

# Perkins County Board of Equalization v. Wheatland Industries, LLC

**Case Number**

S-19-0305

**Case Audio**

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**Call Date**

October 30, 2019

**Case Time**

9:00 AM

**Court Number**

TERC

**Case Location**

Lincoln

**Court Type**

TERC

**Case Summary**

S-19-0305 Perkins County Board of Equalization (PCBOE) (Appellant) v. Wheatland Industries, LLC, c/o Mid-America Agri Products

Appeal from the Tax Equalization Review Commission (TERC)

Attorneys: Richard A. Roberts, Gary F. Burke (Perkins County Attorney's Office, for Appellant); Frederick D. Stehlik, Zachary W. Lutz-Priefert (Gross and Welch, P.C., L.L.O., for Appellee)

Civil: TERC

Proceedings below: The Commission determined in its order dated February 27, 2019 that there was competent evidence to rebut the presumption that the PCBOE faithfully performed its duties and had sufficient and competent evidence to make its determination; that there was clear and convincing evidence that the PCBOE decision was arbitrary or unreasonable; that the Appellee's motion in limine to bar testimony from PCBOE's expert to testify beyond the process of mass appraisal per statute was denied; the Commission determined from the adduced evidence that it was unreasonable and arbitrary for the PCBOE to rely upon the assessor's determination of value for the Appellee's property; the Commission applied physical depreciation to Appellee's buildings and equipment; the Commission did not apply functional obsolescence to the Appellee's buildings and equipment; and the Commission applied economic depreciation to the assessed value of Appellee's property.

Issues: Whether 1) the evidence was sufficient to permit the Commission to find the PCBOE determination to be unreasonable and arbitrary; 2) the Commission erred when it allowed a 40% deduction for economic depreciation; and 3) the Commission erred when it found the value of the ethanol plant to be \$7,336,042.

**Schedule Code**

SC

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