

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Sheila A. Staab,
Appellant,

v.

Custer County Board of Equalization,
Appellee.

Case No: 14R 012

Decision and Order Reversing
County Board of Equalization

GENERAL BACKGROUND AND PROCEDURAL HISTORY

1. The real property subject to appeal (herein referred to as the “Subject Property”) is a residential parcel located at 44012 Memorial Drive, Broken Bow, Custer County, Nebraska. The Subject Property’s legal description is contained in the Case File.
2. The Custer County Assessor (herein referred to as the “County Assessor”) assessed the Subject Property at \$160,989 for tax year 2014.
3. Sheila A. Staab (herein referred to as the “Taxpayer”) protested this value to the Custer County Board of Equalization (herein referred to as the “County Board”) and requested an assessment of \$131,826
4. The Custer County Board determined that the taxable value of the Subject Property was \$157,475 for tax year 2014.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (herein referred to as the “Commission”).
6. A Single Commissioner hearing was held on June 16, 2015, at Hampton Inn North Platte, 200 Platte Oasis Parkway, North Platte, Nebraska, before Commissioner Thomas D. Freimuth.
7. Sheila Staab was present at the hearing.
8. Glenn Clark, Deputy Custer County Attorney, and Connie Braithwaite, Custer County Assessor, were present for the County Board.

SUMMARY OF HEARING DOCUMENTS & STATEMENTS

9. The County Board’s \$157,475 final determination of the actual value of the Subject Property for tax year 2014, which is set forth on Form 422 included in the Case File, includes \$25,000 for land and \$132,475 for the improvement components.
10. The Property Record Card (“PRF”) submitted by the County Board at the hearing before the Commission contains a property valuation history, which indicates that the County’s assessment of the Subject Property for tax years 2012 and 2013 amounted to \$131,826 (land: \$16,550; improvements: \$115,276). The PRF’s property valuation history indicates that the County Board’s assessment of the Subject Property for tax year 2014 amounted to \$158,139 (Land: \$25,000; Improvements: \$133,139). It appears that this amount differs from the County Board’s \$157,475 final determination amount for tax year 2014 set forth on Form 422 included in the Case File (Land: \$25,000; Improvements: \$132,475) because the County Board followed the County Assessor’s

recommendation to not assess the outbuilding situated on the Subject Property, which the County Assessor valued at \$664 for tax year 2014.

11. The Subject Property's PRF submitted by the Taxpayer at the hearing before the Commission contains sales history, which indicates that the Taxpayer purchased the Subject Property for \$20,000 in August 2007. This PRF contains photos of the Subject Property, which together with photos and statements submitted by the Taxpayer indicate that the residence was substantially remodeled in 2007 and 2008 after the Taxpayer's purchase. This information also indicates that the remodeled residence retained the original foundation constructed in 1973.
12. The Subject Property's PRF indicates that the Custer County Assessor's Office performed an inspection of the Subject Property on October 11, 2011.
13. The County Assessor stated that a "Lister" determined the measurements of the Subject Property's residence. The PRF indicates that the above-ground gross living area ("GLA") of the Subject Property's residence is 1,428 sq. ft.
14. The PRF and the statements of the County Assessor indicate that the cost approach is the basis of the County Assessor's revised \$157,475 opinion of value relied upon by the County Board for tax year 2014. The County Assessor indicated that this cost valuation is derived from the Marshall & Swift valuation service.
15. The Taxpayer asserted that the County Board's determination overvalued the Subject Property's residence due to the County Assessor's incorrect application of her cost approach model. The Taxpayer also asserted that the County Board overvalued the Subject Property's land component.
16. In support of her overvaluation assertion, the Taxpayer submitted PRFs and analysis regarding the County's assessments of several properties in Custer County for tax year 2014. The Taxpayer asserted that these properties are similar to the Subject Property. The Taxpayer also asserted that these parcels were assessed at lower actual values in comparison to the Subject Property.
17. The County's Assessment Report includes a cost approach depreciation chart. The County Assessor stated that she used this chart to increase depreciation from approximately 5% based on 7-year effective age to 7% total, in order to adjust for the age of the foundation constructed in 1973.
18. The County's Assessment Report also includes the PRFs for the Subject Property and several alleged comparable properties. The PRFs for these alleged comparable properties indicate that the County imposed a \$25,000 per acre assessment for the "Suburban Homesite" land component for tax year 2014.

STANDARD OF REVIEW

19. The Commission's review of the determination of the County Board of Equalization is de novo.¹ "When an appeal is conducted as a 'trial de novo,' as opposed to a 'trial de novo on the record,' it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal."²

¹ See, Neb. Rev. Stat. §77-5016(8) (2012 Cum. Supp.), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008).

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

20. When considering an appeal a presumption exists that the “board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action.”³ That presumption “remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary. From that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.”⁴
21. The order, decision, determination or action appealed from shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.⁵
22. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
23. A Taxpayer must introduce competent evidence of actual value of the subject property in order to successfully claim that the subject property is overvalued.⁷

GENERAL VALUATION LAW

24. A Taxpayer must introduce competent evidence of actual value of the subject property in order to successfully claim that the subject property is overvalued.⁸
25. “Actual value, market value, and fair market value mean exactly the same thing.”⁹
26. Taxable value is the percentage of actual value subject to taxation as directed by Nebraska Statutes section 77-201 and has the same meaning as assessed value.¹⁰
27. All real property in Nebraska subject to taxation shall be assessed as of January 1.¹¹
28. All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.¹²
29. Nebraska Statutes section 77-112 defines actual value as follows:

Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach using the guidelines in section 77-1371, (2) income approach, and (3) cost approach. Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm’s

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

⁴ *Id.*

⁵ Neb. Rev. Stat. §77-5016(8) (2012 Cum. Supp.).

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

⁷ Cf. *Josten-Wilbert Vault Co. v. Board of Equalization for Buffalo County*, 179 Neb. 415, 138 N.W.2d 641 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. County Bd. Of Equalization of York County*, 209 Neb. 465, 308 N.W.2d 515 (1981)(determination of equalized taxable value).

⁸ 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).

⁹ *Omaha Country Club v. Custer County Board of Equalization, et al.*, 11 Neb.App. 171, 180, 645 N.W.2d 821, 829 (2002).

¹⁰ Neb. Rev. Stat. §77-131 (Reissue 2009).

¹¹ See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009).

¹² Neb. Rev. Stat. §77-201(1) (Reissue 2009).

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.¹³

VALUATION ANALYSIS

30. The Taxpayer asserted that the County Board's determination for tax year 2014 overvalued the Subject Property's residence due to the County Assessor's incorrect application of the cost approach. The Taxpayer's assertion regarding the Subject Property's residence is two-pronged: (1) the County Assessor's measurements of the above-ground gross living area ("GLA") is incorrect; (2) the County Assessor's 7% depreciation factor is incorrect, and that a 36% depreciation factor should be used based on construction of the foundation in 1973 (with respect to this depreciation adjustment only, the Taxpayer asserted that the actual value of the Subject Property's residence should be lowered from \$132,474 to \$91,165).
31. With respect to GLA, the Taxpayer asserted that the County Assessor's 28 ft. x 44 ft. measurement of the Subject Property's main living area should be 26 ft. x 44 ft., and that this is based on her own measurement and blueprint information. The County Assessor stated that the 28 ft. measurement was based on input by a "Lister" shortly after the residence was remodeled. The County Assessor's statements indicate that she did not personally measure the Subject Property's residence.
32. Based on the documents and statements submitted at the hearing, the Commission finds that it was unreasonable or arbitrary for the County Board to adopt the County Assessor's opinion of value for the Subject Property based on the 28 ft. x 44 ft. GLA measurement for tax year 2014.
33. The County Assessor's cost valuation uses 7% depreciation, which is derived with reference to a Marshall Swift depreciation chart that adjusts for effective age. The County Assessor stated that 7% depreciation accounts for the substantial remodel in 2007 through 2008, and that this percentage includes an upward adjustment to the applicable Marshall Swift depreciation amount in order to account for construction of the foundation in 1973. In contrast, the Taxpayer derived an opinion of value in the amount of \$91,165 for the Subject Property's residence for tax year 2014 based on 36% depreciation, which reflects an effective age of 41 years in order to account for construction of the foundation in 1973.
34. The residential component was substantially remodeled after the Taxpayer's \$20,000 purchase of the Subject Property in August 2007, and the documents and statements submitted at the hearing indicate that the foundation is the only remaining component constructed in 1973. The County Assessor stated that she used a professionally accepted depreciation chart that accounts for effective age together with an upward adjustment to account for construction of the foundation in 1973. Effective age, as opposed to chronological age, "is the age indicated by the condition and utility of a structure, and an estimate of effective age is based on an appraiser's judgment and interpretation of market

¹³ Neb. Rev. Stat. § 77-112 (Reissue 2009).

perceptions.”¹⁴ Use of effective age for purposes of calculating depreciation under the cost approach is a professionally accepted appraisal technique.¹⁵ The Commission finds that the County Assessor’s use of a 7% depreciation factor was not arbitrary or unreasonable.

35. In support of her overvaluation assertion, the Taxpayer submitted PRFs and analysis regarding the County’s assessments of several properties in close proximity to the Subject Property for tax year 2014. The Taxpayer asserted that these properties are similar to the Subject Property. The Taxpayer also asserted that these parcels were assessed at lower actual values in comparison to the Subject Property.
36. A determination of actual value may be made for mass appraisal and assessment purposes by using approaches identified in Nebraska Statutes.¹⁶ The approaches identified are the sales comparison approach, the income approach, the cost approach and other professionally accepted mass appraisal methods.¹⁷
37. The Taxpayer’s use of the assessed values of properties submitted for consideration to support her overvaluation assertion can best be described as an attempted sales comparison approach. An opinion of value under the sales comparison approach is developed by analyzing closed sales, listings, or pending sales of properties that are similar to the subject property,¹⁸ and use of a systematic procedure.¹⁹ This approach also requires that analyzed properties must be comparable to the Subject Property, and receive adjustments for any differences.²⁰
38. A sale property is comparable to a parcel under consideration for assessment purposes when it possesses similar physical, functional, and locational characteristics.²¹ If an alleged comparable property has different physical, functional, and locational characteristics, then adjustments must be made to account for these differences.²²
39. The Taxpayer’s overvaluation assertion is supported in part by an analysis of unadjusted assessed values of several Custer County parcels.
40. The Taxpayer did not provide sufficient analysis regarding adjustments based on the elements of comparison referenced above to determine whether the assessed values of the parcels submitted for consideration meet the requirements of the sales comparison approach. Additionally, the comparison of assessed values of parcels is not recognized as an appropriate approach under Nebraska Statutes.²³ The weight of authority is that assessed value is not in and of itself direct evidence of actual value.²⁴ The Taxpayer’s overvaluation assertion is not supported by sales exclusively, but instead relies in part upon an examination of assessed values.

¹⁴ *The Appraisal of Real Estate*, Appraisal Institute, at 412 (13th ed. 2008).

¹⁵ *The Appraisal of Real Estate*, Appraisal Institute, at 412 (13th ed. 2008).

¹⁶ Neb. Rev. Stat. §77-112 (Reissue 2009).

¹⁷ Neb. Rev. Stat. §77-112 (Reissue 2009).

¹⁸ *The Appraisal of Real Estate*, Appraisal Institute, at 297 (13th ed. 2008).

¹⁹ *Id.* at 301-302.

²⁰ *Id.*

²¹ See generally, Neb. Rev. Stat. 77-1371 (Reissue 2009) (defining comparable sale). See generally also, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

²² See, Appraisal Institute, *The Appraisal of Real Estate*, at 297 (13th ed. 2008) (requiring adjustments for comparable sales to account for differences with the Subject Property).

²³ See, Neb. Rev. Stat. §77-112 (Reissue 2009).

²⁴ See, *Lienemann v. City of Omaha*, 191 Neb. 442, 215 N.W.2d 893 (1974).

41. The Taxpayer's approach is not identified in the Nebraska Statutes as an accepted approach for determining the actual value of the Subject Property.²⁵ Because the method used by the Taxpayer is not identified in statute, proof of its professional acceptance as an accepted mass appraisal technique would have to be produced. No evidence has been presented to the Commission that the Taxpayer's approach is a professionally accepted mass or fee appraisal approach.
42. The Commission finds that the Taxpayer's approach for determining the actual value of the Subject Property which is derived from the analysis of assessed values in Custer County does not meet the requirements of the sales comparison approach.²⁶
43. The 2014 Assessment Report indicates that the County Board adopted the County Assessor's \$157,475 revised opinion of value which was calculated through the use of a cost approach. The cost approach is a statutorily permissible method for determining the actual value of real property for property tax purposes.²⁷
44. The Commission finds that the best evidence of actual value of the Subject Property for tax year 2014 should be \$151,535, which reflects revision of GLA from 1,428 sq. ft. to 1,350 sq. ft. (\$126,535 Residence + \$25,000 Land = \$151,535 Actual Value of Subject Property for tax year 2014).²⁸ This actual value amount is calculated by replacing 1,428 sq. ft. with 1,350 sq. ft. in regard to the County Assessor's cost calculation categories designated as "Basic Structure Cost" and "Heating & Cooling."²⁹

GENERAL EQUALIZATION LAW

45. "Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this Constitution."³⁰ Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value.³¹ The purpose of equalization of assessments is to bring the assessment of different parts of a taxing district to the same relative standard, so that no one of the parts may be compelled to pay a disproportionate part of the tax.³²

²⁵ See, Neb. Rev. Stat. §77-112 (Reissue 2009).

²⁶ See, *The Appraisal of Real Estate*, Appraisal Institute, at 301-302 (13th ed. 2008).

²⁷ See, Neb. Rev. Stat. §77-112 (Reissue 2009).

²⁸ The County Assessor's 1,438 sq. ft. GLA is derived by combining the main residential living area (1,232 sq. ft.) with a small 208 sq. ft. area adjacent thereto (1,232 + 208 = 1,438 sq. ft.). This 1,232 sq. ft. area is derived with use of a 28 ft. by 44 ft. measurement (28' x 44' = 1,232 sq. ft.). The Commission's revision is based on use of 26 ft. as the length of two sides of the main residential living area, rather than the 28 ft. measurement used by the County Assessor: (26' x 44' = 1,144 sq. ft.) + 208 sq. ft. = 1,350 revised GLA. Based on a review of the sketch of the Subject Property's residence, the Commission notes that the irregular-shaped 208 sq. ft. area may require a slight downward adjustment to reflect length of 26' rather than 28' on one side -- such an adjustment is not applied in part because it appears that the County Assessor has not assessed at least 10 sq. ft. of GLA.

²⁹ \$95,364 (Basic Structure Cost) + (-\$518) (Subfloor) + \$2,565 (Heating & Cooling) + \$920 (Plumbing) + \$19,744 (Basement) + (Attached Garage) + \$1,365 (Outside Basement Entrance) + \$1,290 (Open Porch) + \$2,890 (Wood Deck) + \$1,275 (Concrete Drive) = \$136,060 (rounded). \$136,060 (Total Replacement Cost New) x .07 (Physical Depreciation) = \$9,525 (rounded). \$136,060 (Total Replacement Cost New) - \$9,525 (Physical Depreciation) = 126,535 (Total Replacement Cost New less Depreciation of Subject Property's residence). \$126,535 (Residence) + \$25,000 (Land) = \$151,535 (Actual Value of Subject Property for tax year 2014).

³⁰ *Neb. Const.*, Art. VIII, §1.

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

³² *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991); *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623, (1999).

46. In order to determine a proportionate valuation, a comparison of the ratio of assessed value to market value for both the subject property and comparable property is required.³³
47. Uniformity requires that whatever methods are used to determine actual or taxable value for various classifications of real property that the results be correlated to show uniformity.³⁴ Taxpayers are entitled to have their property assessed uniformly and proportionately, even though the result may be that it is assessed at less than the actual value.³⁵
48. The constitutional requirement of uniformity in taxation extends to both rate and valuation.³⁶ If taxable values are to be equalized it is necessary for a Taxpayer to establish by “clear and convincing evidence that valuation placed on his or her property when compared with valuations placed on similar property is grossly excessive and is the result of systematic will or failure of a plain legal duty, and not mere error of judgment [sic].”³⁷ “There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.”³⁸
49. “To set the valuation of similarly situated property, i.e. comparables, at materially different levels, i.e., value per square foot, is by definition, unreasonable and arbitrary, under the Nebraska Constitution.”³⁹
50. “Misclassifying property may result, ... in a lack of uniformity and proportionality. In such an event the taxpayer is entitled to relief.”⁴⁰

EQUALIZATION ANALYSIS

51. As indicated above, an order for equalization requires evidence that either: (1) similar properties were assessed at materially different values;⁴¹ or (2) a comparison of the ratio of assessed value to market value for the Subject Property and other real property **regardless of similarity** indicates that the Subject Property was not assessed at a uniform percentage of market value;⁴² or (3) similar properties were assessed at materially different values due to misclassification of components of the Subject Property or similar components of other properties.⁴³
52. For equalization analysis purposes, the Taxpayer submitted PRFs for several parcels in Custer County.
53. With the exception of the discussion below regarding the land component, a review of the PRFs for the properties submitted by the Taxpayer indicates that they are not truly comparable with the Subject Property for equalization analysis. The improvement characteristics of these properties vary in comparison to the Subject Property. A review

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

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

³⁵ *Equitable Life v. Lincoln County Bd. of Equal.*, 229 Neb. 60, 425 N.W.2d 320 (1988); *Fremont Plaza v. Dodge County Bd. of Equal.*, 225 Neb. 303, 405 N.W.2d 555 (1987).

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

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

³⁸ *Id.* at 673, 94 N.W.2d at 50.

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

⁴⁰ *Beynon Farm Products Corporation v. Board of Equalization of Gosper County*, 213 Neb. 815, 819, 331 N.W.2d 531, 534 (1983).

⁴¹ See, *Scribante v. Hitchcock County Board of Equalization*, 8 Neb.App. 25, 39, 588 N.W.2d 190, 199 (1999).

⁴² See, *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb.App. 582, 597 N.W.2d 623, 635 (1999).

⁴³ See, *Beynon Farm Products Corporation v. Board of Equalization of Gosper County*, 213 Neb. 815, 819, 331 N.W.2d 531, 534 (1983).

of the per square foot assessed value is only applicable where properties are substantially similar.

54. The Commission notes that improvement component assessment differences with respect to the properties submitted by the Taxpayer in comparison to the Subject Property's improvement component stem from variance in terms of characteristics. Thus, with respect to the improvement component, the Commission finds that the Taxpayer's properties submitted for consideration are not substantially similar to the Subject Property for purposes of equalization review/relief for tax year 2014.
55. The Taxpayer also asserted that the Subject Property's \$25,000 land assessment was not equalized with other parcels in Custer County for tax year 2014. The Taxpayer submitted PRFs for several parcels in Custer County in support of this assertion.
56. The County's Assessment Report provides that the County Assessor valued "Suburban Homesite" land at \$25,000 per acre for tax year 2014. For suburban acreages that did not qualify for treatment as agricultural land, the Assessment Report provides that the County Assessor valued each acre in addition to the \$25,000 per acre Suburban Homesite based on the following schedule for tax year 2014: (1) \$6,750 per acre for "Farmsite," which includes land containing outbuildings; (2) \$5,000 per acre for one to five undeveloped acres of land; and (3) \$2,830 per acre for undeveloped acres beyond five acres.
57. Consistent with the above-described schedule, the County's Assessment Report includes the PRFs for several comparable properties, which indicate that the County imposed a \$25,000 per acre assessment for the "Suburban Homesite" land component for tax year 2014.
58. The PRFs for the properties presented by the Taxpayer indicates that all were subject to a \$25,000 per acre Suburban Homesite assessment for tax year 2014, with the exception of the Pirnie parcel and the Staab parcel (the latter parcel, identified herein as "Parcel No. 1100, appears to be adjacent to the Subject Property but is apparently not owned by the Taxpayer). With the exception of these two parcels, the PRFs for the properties submitted for consideration by the Taxpayer indicate that acres in addition to the \$25,000 per acre Suburban Homesite first-acre assessment were valued by the County in accordance with the above-noted schedule. Thus, with respect to the latter properties, the Commission finds that equalization principles were not violated in terms of the land assessment for tax year 2014.
59. With respect to the Pirnie property, the Commission notes that its PRF indicates that it is an agricultural parcel unlike the Subject Property. Therefore, it is not substantially similar to the Subject Property for land equalization review/relief purposes.
60. With respect to the Parcel No. 1100 property in close proximity to the Subject Property, the Commission notes that this parcel is exempt from property taxation. Although exempt, the documents submitted to the Commission at the hearing indicate that the County Assessor valued Parcel No. 1100's land component at \$16,550 per acre for tax year 2014 (.77 acres x \$16,550 = \$12,745 tax exempt assessment for tax year 2014, which equals the assessment of the Subject Property's land component for tax years 2010 through 2013). The Commission finds that the Subject Property's land component should be equalized with the Parcel No. 1100. Therefore, the Commission finds that the equalized value of the Subject Property's one-acre Suburban Homesite land component is \$16,550 for tax year 2014. As a result, the Commission finds that the assessed value of the Subject Property is 143,085 for tax year 2014 (\$126,535 Revised Actual Value of

Residence + \$16,550 Equalized Value of 1-acre Suburban Homesite + \$0 .1-acre Road = \$143,085).

61. The Commission further finds that the Taxpayer did not produce sufficient evidence of the market value of the properties submitted for comparison, in order to determine whether the ratio of one or more assessed to market values was less than 100% for tax year 2014. Thus, the Commission is unable to determine whether the Subject Property was assessed at an excessive percentage of market value in comparison to the properties presented for consideration by the Taxpayer.
62. Based on a review of the Taxpayer's PRFs submitted for consideration, together with a review of documents and statements submitted at the hearing, the Commission further finds that there is not clear and convincing evidence that characteristics of these parcels were misclassified for purposes of equalization review/relief.

CONCLUSION

63. The Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
64. The Taxpayer has adduced sufficient, clear and convincing evidence that the determination of the County Board was unreasonable or arbitrary and the decision of the County Board should be reversed and vacated.

ORDER

IT IS ORDERED THAT:

1. The decision of the Custer County Board of Equalization determining the value of the Subject Property for tax year 2014 is Vacated and Reversed.
2. The taxable value of the Subject Property for tax year 2014 is:

Land	\$ 16,550
<u>Improvements</u>	<u>\$126,535</u>
Total	\$143,085

3. This Decision and Order, if no further action is taken, shall be certified to the Custer County Treasurer and the Custer County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2014 Cum. Supp.).
4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. Each Party is to bear its own costs in this proceeding.
6. This Decision and Order shall only be applicable to tax year 2014.
7. This Decision and Order is effective on July 24, 2015.

Signed and Sealed: July 24, 2015.

Thomas D. Freimuth, Commissioner