¹⁸ Exhibit 6.

¹⁹ Exhibit 15:8.

²⁰ Exhibit 7.

²¹ Exhibit 7.

²² Exhibit 16:6.

²³ Exhibit 8.

²⁴ Exhibit 8.

²⁵ See, Neb. Rev. Stat. §77-5016(8) (2014 Cum. Supp.), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). "When an appeal is conducted as a 'trial de novo,' as opposed to a 'trial de novo on the record,' it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal." *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).

official duties in making an assessment and has acted upon sufficient competent evidence to justify its action.”²⁶

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.²⁷

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.²⁸ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.²⁹

A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.³⁰ 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.³¹

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.”³² 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 knowledge...,” and may “utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.”³³ The Commission’s Decision and Order shall include findings of fact and conclusions of law.³⁴

²⁶ *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

²⁷ *Id.*

²⁸ Neb. Rev. Stat. §77-5016(8) (2014 Cum. Supp.).

²⁹ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

³⁰ 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).

³¹ *Bottorf v. Clay County Bd. of Equalization*, 7 Neb.App. 162, 580 N.W.2d 561 (1998).

³² Neb. Rev. Stat. §77-5016(8) (2014 Cum. Supp.).

³³ Neb. Rev. Stat. §77-5016(6) (2014 Cum. Supp.).

³⁴ Neb. Rev. Stat. §77-5018(1) (2014 Cum. Supp.).

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.³⁵

“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.”³⁶ The Courts have held that “[a]ctual value, market value, and fair market value mean exactly the same thing.”³⁷ 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.³⁸ All real property in Nebraska subject to taxation shall be assessed as of January 1.³⁹ All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.⁴⁰

Agricultural land and horticultural land shall be valued for purposes of taxation at seventy five percent of its actual value. Neb. Rev. Stat. §77-201 (2) (Reissue 2009). 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.⁴¹

“Parcel means a contiguous tract of land determined by its boundaries, under the same ownership, and in the same tax district and section.”⁴²

Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture. Agricultural or horticultural purposes

³⁵ Neb. Rev. Stat. §77-112 (Reissue 2009).

³⁶ Neb. Rev. Stat. §77-112 (Reissue 2009).

³⁷ *Omaha Country Club v. Douglas County Board of Equalization, et al.*, 11 Neb.App. 171, 180, 645 N.W.2d 821, 829 (2002).

³⁸ Neb. Rev. Stat. §77-131 (Reissue 2009).

³⁹ See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009)

⁴⁰ Neb. Rev. Stat. §77-201(1) (Reissue 2009).

⁴¹ Neb. Rev. Stat. §77-1359 (1) (Reissue 2009).

⁴² Neb. Rev. Stat. §77-132 (Reissue 2009).

includes the following uses of land: (a) Land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the parcel or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and (b) Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production shall be defined as agricultural land or horticultural land.⁴³

B. Summary of the Evidence

The Taxpayer and the County Board presented evidence to the Commission with respect to each of the individual appeals. The Commission heard evidence on January 8, 2016 and January 27, 2016. Mary Moser and Brad Moser testified on behalf of the Taxpayer. Jeff Johnson testified on behalf of the County Board.

Case No. 14A 073

Mary Moser testified that the County Board's valuation of the 75.89 acre parcel in Case No. 14A 073 was excessive. She testified to several factors that she believed reduced the value of the land including: (1) power lines that ran through the property, (2) poor road conditions, (3) steep hills on the property (4) washing and flooding on the property, and (5) wasteland being miscategorized.

The Taxpayer also asserted that the values set for the improvements on the property were excessive. Mary Moser testified that one of the buildings was old and termite damaged. She also asserted that the comparable properties used to value the two houses on the property were not appropriate for valuation purposes.

The Taxpayer submitted Exhibit 19, which included several photographs and printouts related to the Subject Property. The Taxpayer did not present any evidence that quantified these factors in relation to the value of the Subject Property.

Jeff Johnson, a Senior Staff Appraiser with the County Assessor, testified before the Commission on January 8 and January 27, 2016. At the January 27, 2016 hearing, he testified that he inspected the Subject Property again after the hearing on January 8, 2016. At the time he noticed specific changes that should be made to the Property Record Card for the Subject Property in Case No. 14A 073:

⁴³ Neb. Rev. Stat. §77-1359 (2) (Reissue 2009).

1. The 528 square feet listed as a detached garage should be removed from the Property Record Card due to the age and condition of the structure.⁴⁴
2. The minimal finish area for the basement of the property should be reduced from 1,250 square feet to 1,100 square feet.⁴⁵
3. The agricultural land value should be reduced from \$215,158 to \$211,319.⁴⁶

As a result of these changes, Jeff Johnson testified that his revised opinion as to the value of the Subject Property decreased from \$644,434 to \$628,503.⁴⁷

Case No. 14A 074

Mary Moser testified that the County Board's valuation of the 76.18 acre parcel in Case No. 14A 074 was too high. She testified to several factors that she believed reduced the value of the land that included: (1) steep hills and erosion on the property, (2) narrow road access, (3) powerlines on the property, (4) an active cemetery with an easement, and (5) wasteland not being accurately counted.

The Taxpayer submitted Exhibit 20, which included several photographs and printouts regarding the Subject Property. The Taxpayer did not present any evidence that quantified these factors in relation to the value of the property.

Jeff Johnson, a Senior Staff Appraiser with the County Assessor, testified that he inspected the Subject Property again after the hearing on January 8, 2016. At the time he noticed specific changes that should be made to the Property Record Card for the Subject Property in Case No. 14A 074:

1. The total number of dry acres should be reduced from 71.58 acres to 69.31 acres.⁴⁸
2. The total number of waste acres should be increased from 4.60 acres to 6.86 acres.⁴⁹

As a result of these changes, Jeff Johnson testified that his revised opinion as to the value of the Subject Property decreased from \$248,032 to \$242,101.⁵⁰

⁴⁴ See, E9:8.

⁴⁵ See, E9:8.

⁴⁶ See, E9:10.

⁴⁷ See, E9:6, E9:8, E9:10

⁴⁸ See, E10:8.

⁴⁹ See, E10:8.

⁵⁰ See, E10:8.

Case No. 14A 075

Mary Moser testified that the County Board's valuation of the 78.94 acre parcel in Case No. 14A 075 was excessive. She testified to several factors that she believed reduced the value of the land, including: (1) steep hills on the property, (2) highly erodible soil, and (3) power lines on the property.

The Taxpayer submitted Exhibit 20, which included several photographs and printouts regarding the Subject Property. The Taxpayer did not present any evidence that quantified these factors in relation to the value of the property.

Jeff Johnson, the Senior Staff Appraiser with the County Assessor, testified that he inspected the Subject Property again after the hearing on January 8, 2016. At that time he noted changes that needed to be made to the Property Record Card for the Subject Property in order to accurately reflect the valuation of the property. He noted the following changes:

1. The total number of dry acres should be decreased from 68.69 acres to 68.52 acres.⁵¹
2. The total number of waste acres should be increased from 10.26 acres to 10.43 acres.⁵²

As a result of these changes, Jeff Johnson testified that his revised opinion as to the value of the Subject Property decreased from \$249,408 to \$248,954.⁵³

Case No. 14A 076

Mary Moser testified that the County Board's valuation of the 107.77 acre parcel in Case No. 14A 076 was too high. She testified to several factors that she believed reduced the value of the land, including: (1) proximity to an electrical power plant, (2) very highly erodible soil, and (3) power lines on the property.

The Taxpayer submitted Exhibit 21, which included several photographs and printouts regarding the Subject Property. The Taxpayer did not present any evidence that quantified these factors in relation to the value of the property.

Jeff Johnson, the Senior Staff Appraiser with the County Assessor, testified that he inspected the Subject Property again after the hearing on January 8, 2016. At the time he noted and recommended the following changes be made to the Property Record Card for the Subject Property in Case No. 14A 076:

⁵¹ See, E11:8.

⁵² See, E11:8.

⁵³ See, E11:8.

1. The total number of dry acres should be decreased from 103.40 acres to 102.14 acres.⁵⁴
2. The total number of waste acres should be increased from 4.38 acres to 5.64 acres.⁵⁵

As a result of these changes, Jeff Johnson testified that his revised opinion as to the value of the Subject Property decreased from \$370,275 to \$366,817.⁵⁶

Case No. 14A 077

Mary Moser testified that the County Board's valuation of the 116.39 acre parcel in Case No. 14A 077 was too high. She testified to several factors that she believed reduced the value of the land, including: (1) steep erosion on the property, (2) proximity to an electrical power plant, and (3) power lines on the property.

The Taxpayer also submitted Exhibit 22, which included several photographs of the Subject Property, and showed that the Taxpayer had incurred costs in the amount of \$53,871 to install a well. The Taxpayer did not present any evidence that quantified these factors in relation to the value of the property.

Jeff Johnson, the Senior Staff Appraiser with the County Assessor, testified that he inspected the Subject Property again after the hearing on January 8, 2016. At the time he noted and recommended the following changes be made to the Property Record Card for the Subject Property in Case No. 14A 077:

1. The total number of dry acres should be decreased from 22 acres to 19.71 acres.⁵⁷
2. The total number of irrigated acres should be decreased from 94.39 acres to 88.09 acres.⁵⁸
3. The total number of waste acres increased from zero to 8.59 acres.⁵⁹

As a result of these changes, Jeff Johnson testified that his revised opinion as to the value of the Subject Property decreased from \$564,721 to \$544,978.⁶⁰

⁵⁴ See, E12:26.

⁵⁵ See, E12:26.

⁵⁶ See, E12:26.

⁵⁷ See, E13:12.

⁵⁸ See, E13:12.

⁵⁹ See, E13:12.

⁶⁰ See, E13:12.

Case No. 14A 078

Mary Moser testified that the County Board's valuation of the 104.73 acre parcel in Case No. 14A 078 was excessive. She testified to several factors that she believed reduced the value of the land, including: (1) steep hills, (2) poor road conditions, (3) flood plain (4) miscategorized wasteland, and (5) erroneous use of comparable properties for improvements.

The Taxpayer also submitted Exhibit 23, which included several photographs and printouts regarding the Subject Property. The Taxpayer did not present any evidence that quantified these factors in relation to the value of the property. The Taxpayer also brought evidence relating to a dissimilar property with a residential improvement that was assessed at an amount similar to the assessed value of the Subject Property.

Jeff Johnson, the Senior Staff Appraiser with the County Assessor, testified that he inspected the Subject Property again after the hearing on January 8, 2016. At the time he noted and recommended the following changes be made to the Property Record Card for the Subject Property in Case No. 14A 078:

1. The total number of dry acres should be decreased from 98.69 acres to 96.55 acres.⁶¹
2. The total number of waste acres should be increased from 4.08 acres to 6.09 acres.⁶²

As a result of these changes, Jeff Johnson testified that his revised opinion as to the value of the Subject Property decreased from \$347,982 to \$342,871.⁶³

Case No. 14A 079

Mary Moser testified that the County Board's valuation of the 158.51 acre parcel in Case No. 14A 079 was too high. She testified to several factors that she believed reduced the value of the land, including: (1) power lines, (2) flood plain, (3) steep hills, and (4) proximity to a power plant.

The Taxpayer also submitted Exhibit 24, which included several photographs and printouts related to the Subject Property. The Taxpayer did not present any evidence that quantified these factors in relation to the value of the property.

Jeff Johnson, the Senior Staff Appraiser with the County Assessor, testified that he inspected the Subject Property again after the hearing on January 8, 2016. After that inspection, he did not

⁶¹ See, E14:9.

⁶² See, E14:9.

⁶³ See, E14:9.

recommend any changes to the Property Record Card for the Subject Property in Case No. 14A 079.

Case No. 14A 080

Mary Moser testified that the County Board's valuation of the 77.28 acre parcel in Case No. 14A 080 was too high. She testified to several factors that she believed reduced the value of the land including: (1) erosion, (2) power lines, (3) steep hills, and (4) the presence of nuclear waste a half mile south.

The Taxpayer submitted Exhibit 25, which included several photographs and printouts related to the Subject Property. The Taxpayer did not present any evidence that quantified these factors in relation to the value of the property.

Jeff Johnson, the Senior Staff Appraiser with the County Assessor, testified that he inspected the Subject Property again after the hearing on January 8, 2016. At the time he noted and recommended the following changes be made to the Property Record Card for the Subject Property in Case No. 14A 080:

1. The total number of dry acres should be decreased from 64.79 acres to 63.76 acres.⁶⁴
2. The total number of grass acres should be decreased from 11.18 acres to 9.75 acres.⁶⁵
3. The total number of waste acres should be increased from 1.31 acres to 3.78 acres.⁶⁶

As a result of these changes, Jeff Johnson testified that his revised opinion as to the value of the Subject Property decreased from \$234,375 to \$230,345.⁶⁷

C. Valuation Analysis

Case No. 14A 073

The Taxpayer's allegations that the actual value of this parcel was affected by (1) powerlines, (2) poor road conditions, (3) steep hills, and (4) washing and flooding on the property is not supported by the evidence. The effect of these conditions on the property value was not quantified through the Taxpayer's evidence. The Taxpayer did not provide data or opinions that quantified the impact of these factors on the value of agricultural or horticultural property in Lancaster County.

⁶⁴ See, E16:8.

⁶⁵ See, E16:8.

⁶⁶ See, E16:8.

⁶⁷ See, E16:8.

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 any of these factors alleged by the Taxpayer influenced the value of the Subject Property.

However, Jeff Johnson did testify to changes that needed to be made to the Property Record Card in Case No. 14A 073. He testified to adjustments in the buildings on the property and his revised opinion as to the value of the property. His testimony regarding the Subject Property represents competent evidence that rebuts the presumption 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.”⁶⁸

Johnson testified that based on his observations, his revised opinion of value of the Subject Property was \$628,503. This testimony is clear and convincing evidence that the previous determination of the County Board was unreasonable. Therefore, the decision of the County Board should be reversed in Case No. 14A 073.

Case No. 14A 074

The Taxpayer’s allegations that the actual value of this parcel was affected by (1) powerlines, (2) narrow road access, (3) steep hills, (4) erosion, (5) a cemetery easement, and (6) washing and flooding on the property is not supported by the evidence. The effect of these conditions on the property value was not quantified through the Taxpayer’s evidence. The Taxpayer did not provide data or opinions that quantified the impact of these factors on the value of agricultural or horticultural property in Lancaster County.

However, Jeff Johnson testified to changes that needed to be made to the Property Record Card in Case No. 14A 074. His testimony regarding the Subject Property represents competent evidence that rebuts the presumption of correctness afforded to the County Board.

Johnson testified that based on his observations, his revised opinion of value of the Subject Property was \$242,101. This testimony is clear and convincing evidence that the previous determination of the County Board was unreasonable. Therefore, the decision of the County Board should be reversed in Case No. 14A 074.

⁶⁸ *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

Case No. 14A 075

The Taxpayer's allegations that the actual value of this parcel was affected by (1) powerlines, (2) narrow road access, (3) steep hills, (4) erosion, and (5) washing and flooding on the property is not supported by the evidence. The effect of these conditions on the property value was not quantified through the Taxpayer's evidence. The Taxpayer did not provide data or opinions that quantified the impact of these factors on the value of agricultural or horticultural property in Lancaster County.

However, Jeff Johnson testified to changes that needed to be made to the Property Record Card in Case No. 14A 075. His testimony regarding the Subject Property represents competent evidence that rebuts the presumption of correctness afforded to the County Board.

Johnson testified that based on his observations, his revised opinion of value of the Subject Property was \$248,954. This testimony is clear and convincing evidence that the previous determination of the County Board was unreasonable. Therefore, the decision of the County Board should be reversed in Case No. 14A 075.

Case No. 14A 076

The Taxpayer's allegations that the actual value of this parcel was affected by (1) steep hills on the property, (2) highly erodible soil, and (3) power lines on the property is not supported by the evidence. The effect of these conditions on the property value was not quantified through the Taxpayer's evidence. The Taxpayer did not provide data or opinions that quantified the impact of these factors on the value of agricultural or horticultural property in Lancaster County.

However, Jeff Johnson testified to changes that needed to be made to the Property Record Card in Case No. 14A 076. His testimony regarding the Subject Property represents competent evidence that rebuts the presumption of correctness afforded to the County Board.

Johnson testified that based on his observations, his revised opinion of value of the Subject Property was \$366,817. This testimony is clear and convincing evidence that the previous determination of the County Board was unreasonable. Therefore, the decision of the County Board should be reversed in Case No. 14A 076.

Case No. 14A 077

The Taxpayer's allegations that the actual value of this parcel was affected by (1) powerlines, (2) ditches, (3) steep hills, and (4) erosion, is not supported by the evidence. The effect of these conditions on the property value was not quantified through the Taxpayer's evidence. The Taxpayer did not provide data or opinions that quantified the impact of these factors on the value of agricultural or horticultural property in Lancaster County.

However, Jeff Johnson testified to changes that needed to be made to the Property Record Card in Case No. 14A 077. His testimony regarding the Subject Property is competent evidence that rebuts the presumption of correctness afforded to the County Board.

Johnson testified that based on his observations, his revised opinion of value of the Subject Property was \$544,978. This testimony is clear and convincing evidence that the previous determination of the County Board was unreasonable. Therefore, the decision of the County Board should be reversed in Case No. 14A 077.

Case No. 14A 078

The Taxpayer's allegations that the actual value of this parcel was affected by (1) steep hills, (2) poor road conditions, (3) flood plain, (4) miscategorized wasteland, and (5) erroneous use of comparable properties for improvements is not supported by the evidence. The effect of these conditions on the property value was not quantified through the Taxpayer's evidence. The Taxpayer did not provide data or opinions that quantified the impact of these factors on the value of property in Lancaster County.

However, Jeff Johnson testified to changes that needed to be made to the Property Record Card in Case No. 14A 078. His testimony regarding the Subject Property is competent evidence that rebuts the presumption of correctness afforded to the County Board.

Johnson testified that based on his observations, his revised opinion of value of the Subject Property was \$342,871. This testimony is clear and convincing evidence that the previous determination of the County Board was unreasonable. Therefore, the decision of the County Board should be reversed in Case No. 14A 078.

Case No. 14A 079

The Taxpayer's allegations that the actual value of this parcel was affected by: (1) power lines, (2) flood plain, (3) steep hills and (4) proximity to a power plant is not supported by the evidence. The effect of these conditions on the property value was not quantified through the Taxpayer's evidence. The Taxpayer did not provide data or opinions that quantified the impact of these factors on the value of agricultural or horticultural property in Lancaster County.

Jeff Johnson testified that after further inspection of the Subject Property, he recommended no change to the value set by the County Board. Since there was no competent evidence introduced to rebut the presumption in favor of the County Board, the decision of the County Board in Case No. 14A 079 should be affirmed.

Case No. 14A 080

The Taxpayer's allegations that the actual value of this parcel was affected by (1) erosion, (2) power lines, (3) steep hills and (4) the presence of nuclear waste a half mile south is not supported by the evidence. The effect of these conditions on the property value was not quantified through the Taxpayer's evidence. The Taxpayer did not provide data or opinions that quantified the impact of these factors on the value of agricultural or horticultural property in Lancaster County.

However, Jeff Johnson testified to changes that needed to be made to the Property Record Card in Case No. 14A 080. His testimony regarding the Subject Property is competent evidence that rebuts the presumption of correctness afforded to the County Board.

He testified that based on his observations, his revised opinion of value of the Subject Property was \$230,345. This testimony is clear and convincing evidence that the previous determination of the County Board was unreasonable. Therefore, the decision of the County Board should be reversed in Case No. 14A 080.

V. CONCLUSION

The Commission finds that there is competent evidence in Case Nos. 14A 073, 14A 074, 14A 075, 14A 076, 14A 077, 14A 078 and 14A 080 to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its determinations.

The Commission also finds that there is clear and convincing evidence that the County Board's decisions were arbitrary or unreasonable.⁶⁹

For all of the reasons set forth above, the determinations of the County Board in Case Nos. 14A 073, 14A 074, 14A 075, 14A 076, 14A 077, 14A 078 and 14A 080 should be vacated and reversed.

For all of the reasons set forth above, the appeal of the Taxpayer in Case No. 14A 079 should be denied and the decision of the County Board should be affirmed.

VI. ORDER

IT IS ORDERED THAT:

1. The decisions of the Lancaster County Board of Equalization determining the taxable value of the Subject Properties for tax year 2014 in Case Nos. 14A 073, 14A 074, 14A 075, 14A 076, 14A 077, 14A 078 and 14A 080 is vacated and reversed.
2. The decisions of the Lancaster County Board of Equalization determining the taxable value of the Subject Property for tax year 2014 in Case No. 14A 079 is affirmed.
3. The taxable valuations of the Subject Properties for tax year 2014 are:

Case No. 14A 073

Land:	\$211,319
Site:	\$ 28,500
Improvements	<u>\$388,684</u>
Total:	\$628,503

Case No. 14A 074

Total:	\$242,101
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Case No. 14A 075

Total:	\$248,954
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Case No. 14A 076

Total:	\$366,817
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⁶⁹ 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 of Equalization at the protest proceeding.

Case No. 14A 077

Total: \$544,978

Case No. 14A 078

Total: \$342,871

Case No. 14A 079

Total: \$536,500

Case No. 14A 080

Total: \$230,345

4. This Decision and Order, if no appeal is timely filed, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2014 Cum. Supp.)
5. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
6. Each party is to bear its own costs in this proceeding.
7. This Decision and Order shall only be applicable to tax year 2014.
8. This Decision and Order is effective for purposes of appeal on May 26, 2016.

Signed and Sealed: DATE May 26, 2016

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 (2014 Cum. Supp.), and other provisions of Nebraska Statutes and Court Rules.