NEBRASKA SUPREME COURT

Betty L. Green Living Trust and Richard R. Green Living Trust v. Morrill County Board of Equalization

299 Neb. 933 (2018) · No. S-17-873 · Decided May 11, 2018

SUMMARY

The Nebraska Supreme Court affirmed the Tax Equalization and Review Commission’s decision upholding Morrill County’s 2016 valuations of five grassland properties owned by two living trusts. The court held that the trusts failed to present competent evidence rebutting the presumption that the county board faithfully performed its duties and acted on sufficient evidence. The court also concluded that the trusts did not establish by clear and convincing evidence that the valuations were grossly excessive, arbitrary, capricious, or unreasonable.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Miller-Lerman, J.; Heavican, C.J.; Cassel, J.; Stacy, J.; Funke, J.; Colborn, District Judge; Samson, District Judge
JURISDICTION	Nebraska
DECIDED	May 11, 2018
DOCKET	S-17-873
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Trusts appealed the Tax Equalization and Review Commission's order affirming the Morrill County Board of Equalization's agricultural-property valuations for tax year 2016.
STANDARD OF REVIEW	The Nebraska Supreme Court reviews TERC decisions for errors appearing on the record, asking whether the decision conforms to the law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable. Questions of law are reviewed de novo on the record.
PRECEDENTIAL VALUE	binding
PARTIES	Betty L. Green Living Trust, Richard R. Green Living Trust v. Morrill County Board of Equalization

TOPICS

property tax | judicial review of agency action | standard of review | appellate procedure

PRACTICE AREAS

property taxation | administrative law | appellate practice

QUESTIONS PRESENTED

1. Whether TERC applied the correct standard of review to the Board's property-tax valuations.
2. Whether the Trusts presented competent evidence sufficient to rebut the presumption that the Board faithfully performed its duties and acted on sufficient competent evidence.
3. Whether the Board's valuations were arbitrary, capricious, unreasonable, grossly excessive, or the result of a systematic exercise of intentional will or failure of plain duty.

HOLDINGS

1. TERC properly applied the governing standard: after a taxpayer presents evidence that an assessment is incorrect, the assessment remains affirmed unless evidence establishes that it was unreasonable or arbitrary.
2. The Trusts did not present competent evidence sufficient to rebut the presumption that the Board faithfully performed its duties and had sufficient competent evidence to determine the valuations.
3. The Trusts failed to establish by clear and convincing evidence that the Board's valuations were grossly excessive, arbitrary, capricious, unreasonable, or the result of a systematic exercise of intentional will or failure of plain duty.

KEY QUOTATIONS

> *"Appellate courts review decisions rendered by TERC for errors appearing on the record. When reviewing a judgment for errors appearing on the record, an appellate court's inquiry is whether the decision conforms to the law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable."* (299 Neb. at 940-941)

> *"Agency action is arbitrary, capricious, and unreasonable if it is taken in disregard of the facts or circumstances of the case, without some basis which would lead a reasonable and honest person to the same conclusion."* (299 Neb. at 941)

> *"The burden of persuasion imposed on a complaining taxpayer is not met by showing a mere difference of opinion unless it is established by clear and convincing evidence that the valuation placed upon the property when compared with valuations placed on other similar property is grossly excessive and is the result of a systematic exercise of intentional will or failure of plain duty, and not mere errors of judgment."* (299 Neb. at 942)

FACTUAL BACKGROUND

The Trusts owned five agricultural and horticultural grassland parcels in Morrill County, Nebraska, whose 2016 assessed valuations totaled $760,245. The Trusts challenged the valuations, arguing that the land-capability-group classifications used for grassland properties were flawed and proposing an alternative valuation method based primarily on forage productivity and dollars per animal-unit month. The assessor used the classifications required by the Property Tax Administrator and a sales-comparison approach that considered multiple property characteristics, including the rough and rocky nature of the subject parcels. TERC found that the Trusts had shown possible flaws in the classification methodology but had not shown that the Board's valuations were incorrect, grossly excessive, arbitrary, or unreasonable.

PROCEDURAL HISTORY

The Morrill County assessor established assessed valuations for five grassland parcels owned by the Trusts. The Morrill County Board of Equalization denied the Trusts' protests, and the Trusts appealed to the Tax Equalization and Review Commission. TERC denied the appeals and affirmed the Board's valuations. The Nebraska Supreme Court affirmed TERC's order.

DISPOSITION

affirmed

CASES CITED

- Platte River Crane Trust v. Hall Cty. Bd. of Equal., 298 Neb. 970, 906 N.W.2d 646 (2018)
- County of Webster v. Nebraska Tax Equal. & Rev. Comm., 296 Neb. 751, 896 N.W.2d 887 (2017)
- County of Douglas v. Nebraska Tax Equal. & Rev. Comm., 296 Neb. 501, 894 N.W.2d 308 (2017)
- JQH La Vista Conf. Ctr. v. Sarpy Cty. Bd. of Equal., 285 Neb. 120, 825 N.W.2d 447 (2013)
- Brenner v. Banner Cty. Bd. of Equal., 276 Neb. 275, 753 N.W.2d 802 (2008)
- US Ecology v. Boyd Cty. Bd. of Equal., 256 Neb. 7, 588 N.W.2d 575 (1999)