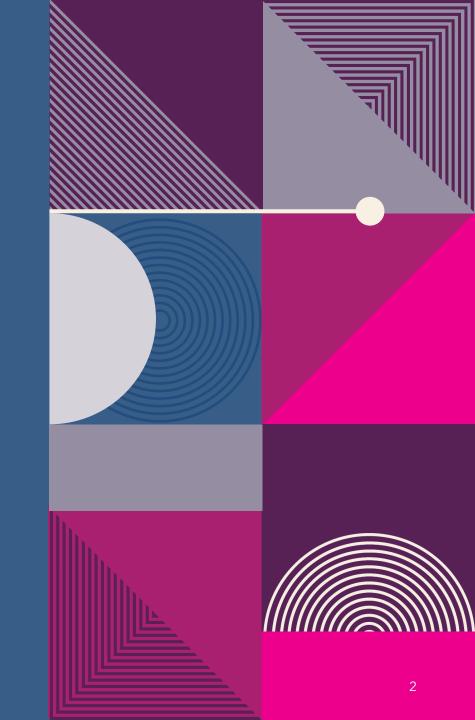


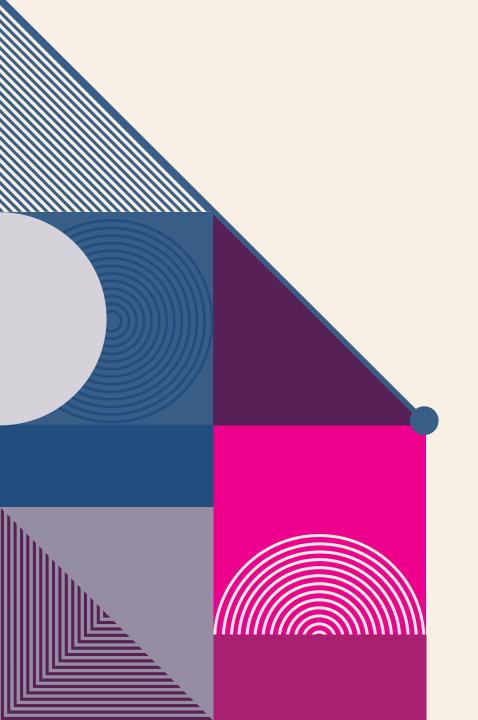
INTRODUCTION & PURPOSE

Review federal and common state constitutional protections and limitations for property taxes.

Consider current constitutional standards for property taxation.

Note: States often have additional constitutional limitations on property taxation beyond the scope of this presentation.





AGENDA

Introduction

Takings

Tonnage

Import-Export

Commerce

Equal Protection

Uniformity

Establishment & Free Exercise

PANEL

Panel:

- Hon. Martha Wentworth, Senior Judge, Indiana Tax Court
- Hayes Holderness, Professor of Law, University of Richmond
- Rob Hotz, Chairman, Nebraska Tax Equalization & Review Commission

Moderator:

Matt Boch, Chief Commissioner, Arkansas Tax Appeals Commission



TAKINGS CLAUSE



5TH AMENDMENT TO THE UNITED STATES CONSTITUTION

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

TYLER V. HENNEPIN COUNTY

598 U.S. 361 (2023)

Geraldine Tyler owned a condominium in Hennepin County, MN.

She was delinquent with payment of real estate taxes totaling \$15,000.

The County seized the condo and sold it for \$40,000, keeping the \$25,000 excess value.

Tyler filed suit alleging that the County's retention of the excess value violated the Takings Clause.

Did Hennepin County's retention of the excess value of her home above her tax debt violate the Takings Clause?

TYLER V. HENNEPIN COUNTY



Is *Tyler* unique to Minnesota or does it have broader impact?



What relief is available when the foreclosed property is not sold at auction or is sold at a minimum bid price?



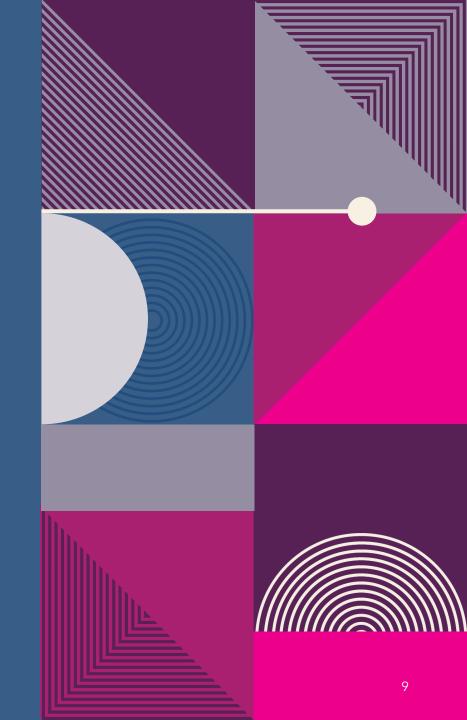
How if at all should courts address the value of the use of the foreclosed property by the state or governmental unit when it has been used (for example, for local nonprofit purposes)?

ISSUES RAISED BY SURPLUS SALE PROCEEDS

In states whose forfeiture laws require return of surplus sale proceeds to the taxpayer, how are surplus proceeds maintained for the benefit of taxpayers who cannot be located?

- Accounts for benefit of taxpayer?
- Escheat to state after expiration of specified period?

In the case of nonjudicial foreclosure, how should funds be distributed among multiple parties?





TONNAGE CLAUSE



DUTY ON TONNAGE, STATE COMPACTS, WAR

"No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay."

Article I, section 10, clause 3.



POLAR TANKERS, INC. V. CITY OF VALDEZ

557 U.S. 1 (2009)

- Municipality imposes ad valorem property tax limited to large vessels effectively only oil tankers.
- Alaska trial court upholds under Tonnage Clause but voids tax under Due Process and Commerce Clauses. Alaska Supreme Court reverses and sustains tax.
- Look to substance of tax and practical effect.
- Comparison classes?



IMPORT-EXPORT CLAUSE



IMPORT-EXPORT CLAUSE

"No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress."

Article I, section 10, clause 2.



MICHELIN TIRE CORP. V. WAGES

423 U.S. 276 (1976)

- Can a county impose general ad valorem property tax on imported tires?
- Tires located in warehouse in Georgia. Imported from France and Canada.



COMMERCE CLAUSE



SECTION 8, CLAUSE 3. REGULATION OF COMMERCE

"The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;"

Supreme Court decisions applying the clause to state taxes "have considered not the formal language of the tax statute but rather its practical effect, and have sustained a tax against Commerce Clause challenge when the tax is applied to an activity with a **substantial nexus** with the taxing State, is **fairly apportioned**, **does not discriminate** against interstate commerce, and is **fairly related** to the services provided by the State." *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977).



SUBSTANTIAL NEXUS POLAR TANKERS

- "[T]he home port doctrine has been abandoned and states are now permitted to tax vessels belonging to citizens of other States that develop a tax situs in the nondomiciliary State, provided the tax is fairly apportioned." 557 U.S. at 16 (plurality).
- Is a single visit by a vessel sufficient to impose ad valorem property tax?
- Dicta?

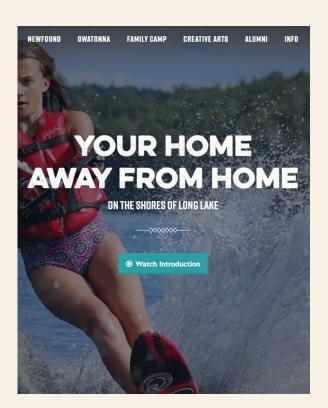
DISCRIMINATION CAMPS NEWFOUND/OWATONNA, INC. V. TOWN OF HARRISON

520 U.S. 564 (1997)

Nonprofit operates a church camp for children, most of whom are not Maine residents.

Charitable institutions incorporated in Maine are exempt from tax.

However, if the nonprofits operate principally for the benefit of Maine nonresidents, only a more limited tax benefit is available. The benefit is available only if its weekly charge for services does not exceed \$30 per person.





CAMPS NEWFOUND/OWATONNA, INC. V. TOWN OF HARRISON (CTD.)

- Petitioner was ineligible for any exemption, because its campers were largely nonresidents and its weekly tuition was roughly \$400 per camper.
- Petitioner's request for refund and its request for a continuing exemption from future taxes, based upon a claim that the exemption violated the Commerce Clause, was rejected.

Held: An otherwise generally applicable state property tax violates the Commerce Clause if its exemption for property owned by charitable institutions excludes organizations operated principally for the benefit of nonresidents.



EQUAL PROTECTION CLAUSE



UNITED STATES CONSTITUTION 14TH AMENDMENT

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

14th Amendment, § 1, 2nd sentence.

Similar provisions may be present in state constitutions.



ALLEGHENY PITTSBURGH COAL CO. V. WEBSTER COUNTY

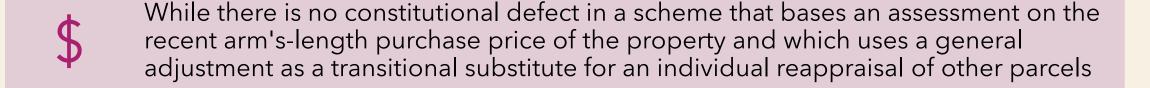
488 U.S. 336 (1989)

- The tax assessor valued petitioners' real property upon the basis of its recent purchase price. Other properties not recently transferred were assessed based upon their previous assessments with minor modifications.
 - This system resulted in gross disparities of the assessed value of generally comparable property.
- The West Virginia Supreme Court of Appeals held that the record did not support a finding of intentional and systematic discrimination because petitioners' property was not assessed at more than true value.

ALLEGHENY PITTSBURGH COAL CO. (CTD.)



Held: The assessments of petitioners' property violated the Equal Protection Clause.





Equal Protection requires that such general adjustments be accurate enough to obtain, over a short period of time, rough equality in tax treatment of similarly situated property owners.

ALLEGHENY PITTSBURGH COAL CO. (CTD.)

The Equal Protection Clause permits a State to divide different kinds of property into classes and to assign to each a different tax burden so long as those divisions and burdens are neither arbitrary nor capricious.

West Virginia has not drawn such a distinction here, as its Constitution and laws provide that all property of the kind held by petitioners shall be taxed uniformly according to its estimated market value.



ALLEGHENY PITTSBURGH COAL CO. (CTD.)

The State might on its own initiative remove the discrimination against petitioners by raising the assessments of systematically and intentionally undervalued property in the same class.

A taxpayer in petitioners' position, however, forced to litigate for redress, may not be remitted by the State to the remedy of seeking to have the assessments of the undervalued property raised.

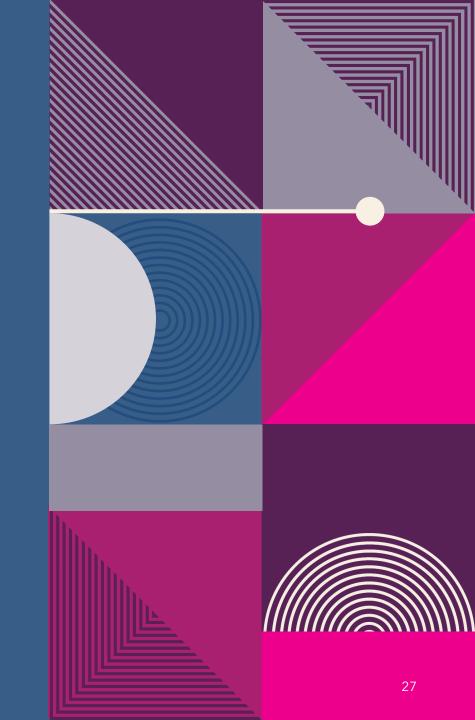
NORDLINGER V. HAHN

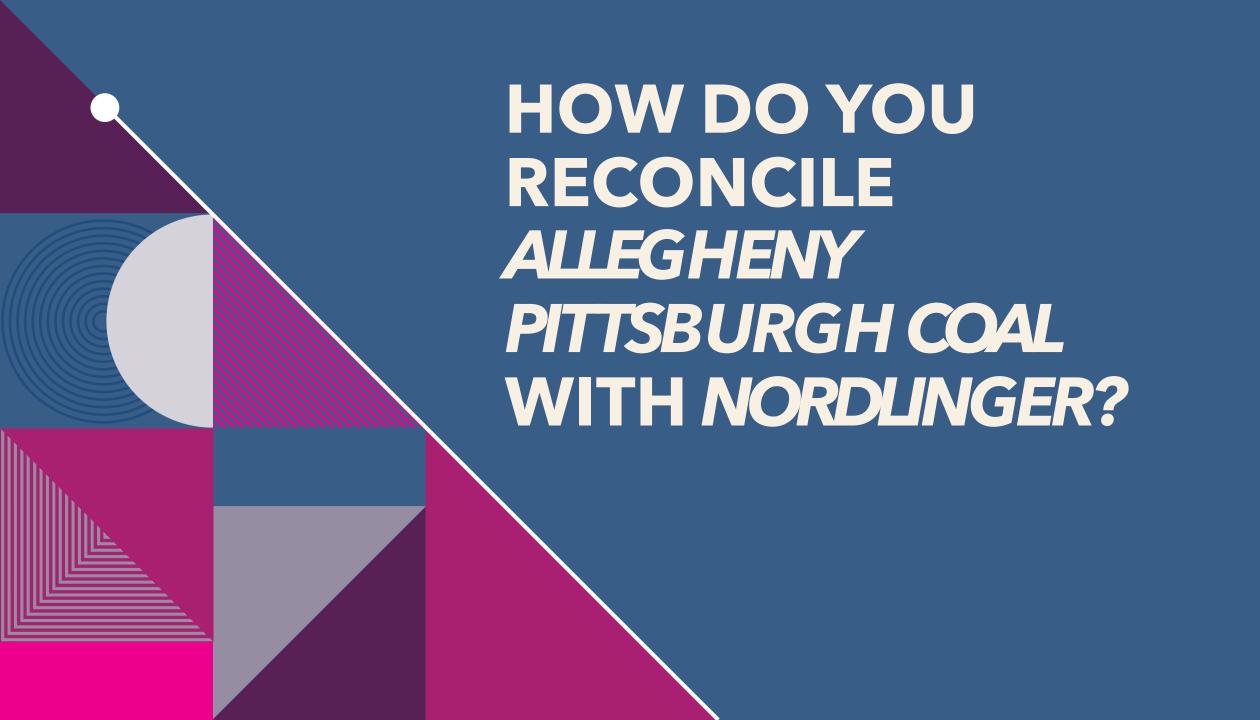
505 U.S. 1 (1992)

Responding to rapidly rising real property taxes, California voters approved Proposition 13 embodying "acquisition value" system of taxation.

- Property is reassessed based upon current appraised value of the new construction or change of ownership.
- Two exemptions exist for two types of transfers: exchanges of principal residences by persons over the age of 55 and transfers between parents and children.

With the passage of time, the acquisition-value system created dramatic disparities of the taxes paid by persons owning similar pieces of property.







UNIFORMITY CLAUSE



SAMPLE UNIFORMITY CLAUSES

"Taxes shall be levied by valuation uniformly and proportionately upon all real property ... except as otherwise provided in or permitted by this Constitution." Ne. Const. Art. VIII, § 1.

"Subject to this section, the General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal." Ind. Const. Art. 10, § 1.

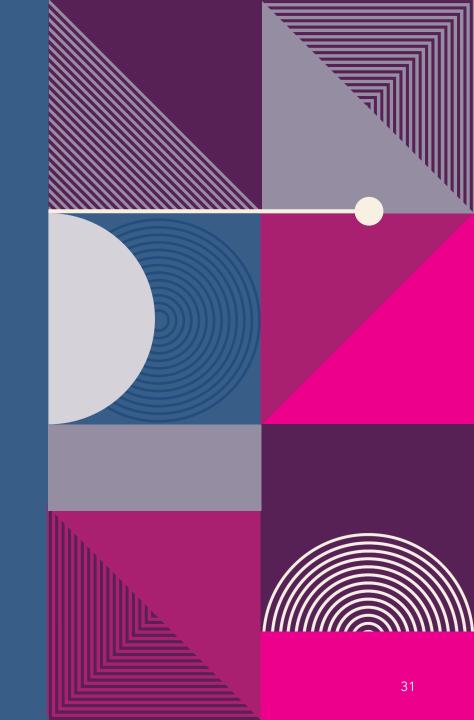
UNIFORMITY

What is the remedy for a local taxing jurisdiction that believes parcels are systematically underassessed?

Can the local jurisdiction appeal selectively?

Does it have to appeal each assessment separately?

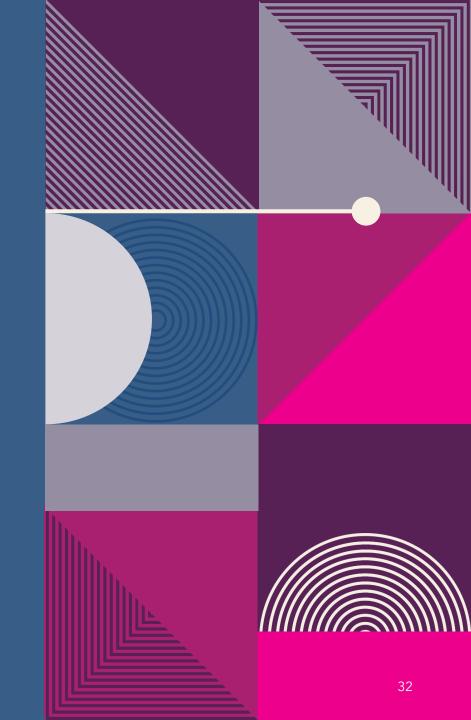
See School Dist. of Philadelphia v. Bd. of Revision of Taxes, 303 A.3d 1150 (Pa. Cmmw. Ct. 2023)



NEBRASKA'S UNIFORMITY CLAUSE

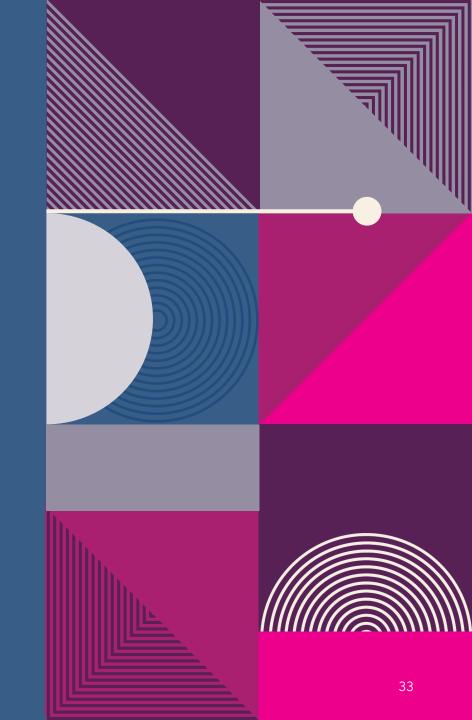
Presented by Commissioner Rob Hotz, Chairman,

Nebraska Tax Equalization & Review Commission (TERC)



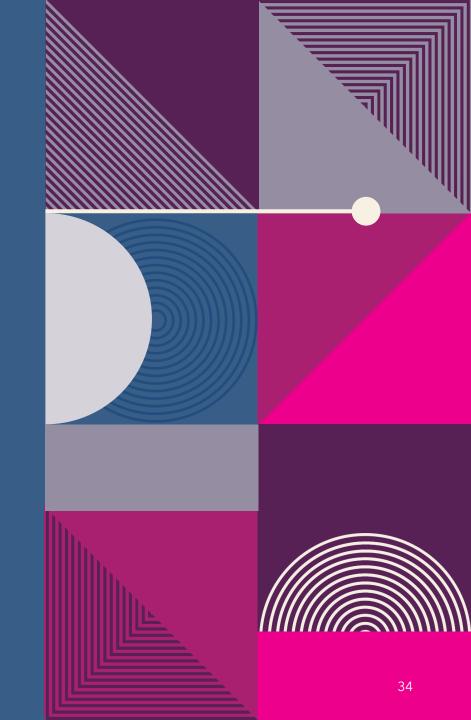
NEBRASKA BACKGROUND

Each of 93 counties is a separate taxing jurisdiction. The elected County Assessor gives notice of the assessment, and the Taxpayer may bring a protest of the assessment to the elected County Board of Equalization. The Taxpayer may then bring an appeal to the State Tax Equalization & Review Commission (TERC). Either party may then bring an appeal to the Nebraska appellate courts. Almost all appeals of TERC decisions are reviewed by the Nebraska Supreme Court.



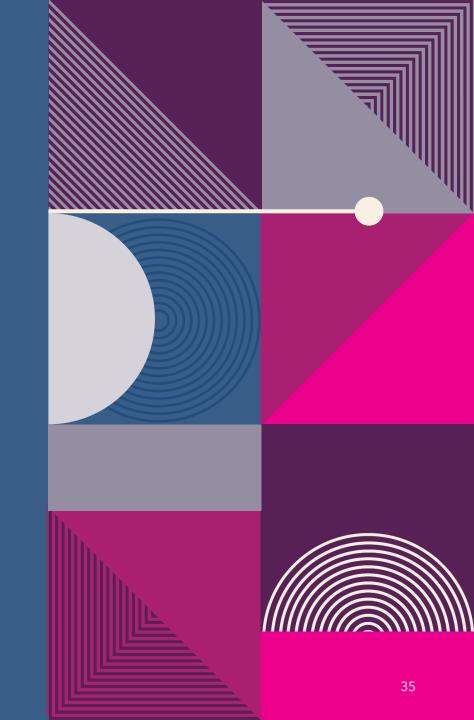
NEBRASKA CONST. ART. VIII, SECTION 1(1)

... (1) Taxes shall be levied by valuation uniformly and proportionately upon all real property ... as defined by the Legislature ...



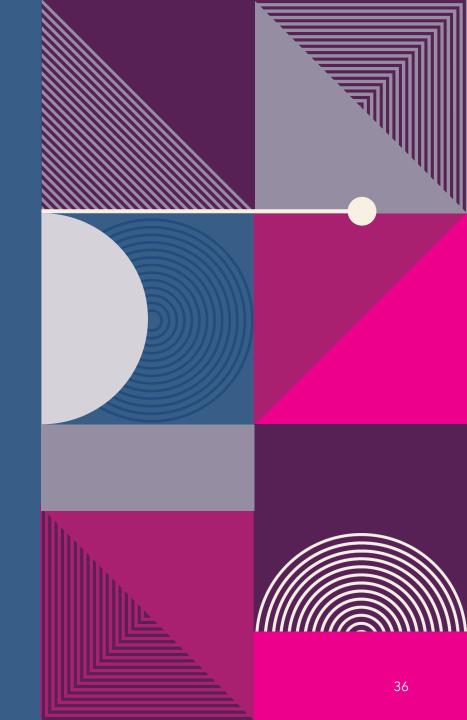
BURDEN OF PROOF (NEBRASKA CASE LAW SINCE 1957)

On appeal from an action of the county board, the taxpayer has the burden of showing that a valuation is unreasonable or arbitrary. 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 <u>failure of plain</u> <u>duty</u>, and not mere errors of judgment.



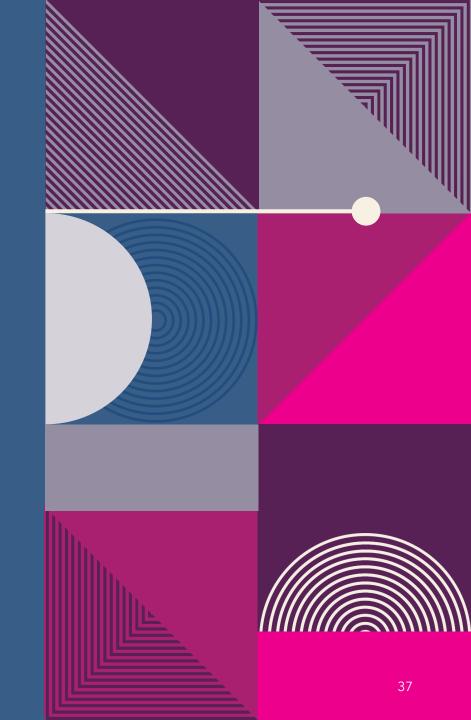
KEARNEY CONVENTION CENTER, INC. V. BUFFALO COUNTY BOARD OF EQUALIZATION, 216 NEB. 292, 344 N.W.2D 620 (1984)

Kearney Convention Center was a hotel property assessed at 100% of market value. Persuasive evidence was adduced that the method used to assess the value of agricultural land in the same jurisdiction resulted in assessments at 44% of market value. Kearney Convention Center argued the 100% assessment was not incorrect as to value, but that it was not uniform and proportionate as compared to the properties in the agricultural class of the same county. The Nebraska Supreme Court agreed and ordered an equalized assessment of the hotel property at 44% of its market value.



NEBRASKA CONST., ART. VIII, SECTION 1(4) (1984, 1989, 1992)

(4) the Legislature may provide that **agricultural land** ..., as defined by the Legislature, shall constitute a **separate and distinct class of property** for purposes of taxation and may provide for a **different method of taxing agricultural land** ... which results in values that are **not uniform** and proportionate with all other real property ... but which results in values that **are uniform** and proportionate upon all property **within the class** of agricultural land...

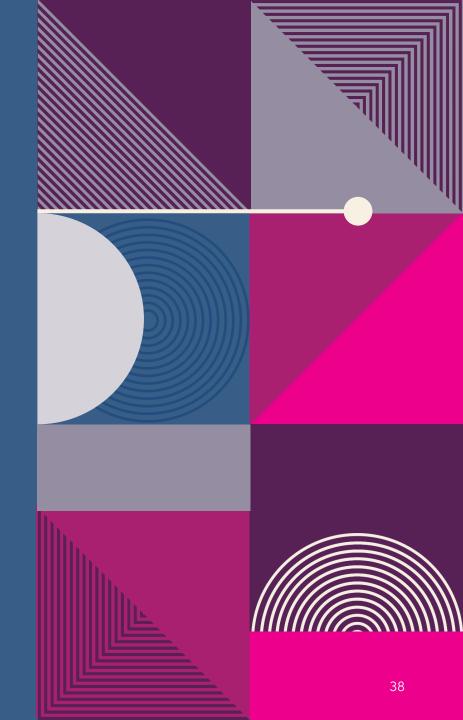


Neb. Rev. Stat. § 77-201(2) (1985)

The Legislature finds and declares that agricultural land ... shall be a separate and distinct class of real property for purposes of assessment. The assessed value of agricultural land ... shall not be uniform and proportionate with all other real property, but the assessed value shall be uniform and proportionate within the class of agricultural land

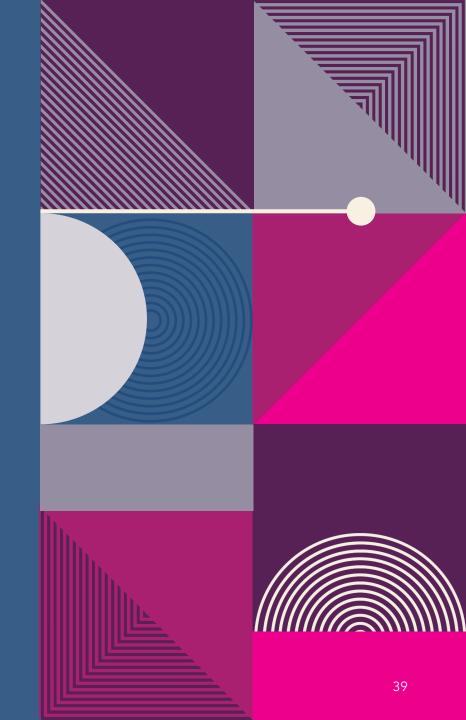
Neb. Rev. Stat. § 77-201(2) (1985)

(2) **Agricultural land** ... as defined in section 77-1359 shall constitute a **separate and distinct** <u>class</u> of property for purposes of property taxation, and ... shall be valued at seventy-five percent of its [market] value ...



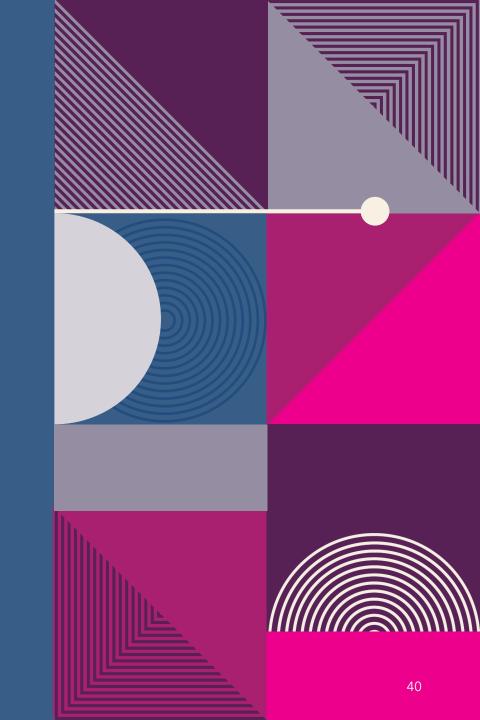
KRINGS V. GARFIELD COUNTY BOARD OF EQUALIZATION, 286 NEB. 352, 835 N.W.2D 750 (2013)

- 1. Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a **uniform percentage of its actual value**. The purpose of equalization of assessments is to bring 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.
- 2. The Board of Equalization must give effect to the constitutional requirement that taxes be levied uniformly and proportionately upon all taxable property in the county.



Neb. Rev. Stat. § 77-1501

... The county board of equalization shall fairly and impartially equalize the values of all items of real property in the county so that all real property is assessed uniformly and proportionately.

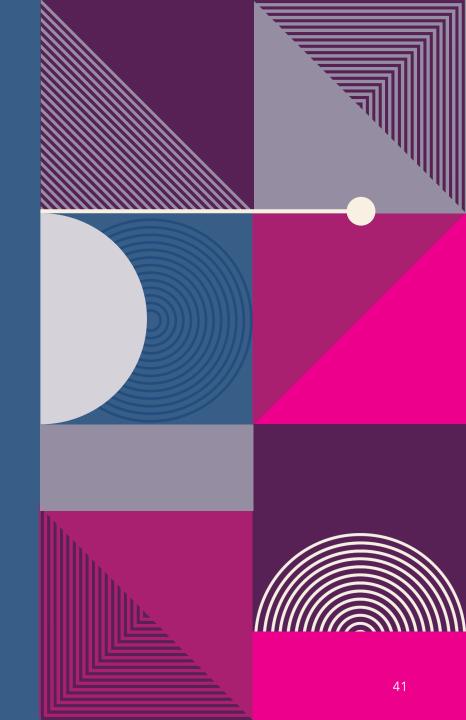


BACKGROUND ON THE ASSESSMENT OF AGRICULTURAL LAND IN NEBRASKA

As noted above, Nebraska has 3 classes of real property: Agricultural, Residential, Commercial.

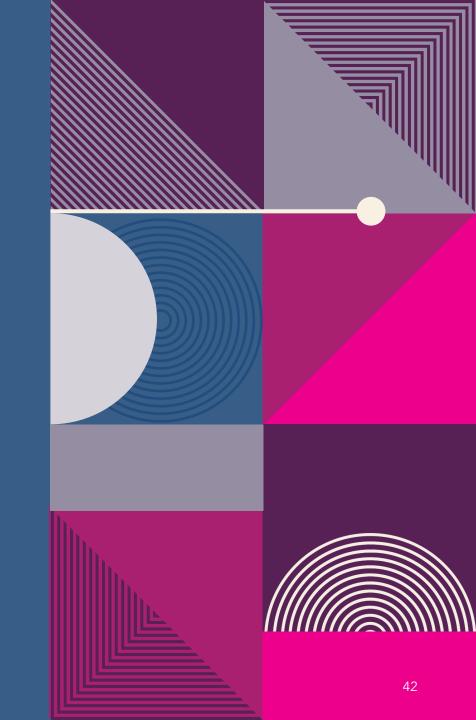
The agricultural land class consists of three **subclasses**: Irrigated Land, Dryland, & Grassland.

The assessment of agricultural land is based upon soil types and use.



LANCASTER COUNTY BOARD OF EQUALIZATION V. MOSER, 312 NEB. 757, 980 N.W.2D 611 (2020)

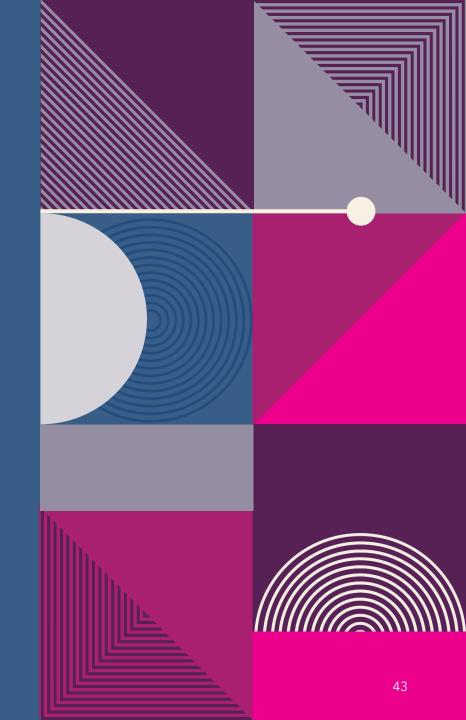
Irrigated agricultural land was assessed correctly as irrigated. However, at the protest hearing, the Moser's brought persuasive evidence that a comparable irrigated property (Morrison property) one mile away was assessed as dryland. The County Board refused to equalize the Moser property with the Morrison property. TERC agreed with the Mosers, and reversed the County Board determination based upon Uniformity Clause requirements.



LANCASTER COUNTY BOARD OF EQUALIZATION V. MOSER

TERC concluded the value determination of the Moser property by the county board in comparison to the assessment of the Morrison property was grossly excessive, and that the refusal of the county board to equalize the properties was a failure of plain legal duty. During the protest process, the Mosers presented the County Board with clear evidence that the Morrison property included irrigated land that was being underassessed as Dryland. At that point, the County Board had a plain legal duty to equalize the assessments, even though the result may have been that the Moser property was assessed at less than market value.

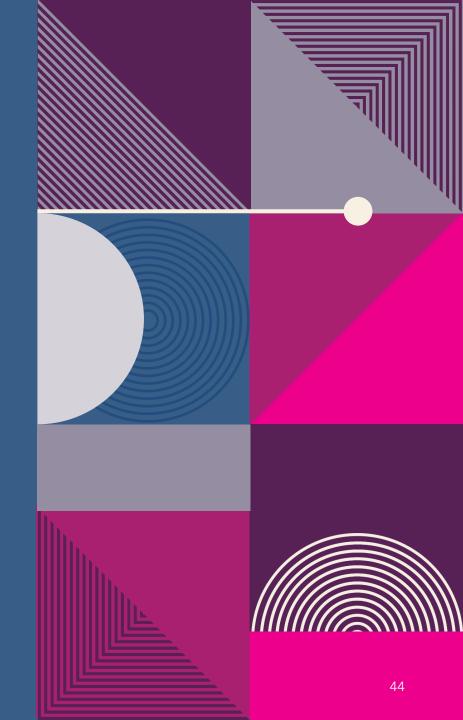
It's important to note that no one protested the assessment of the irrigated land on the Morrison farm that was assessed as dryland.



NEBRASKA SUPREME COURT MAJORITY DECISION

The TERC decision was reversed by the Nebraska Supreme Court in a 4-3 decision. First, the Majority described the facts of the case as a case of first impression and framed the issue as whether constitutional principles of uniform and proportionate taxation require that an isolated error in the subclassification and undervaluation of a neighboring comparable property must be corrected through the equalization process. That framing seems to have steered the Majority's decision.

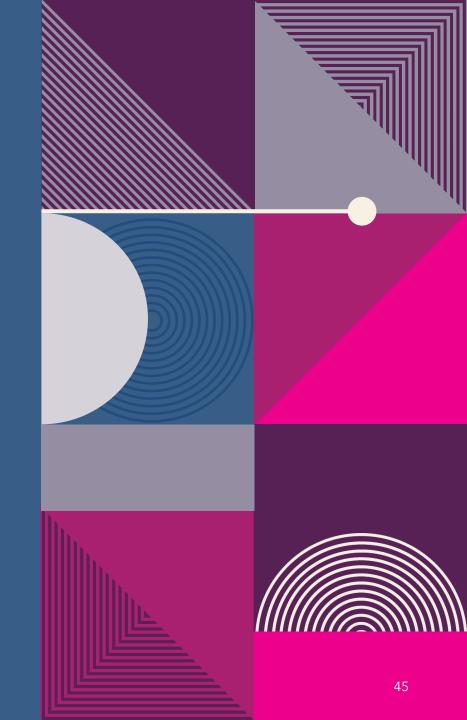
The Majority conceded the evidence supported both that the Moser's irrigated acres were correctly subclassified, and that the Morrison's irrigated acres were erroneously subclassified as dryland.



NEBRASKA SUPREME COURT MAJORITY DECISION

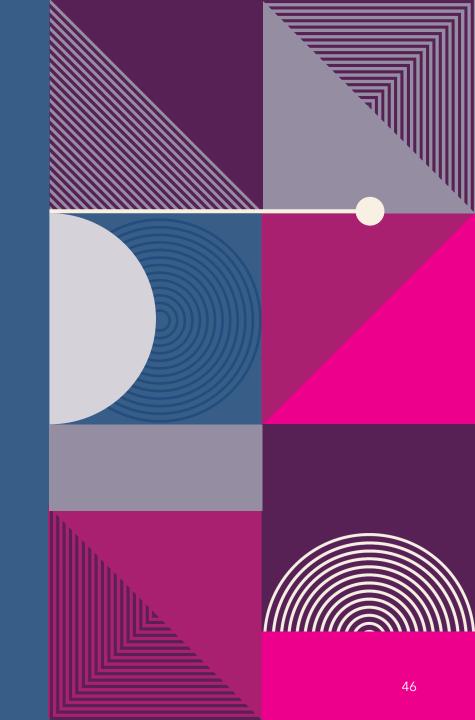
But, rather than comparing the disparity of **assessed values** of the Moser's irrigated land with the Morrison's irrigated land, the Majority limited the scope of relief under the uniformity clause to comparisons only to the **subclassifications** of the properties. In other words, according to the Majority, the Moser's could only get relief when other irrigated properties that were subclassified as irrigated properties were not assessed equally with the Moser property.

The Majority was appeased by its conclusion that, "the irrigated acres on the Morrison property were valued lower because they had been erroneously subclassified as dryland. It was that error, and only that error, which caused the disparate valuation..."



NEBRASKA SUPREME COURT MAJORITY DECISION

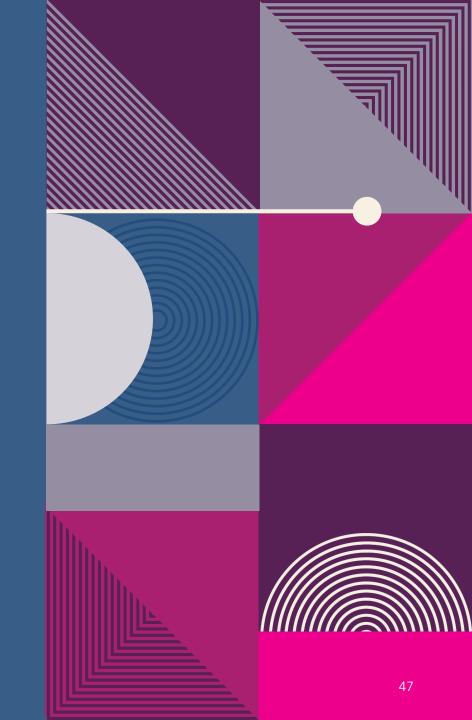
The Majority concluded that TERC's decision did not conform to the law when TERC found that the County Board of Equalization had a plain legal duty to equalize the assessments of the two properties at the time of the Moser property protest proceedings.



NEBRASKA SUPREME COURT DISSENTING OPINION

The three dissenting Justices agreed with TERC's conclusions regarding the County Board's plain duty to equalize the two properties. First, the Dissent asserted that the Majority "effectively deprives an agricultural-land taxpayer of any remedy for the misclassification of comparable agricultural property."

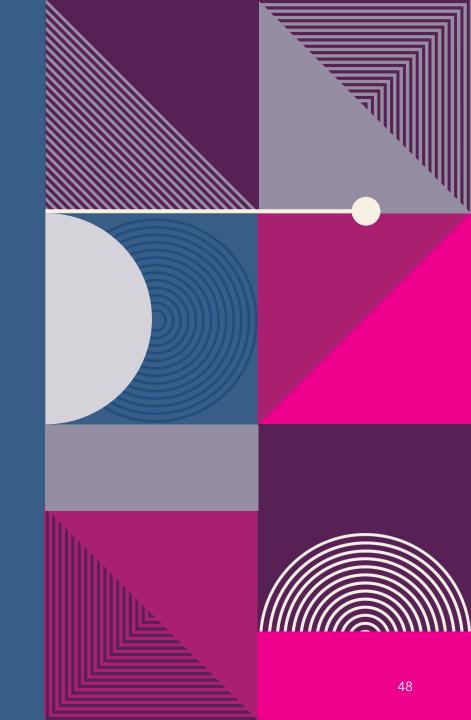
The Dissent emphasized the statutory requirement that the county board of equalization "fairly and impartially equalize the values of all items of real property in the county so that all real property is assessed uniformly and proportionately."



NEBRASKA SUPREME COURT DISSENTING OPINION

Next, the Dissent criticized the Majority's emphasis on the assessed subclassifications of the two properties by referring to the plain constitutional language that commands that "all property within the class of [agricultural] land be equalized." (Singular class, not classes. All property within the class.)

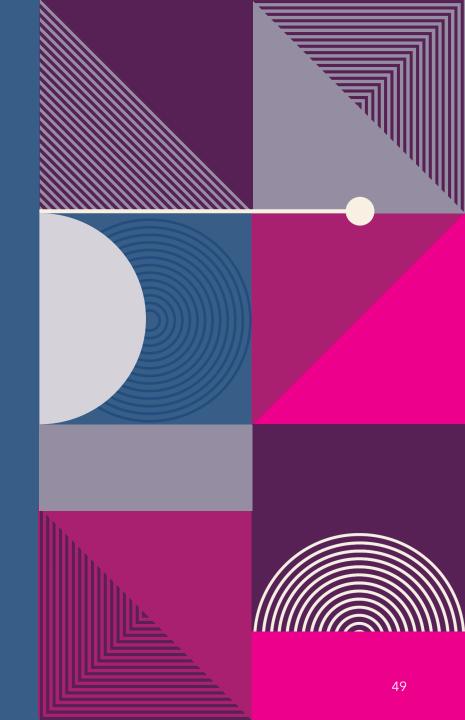
The Dissent asserted the constitutional language does not allow for equalization "only within an agricultural subclass." Section 77-1359, too, says "the assessed value [of agricultural land] shall be uniform and proportionate within the class of agricultural land."



NEBRASKA SUPREME COURT DISSENTING OPINION

The Dissent characterized and agreed with TERC's conclusion that the County Board had a plain legal duty to equalize the Moser property by saying, "TERC was reviewing the refusal of the [county board] to equalize comparable agricultural properties within the same taxing jurisdiction in [the county]. ... the county board had the plain duty to equalize."

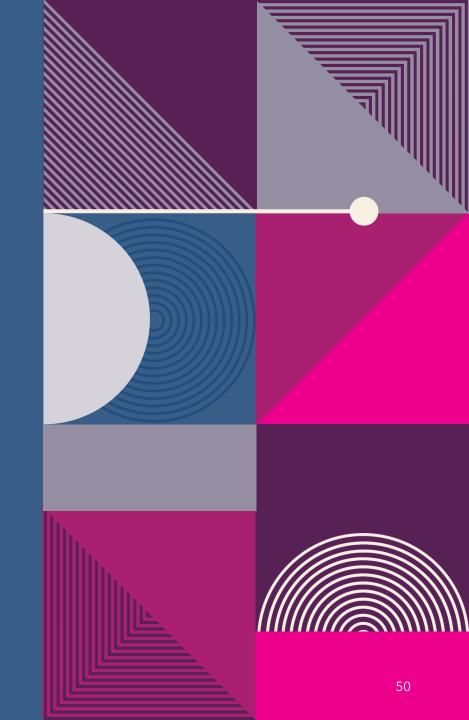
In conclusion, the Dissent stressed the remedy for the Moser's under the Uniformity Clause: "Where it is impossible to increase the misclassified agricultural land to its true value, the preferred remedy is to reduce the injured taxpayer's property value to achieve the uniformity required. To refuse to do so deprives the taxpayer of a remedy."

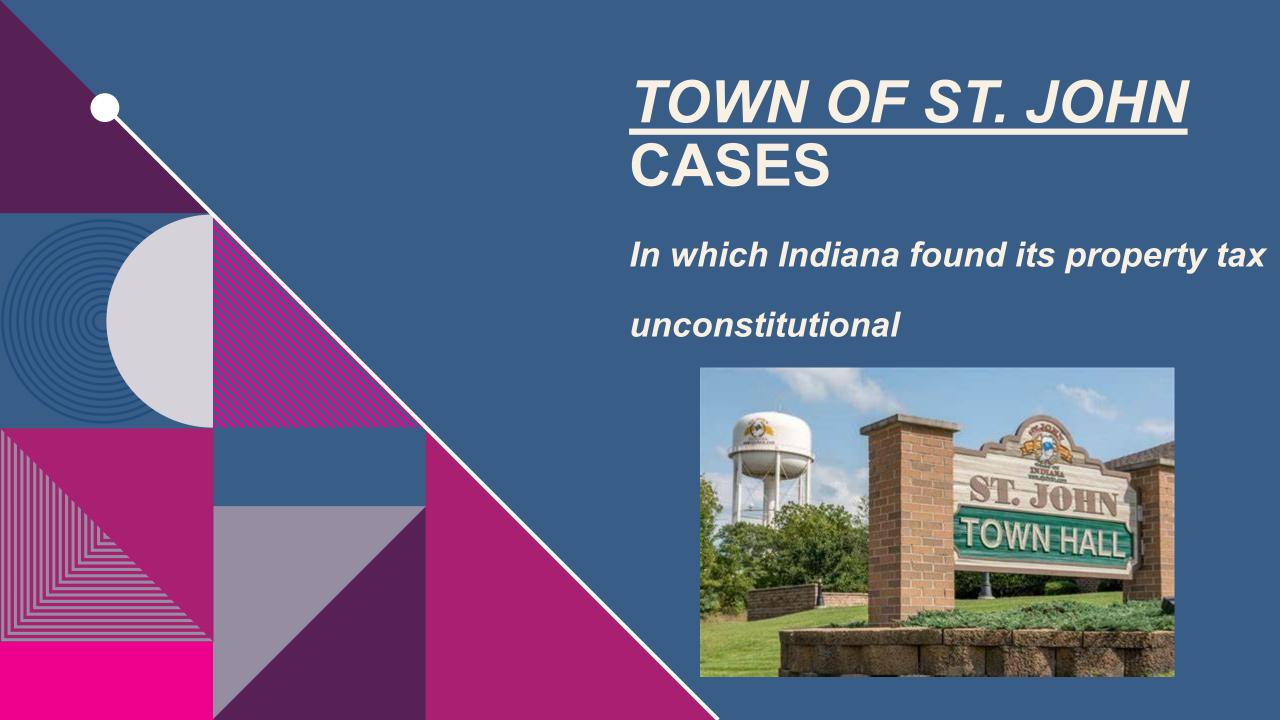


DELTA AIR LINES, INC. V. DEPARTMENT OF REVENUE

2023 WL 5425246 (Or. Tax Ct.)

- Does it violate uniformity to include intangible property when centrally assessed?
- As compared with locally assessed property that is limited to real and tangible personal property.
- Look to use of property.
- Comparison of Delta Airlines to road transportation
- Comparison of regulated utilities to non-regulated





1851 Indiana Constitution Article 10, § 1

"The General Assembly shall provide, by law, for a <u>uniform and equal rate of property assessment and taxation</u> and shall provide regulations to secure a <u>just valuation</u> for taxation of all property, both real & personal."

Bielski v. Zorn, 627 N.E.2d 880 (1994)

- Facts: Town of St. John & 3 landowners petitioned the Lake County Bd. of Review, then the State Bd. of Tax Comm's claiming the county's 1989 general property tax reassessment led to gross violations of the Indiana Constitution's "Property Tax Clause" (Article 10, §1). The Property Tax Clause has been unchanged since 1851:
- "The General Assembly <u>shall</u> provide, by law, for a <u>uniform & equal rate</u>
 of <u>property assessment and taxation and</u> shall provide regulations to
 secure a <u>just valuation</u> for taxation of all property, both real & personal."
- The Constitution requires the Legislature to enact a tax system complying with 3 propositions, (1) uniformity & equality of assessment, (2) uniformity & equality of the rate of taxation, and (3) a just valuation for taxation.
- Neither County or State Board held a hearing. Two years later πs filed an Original Tax Appeal in the Tax Ct. The State Bd. claimedt the Tax Court did not have subject matter jurisdiction b/c there was no **final determination** & πs failed to exhaust their administrative remedies.
- <u>Issue</u>: Whether there was a *final determination* giving the Tax Ct. SMJ.
- <u>Conclusion</u>: State Board's failure to address the Petition constitutes a *final* determination and b/c constitutional claims may only be determined by a
 court, not an administrative agency, there is no failure to exhaust
 administrative remedies.

Town of St. John v State Bd. of Tax Comm'rs, 665 N.E.2d 965 (Ind. Tax Ct. May 31, 1996) #1



Background: IN's valuation standard is True Tax Value (TTV), not FMV, <u>i.e.</u>, the value determined under State Board regulations (IAC Title 50).



1 - <u>TTV of Non-Ag Land</u> - determined by each County Land Valuation Comm'n after collecting & analyzing county sales data, obtaining St. Bd. approval, & compiling it into County Land Valuation Order that theoretically reflects its market value.



2 - <u>TTV of Ag Land</u> - determined by each County Agricultural Land Advisory Committee using the base rate of \$495/acre and adjusting it up or down to reflect the soil's capacity to produce crops, approximating value based, in part on its earning capacity.



3 - <u>TTV of Improvements</u> - determined by taking reproduction cost minus any physical or obsolescence depreciation. The TTV of improvements is produced by applying the State Bd.'s mechanical rules & formulas in Title 50, excluding all evidence external to Title 50 as irrelevant (<u>e.g.</u>, actual reproduction cost or market value)

Town of St. John v State Bd. of Tax Comm'rs, 665 N.E.2d 965 (Ind. Tax Ct. 1996) (cont.) #1

Landowner's Position: IN's TTV system of assessment & taxation is neither uniform or equal, violating the Property Tax Clause b/c its application yields different TTVs for properties with comparable market values. IN's Constitution requires "**just value**," a term synonymous with "market value" b/c, market value is the only meaningful standard to measure uniformity & equality of real property.

<u>State Board's Position</u>: "Just value" is not necessarily "market value," but may be determined by any "rational method" of valuation, <u>i.e.</u>, a method that places identical values on physically identical properties that are used identically.

ANAYLYSIS: Tax Court construed the meaning of the Property Tax Clause from the language used in its historical context when drafted & ratified, from its purpose & structure, and from the Sup. Ct. cases interpreting it.

<u>Conclusion</u>: The Framers intended property tax to tax all forms of property wealth equally and uniformly. Undefined in the Constitutuion, "just value" means "market value" based on other state interpretations of similar constitutional language, the IN Sup. Ct. interpretations, early Legislative interpretation, and the plain meaning of the text.



Boehm v. Town of St. John, 675 N.E.2d 318 (Ind. Dec. 23, 1996) #2

- <u>Facts</u>: The State Bd. appealed the Tax Court's decision that the IN
 Constitution requires a system of property assessment & taxation
 based solely on market value, thus holding the TTV system
 unconstitutional.
- <u>Issue</u>: Did the Tax Court err by (1) failing to defer to the Legislature's delegated authority to determine property assessment & taxation policy, (2) deciding real property must be assessed solely by market value, or (3) setting an arbitrary date by which a new constitutional system must be implemented?
- Analysis & Conclusion: The Court is "guardian of the constitution;" and the Legislature makes policy. The Legislature's responsibility to make rules for just valuation is not insulated from judicial oversight necessary to ensure that the rules prescribe a uniform and equal rate of assessment & taxation. The Sup. Ct did not agree with the Tax Court's conclusion from past decisions that actual market value assessment is compelled by the uniform & equal clause. Even though market value may be the system closest to the constitution's uniform & equal rate of assessment & taxation and just valuation requirements, market value is not expressly required by the text of the constitution, the Framers' purpose/intent, or subsequent case law. Remanded to address remaining claims.

Boehm ctd. - CJ Shepard's Dissent

- There are only 3 recognized methods to estimate real estate value: reproduction cost, sales comparison, and income capitalization.
- By concluding that market values are permitted but not required, however, the Majority treats Article 10 as a dead letter.
- If Article 10 creates justiciable constraints on assessment & taxation, what are those constraints in the absence of comparison to market prices?
- The Framers understood the constitution could require that things should not be assessed for tax purposes at values different from their value in the open market.
- If market value is not the constitutional touchstone, how would a court ever determine that any system of taxation violated Article 10?
- "A system that levied exactly the same tax on every house in the state would be uniform and equal to be sure." This complies with Article 10, however, only if market value is irrelevant, and yet market value is the only way to determine whether the tax is on "just value."
- I stand with the Tax Court!



Town of St. John v State Bd. of Tax Comm'rs., 690 N.E.2d 370 (Ind. Tax Ct. 1998) #3

- <u>Issues</u>: The Tax Court must determine whether the current TTV system (1) results in a uniform & equal rate of assessment & a just valuation based on property wealth, (2) provides ascertainable standards to prevent arbitrary & capricious property assessments, or (3) violates the U.S Constitution's 14th Amendment Equal Protection or Due Process guarantees?
- Law: Indiana Constitution, Article 10, §1,
- Analysis: Requiring uniformity & equality does 2 things: (1) it requires the property tax system to be based on objectively verifiable data & (2) it ensures TPs have a means of evaluating the tax authorities' assessment of their property. Property assessments based on FMV, in contrast with TTV assessments, are objective valuations. No evidence was presented or was otherwise found by the Court that could measure property wealth without reference to market factors.
- <u>Conclusion</u>: IN's Constitution requires property assessment & taxation to be based on **real world, objective measures of property wealth**. The TTV system is based on artificial measures, violating IN's Constitution, but not the U.S. Constitution.

Town of St. John v State Bd. of Tax Comm'rs, 691 N.E.2d 1387 (Ind. Tax Ct. 1998) #4



Hearing to determine the schedule for the State Board to bring property assessment and taxation into compliance with the constitution.



Ordered the State Board to consider all competent, real world evidence on TP appeals filed on or after May 11, 1999.

State Bd. of Tax Comm'rs v. Town of St. John, 702 N.E.2d 1034 (IN 1998) #5

- <u>Facts</u>: The Tax Court resolved the challenge to the TTV method of valuing real property by (1) **Finding** that the TTV system violated the uniformity clause of IN's Constitution and (2) **Ordering** the State Bd. to consider all competent real world evidence of valuation presented by persons filing property tax appeals on or after May 11, 1999. The State Bd. appealed to the Supreme Ct.
- Analysis & Conclusion: On appeal, the IN Sup. Ct. held that IC 6-1.1-31-6(c), which states that "[T]rue tax value does not mean fair market value[but] is the value determined under the rules of the state board[,]" was not unconstitutional, but affirmed the Tax Court's finding that the cost schedules for valuing property lacked a meaningful reference to property wealth b/c "it [is] impossible ... to determine the system's compliance with the uniformity provision" and "does not allow comparison of assessments to objective data, [and thus,] it cannot satisfy the constitutional requirements of uniformity and equality in the property assessment."



that Indiana's property assess-ment system is conceptually simi-lar to the one used in the former Soviet Union. ton, an attermey present its case.

to the true tax value standards."

Indiana Tax Court.

subjective formula instead of fair- formity across the state. subjective formula instead of fair-market values—or how much property would sell for on the market. Only Indiana and Nevada of the physical likeness of proper-ty, but Almy said. "I'm not sur! do not use market values for as- how you compare the physical

Sessiments.

The state, which contends that.

The state, which contends that the current system is fair and much more uniform than the nCLU claims, will present its will.

CLU claims, will present its will clause it would be in the the.

The second secon

tions that ignore market values. leading to artificial results. He said. he was struck by the similaritie between the methods and thus used in communist nations.

ton, an attorney helping the ICLII

"Bureaucrats," said Almy,
"In a true tax value system (lik:
Indiana's), who sets value?" Atherica asked

to the true tax value standards. Said Richard Almy, who has advised some former Soviet-bion nations on implementing property tax systems based on market values.

Almy was the last witness presented by the Indiana Tax Court.

Almy Court.

Tomara Fisher allowed the test indiana Tax Court.

Indiana Tax Court.

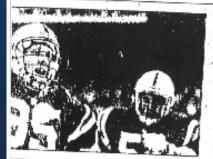
The ICLU clatms that indiana's way of assessing property for tax reasons is based on a complicated, and it could not provide uniformity across the state.

similarity of a farm with a Wa-

"I guess it would be in the thot.

CCUC claims, will present its witnesses next week.

Almy served as executive direct
for of the international Association of Assessing Officers, an educational group that assist
government 1982 to 1984 tax matthe and assessed values in indithe and assessed values in indiana were based on a set of regulasolutions. Each of the company of



The total package

■ Whether lining up at tight end or in the backfield, Ken Dilger has the versaility to do whatever his coaches ask, and do it well.

SPORTS-PAGE C-1

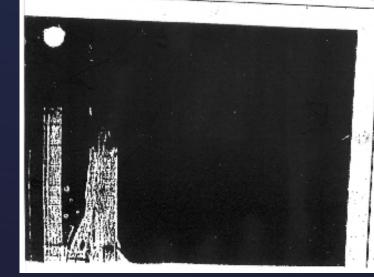






"Where the Spirit of the Lord Is, There Is Liberty."-If Cor. 3:17



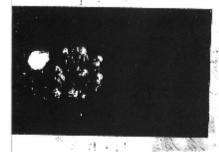


Court rules against state property tax

Assessments must be uniform

mic used for such things as local schools, streets and police and fire protection, its legality has been debated in the courts since 1993.

SATURDAY, DECEMBER 5, 1998



BY DESIGN

WINTER WONDERS

There are now more than 100 varieties of poinsettias. Page F1

BUSINESS

MALL CONSIDERS THEATER

Fashion Mall looks at project, Page C1

SPORTS

ARLINGTON BEATS BREBEUF

Golden Knights win, 66-49, Page DI

NDIANAPOLIS STAR

"Where the Spirit of the Lord is, there is Liberty" II Con. 3:17

HEWSSTAND PRICE 50¢

Property tax system upheld

tevy

191,60

976,011

511.00

145,383

453,724

By Shiart & Bleech

■ State Supreme Court

does say, though, that

assessment formulas

are unconstitutional.

tem of property assessment passes constitutional muster.

But the various formulas that he at the heart of the State Tux Board's assessment rules are inconstitutional, the court ruled. Those rules make it impossible for assessors to measure properly

Court ruling relieves press tre on legislators to reform the tax code during next session.

Court ruling in a landmark tax

"The great hammer has not fallen on the legislature," saki Sen. Lawrence Borst, chairman of the Senste Finance Committee,

Borst and other key legislators



ESTABLISHMENT & FREE EXERCISE CLAUSES



ESTABLISHMENT CLAUSE& FREE EXERCISE CLAUSE

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;"

1st Amendment, first clause.

Similar provisions may be present in state constitutions.

WALZ V. TAX COMMISSION OF THE CITY OF NEW YORK

397 U.S. 664

- Are property tax exemptions for churches constitutional?
- Exemption as preventing state entanglement
- Originalist acceptance of property tax exemptions

OTHER POTENTIAL RELIGIOUS ISSUES?

Is the exemption limited to certain uses? What is a church ministry?

Tax credits for supporting religious activities?



