STATE OF MINNESOTA | TAX COURT

COUNTY OF HENNEPIN | REGULAR DIVISION

BCORE Capstone Owner LLC,

Petitioner,

vs.

County of Hennepin,

Respondent.

ORDER GRANTING PETITIONER'S MOTION FOR SUMMARY JUDGMENT

Court File No.: 27-CV-23-5765

This matter came before the Honorable Jane N. Bowman, Chief Judge of the Minnesota Tax Court, on the parties' cross-motions for summary judgment.

Nicholas A. Furia, Law Offices of Nicholas A. Furia, PLLC, represents Petitioner BCORE Capstone Owner LLC ("BCORE").

James A. Mogen and John S. Pasowicz, Hennepin County Attorney's Office, represent Respondent Hennepin County.

BCORE initially raised both a valuation challenge and an unequal assessment claim concerning the January 2, 2022 assessment of the subject property, located at 9301 & 9315 Winnetka Avenue, Brooklyn Park, Hennepin County.[1] The parties reached an agreement as to the market value of the subject property, but ask us to resolve the unequal assessment claim by way of cross-motions for summary judgment.[2] Because we agree with BCORE, we grant its motion for summary judgment and deny the County's motion.

[1] Pet. 1-2 (filed Apr. 25, 2023).

[2] Joint Stip. ¶¶ 3-4 (filed Apr. 10, 2025).

FINDING OF FACTS

1. Petitioner BCORE Capstone Owner LLC has sufficient interest in the property to maintain this petition. All statutory and jurisdictional requirements have been fulfilled, and the court has jurisdiction over the subject matter of the action and the parties thereto.

2. The subject property is located at 9301 & 9315 Winnetka Avenue, Brooklyn Park, Hennepin County, with a Property Identification Number of 07-119-21-44-0011.

3. Per the parties' stipulation, the market value of the subject property was $27,000,000 as of the January 2, 2022 assessment.

4. The subject property was classified as industrial as of the relevant assessment date.

CONCLUSIONS OF LAW

1. The Minnesota Department of Revenue 2022 9-month study, excluding the first-class city, for industrial property in Hennepin County, is most relevant to this matter.

2. The subject property was unequally assessed as of January 2, 2022.

ORDER FOR JUDGMENT

1. Hennepin County's Motion for Summary Judgment is denied.

2. BCORE Capstone Owner LLC's Motion for Summary Judgment is granted.

3. The assessed value of the subject property as of January 2, 2022, shall be decreased to $27,000,000 (before equalization).

4. After equalization, the market value of the subject property shall be further decreased from $27,000,000 to $24,894,000.

5. Real estate taxes due and payable in 2023 shall be recomputed accordingly and refunds paid to Petitioner as required by such computations, together with interest from original date of payment.

IT IS SO ORDERED. THIS IS A FINAL ORDER. LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

Jane N. Bowman

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Jane N. Bowman, Chief Judge
MINNESOTA TAX COURT

Dated: September 11, 2025

MEMORANDUM

I. INTRODUCTION

With its property tax petition, BCORE initially challenged both the assessed value of the subject property and raised an unequal assessment claim.[3] Hennepin County consistently classified the subject property as industrial.[4] The parties reached an agreement as to the market value of the subject property—$27,000,000—but ask us to settle the unequal assessment claim by way of cross-motions for summary judgment.[5]

Generally, successful unequal assessment claims are supported by a showing that similarly situated properties were valued for tax purposes at a lower ratio of market value than the subject. *See Chambers Self-Storage Oakdale, LLC v. Cnty. of Washington*, 971 N.W.2d 64, 75 (Minn. 2022). Based on a sales ratio study pertaining exclusively to *industrial* properties in Hennepin County, BCORE asks us to grant summary judgment in its favor, arguing the subject property—

[3] Pet. 1-2 (filed Apr. 25, 2023).

[4] Ex. J8, at 2; Ex. J9, at 2; Ex. J10, at 3.

[5] Joint Stip. ¶¶ 3-4 (filed Apr. 10, 2025).

classified as industrial—was valued for tax purposes at a higher ratio of market value than other industrial properties in the County.[6] Referencing a ratio study covering *commercial and industrial* properties in Brooklyn Park, Hennepin County opposes BCORE's motion[7] and seeks summary judgment on its behalf, arguing the subject property was not unequally assessed.[8] The parties, in putting forth distinct sales ratio studies supporting their respective positions, essentially ask us to pick the most relevant study. Because we agree with BCORE, we grant its motion for summary judgment and deny the County's.

II. GOVERNING AUTHORITIES

A. Summary Judgment

A party is entitled to summary judgment if "the movant shows that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Minn. R. Civ. P. 56.01. Summary judgment motions "permit[] the court to make a prompt disposition of an action on the merits if there is no genuine dispute regarding the material facts, and a party is entitled to judgment under the law applicable to such established facts." *Humana MarketPoint, Inc. v. Comm'r of Revenue*, No. 9570-R, 2024 WL 4997432, at *6 (Minn. T.C. Nov. 21, 2024) (citing *In re Bush's Est.*, 302 Minn. 188, 211, 224 N.W.2d 489, 503 (1974)).

A party asserting no genuine issue exists can do so by citing to the record or by showing the adverse party "cannot produce admissible evidence to support the fact [at issue]." Minn. R. Civ. P. 56.03(a)(1)-(2). "A genuine issue of material fact exists when reasonable minds can draw

[6] Pet'r's Mem. Law Supp. Mot. Summ. J. 1-2, 5-8 (filed May 15, 2025).

[7] Resp't's Mem. Resp. Pet'r's Mot. Summ. J. 3-4 (filed June 3, 2025).

[8] Resp't's Mem. Supp. Mot. Summ. J. 3-6 (filed May 15, 2025).

different conclusions from the evidence presented." *Rygwall, as Tr. for Rygwall v. ACR Homes, Inc.*, 6 N.W.3d 416, 427 (Minn. 2024) (citation omitted).

When parties file cross-motions for summary judgment, they proceed on the premise that only a question of law is involved and invite the court to decide the issues based on the record. *See Am. Fam. Mut. Ins. Co. v. Thiem*, 503 N.W.2d 789, 790 (Minn. 1993) (observing that, where "parties themselves, in their cross-motions for summary judgment, have tacitly agreed that there exist no genuine issues of material fact," the matter could be resolved by reference to the record). We agree with the parties that their remaining legal issue is suitable for resolution on cross-motions for summary judgment.

B. Unequal Assessment

a. Claim and History

"Unequal assessment occurs where a taxpayer's property is valued for tax purposes at a substantially higher percentage of its market value than is other property in the taxing district." *Short v. Cnty. of Hennepin*, 353 N.W.2d 525, 529 (Minn. 1984) (citing *Hamm v. State*, 255 Minn. 64, 69, 95 N.W.2d 649, 654 (1959)). Put plainly, although a property might be valued at its market value, it can still be unequally assessed if other similarly situated properties are assessed at values less than their market values.

To determine whether property has been unequally assessed, "it is not enough to show parcels near to each other, even if similar, were given different assessed values. It is not enough simply to compare these assessed values." *Anacker v. Cottonwood Cnty.*, 302 N.W.2d 342, 345 (Minn. 1981). Proper analysis involves the comparison of assessment *ratios*: "[T]he proportion the actual market value of plaintiffs' parcel bears to its assessed value must be compared with the proportions these two values bear for other properties …." *Id.*

To facilitate analysis, the Legislature has provided for the use of Minnesota Department of Revenue sales ratio studies. *See* Minn. Stat. § 273.1325, subd. 1 (2024) (requiring the Department to "annually conduct an assessment/sales ratio study of the taxable property in each county, city, town, and school district"). Statutory standards address the admissibility, reliability, and evidentiary effect of Department studies:

> Subd. 4. **Sales ratio studies as evidence.** The sales ratio studies published by the Department of Revenue … shall be admissible in evidence as a public record …. The Department of Revenue sales ratio study shall be prima facie evidence of the level of assessment. Additional evidence relevant to the sales ratio study is also admissible. No sales ratio study received into evidence shall be conclusive or binding on the court and evidence of its reliability or unreliability may be introduced by any party including, but not limited to, evidence of inadequate adjustment of sale prices for terms of financing, inadequate adjustment of sales prices to reflect the difference in the date of sale compared to the assessment date, and inadequate sample size.
>
> No reduction in value on the grounds of discrimination shall be granted on the basis of a sales ratio study unless
>
> [factors not relevant here] and
>
> (d) the median ratio of the same classification of property in the same county, city, or town as the subject property is lower than 90 percent, except that in the case of a county containing a city of the first class, the median ratio for the county shall be the ratio determined excluding sales from the first class city within the county.

Minn. Stat. § 278.05, subd. 4 (2024). The statute also addresses the proper measure of equalization relief: "If a reduction in value on the grounds of discrimination is granted based on the above criteria, the reduction shall equal the difference between 95 percent and the median ratio determined by the court." *Id.*

"A taxpayer has the burden of proof to establish unequal assessment." *Chambers Self-Storage*, 971 N.W.2d at 75 (citing *Anacker*, 302 N.W.2d at 345). Statute mandates "the taxpayer must present evidence that allows the 'court to compare the actual market value and tax assessment of the property in question with the actual market value and tax assessment of similarly situated

properties.'" *Id.* (citing *Walmart Inc. v. Winona Cnty.*, 963 N.W.2d 192, 198 (Minn. 2021)). Because statute and case law recognize Department of Revenue ratio studies as valid evidence but indicate that no Department study is binding on this court, *see* Minn. Stat. § 278.05, subd. 4, the parties each presented its preferred study and ask us to decide which one to apply.

III. ANALYSIS

We now turn to the two competing Department of Revenue ratio studies. BCORE relies on the Department's 2022 9-Month Tax Court Assessment-Sales Ratio study for industrial properties in Hennepin County (without the first-class city), showing a median assessment ratio of 87.20% (entailing equalization relief).[9] Hennepin County, in contrast, relies on the Department's 2022 9-Month Tax Court Assessment-Sales Ratio study for Commercial/Industrial properties in Brooklyn Park, showing a median ratio of 104.02% (entailing no equalization relief).[10] Below is a chart of each party's respective study:

Nine Month Assessment-Sales Ratio Study[11]	**Median Assessment Sales Ratio**	**Sale Count**
Hennepin County Industrial w/o First Class City	87.20%	59
Brooklyn Park Commercial/Industrial	104.02%	10

We note at the outset that since "[n]o sales ratio study received into evidence shall be conclusive or binding on the court," Minn. Stat. § 278.05, subd. 4, and because neither party offered evidence nor argued that the other study was factually flawed (*i.e.*, not prima facie valid), we understand our task is to determine which study is most applicable to the subject property.

[9] Pet'r's Mem. Law Supp. Mot. Summ. J. 5; Ex. J1.

[10] Resp't's Mem. Supp. Mot. Summ. J. 5-6; Ex. J1.

[11] Ex. J1.

"[T]o state a disparate treatment equal protection or uniformity violation claim, the threshold question is whether the claimant is treated differently from others who are similarly situated, because the equal protection clause does not require the state to treat differently situated people the same." *Odunlade v. City of Minneapolis*, 823 N.W.2d 638, 647 (Minn. 2012). The Minnesota Supreme Court has "routinely rejected equal-protection claims when a party cannot establish that he or she is similarly situated to those whom they contend are being treated differently." *State v. Cox*, 798 N.W.2d 517, 521 (Minn. 2011).

In the present case, we are tasked with ensuring that *similarly situated properties* are taxed uniformly. *See Chambers Self-Storage*, 971 N.W.2d at 75 (noting that statute mandates "the taxpayer must present evidence that allows the court to compare the actual market value and tax assessment of the property in question with the actual market value and tax assessment of *similarly situated properties*." (cleaned up) (emphasis added); *see also* Minn. Const. art. X, § 1 ("Taxes shall be uniform upon the same class of subjects …."). There is no dispute the subject property was an industrial property on the assessment date.[12] Indeed, the County has long classified it as industrial.[13] Thus, we conclude that the Department's 2022 9-Month Tax Court Assessment-Sales Ratio study for industrial properties in Hennepin County (without the first-class city) is most applicable as it compares the most similarly situated properties.

The Department study preferred by Hennepin County concerns commercial and industrial properties for a smaller taxing jurisdiction (Brooklyn Park). It includes, however, commercial properties, which are *differently* situated than strictly industrial properties. Put another way, were we to rely on the County's proposed study, we would be comparing an industrial property to

[12] Ex. J8, at 2; Ex. J9, at 2; Ex. J10, at 3.

[13] Ex. J8, at 2; Ex. J9, at 2; Ex. J10, at 3.

commercial and industrial properties when a valid industrial-only study is available.[14] *See Odunlade*, 823 N.W.2d at 647 ("[T]he equal protection clause does not require the state to treat differently situated people the same.").

As the Department's 9-Month Assessment Sales Ratio Study for industrial properties in Hennepin County (without the first-class city) median sales ratio for 2022 was 87.20%, the measure of equalization relief applicable to the subject is therefore 7.8% (95% -

[14] The County argues its study controls because industrial and commercial property are statutorily the same classification. Resp't's Mem. Supp. Mot. Summ. J. 6 (noting industrial and commercial property share the same 3a classification under Minn. Stat. § 273.13, subd. 24). We agree with the County that industrial and commercial property are both statutorily 3a property; but given no sales ratio studies "shall be conclusive or binding" on this court, Minn. Stat. § 278.05, subd. 4, in conjunction with our mandate to grant relief when similarly situated properties received different treatment, *Chambers Self-Storage*, 971 N.W.2d at 75, we conclude that we must compare the subject property (industrial) to the best available comparison group—other industrial properties.

87.20%). *See* Minn. Stat. § 278.05, subd. 4. We thus multiply the stipulated 2022 market value of $27,000,000 by 92.2% (100% -7.8%) to determine an equalized value of $24,894,000.[15]

IV. HENNEPIN COUNTY'S ARGUMENTS LACK MERIT

Hennepin County advances several arguments in support of their position, none of which we find compelling. First, the County argues case law mandates an "additional hurdle" and a separate "sub-burden" that BCORE failed to meet.[16] In *Chambers Self-Storage*, although the taxpayer failed to present evidence of unequal assessment, the supreme court noted that—although "the burden was not on the County to disprove unequal assessment"—the taxpayer had an

[15] As our recitation of governing law makes plain, a market-value figure for the subject property is a necessary prerequisite to the adjudication of an unequal assessment claim (because assessed value must be compared to market value). Here, although BCORE initially challenged the County's assessed value, the parties eventually stipulated to a market value for the subject property. Joint Stip. ¶¶ 3-4. This is among the accepted ways of establishing a market value to support an unequal assessment claim. *See Chodek v. Cnty. of Otter Tail*, No. 56-CV-13-1038 et al., 2017 WL 6813397, at *7 (Minn. T.C. Dec. 4, 2017) (citing cases in which the petitioner agreed that that assessed value equaled market value and in which the parties stipulated to market value); *cf. KCP Hastings, LLC v. Cnty. of Dakota*, 931 N.W.2d 773, 784-85 (Minn. 2019) (tax court bound by party stipulations).

We are aware that this court has stated that to pursue an unequal assessment claim, "the taxpayer must [first] establish the overvaluation of the subject property and thereby obtain a reduction of its estimated market value to the actual market value determined by the tax court." *See, e.g.*, *Wal-Mart Stores, Inc. v. Cnty. of Washington*, No. 82-CV-18-1593, 2020 WL 4528476, at *4 (Minn. T.C. July 31, 2020); *Bradley v. Cnty. of Hennepin*, No. 27-CV-21-5224, 2024 WL 926421, at *7 n.51 (Minn. T.C. Mar. 4, 2024) (the court stated it "may not address" the equalization claim because the petitioner argued the "property was assessed in excess of market value," a claim that was dismissed). We think that this formulation inaccurately implies: (1) that a taxpayer may not accept an assessed value as market value; (2) that the parties may not stipulate to a market value; or (3) the court may not rely on an affirmed assessed value. Although market value is a necessary component to an unequal assessment claim, the petitioner need not allege and prove overvaluation if other valid means of establishing a market value are available (such as acquiescence or stipulation). To the extent that *Wal-Mart* and other cases imply otherwise, we consider them inaccurate statements of law.

[16] Resp't's Resp. Mem. 2-5 ("[T]he Minnesota Supreme Court has added that the presence of sales ratio[] studies contrary to a petitioner's equalization claim creates 'an additional hurdle for' that petitioner" and "[n]o such efforts have been put forward by Petitioner to meet that sub-burden here.").

additional burden to overcome as the County did present evidence of equal assessment. *Chambers Self-Storage*, 971 N.W.2d at 76. The County's "sub-burden" argument appears to be that BCORE did not dispute the factual accuracy of the County's proffered study.[17] Neither of these burden-related arguments accurately outline the procedural posture here. On the parties' cross-motions for summary judgment, *both* parties presented and advocated for opposite conclusions based on different studies. We do not believe BCORE has any "additional hurdle" or a "sub-burden" as this matter is procedurally different than the cited instances. In any event, BCORE overcame any relevant hurdles by presenting *better* evidence demonstrating unequal assessment. *See supra* Section III.

Next, Hennepin County argues the "methodology of the Minnesota Executive Branch's Department of Revenue" supports its conclusion.[18] We have no reason to doubt—and BCORE did not question—the reliability of the Department's studies. But the reliability of the Department's studies is not at issue here; the question is upon which study to rely. Indeed, there is likely a proper use for each study prepared by the Department. *See Abbott Lab'ys Inc. v. Cnty. of Hennepin*, No. 27-CV-23-4032, 2025 WL 2406130, at *12 (Minn. T.C. Aug. 19, 2025) (determining the commercial/industrial study was most appropriate for a property with both commercial and industrial components).

[17] Resp't's Resp. Mem. 4-5.

[18] Resp't's Mem. Supp. Mot. Summ. J. 7-8.

Next, Hennepin County points to several tax court decisions relying upon commercial and industrial studies (as opposed to either industrial or commercial studies).[19] In response, BCORE points out that the Department did not segregate commercial and industrial property into different studies until 2014.[20] If only combined commercial and industrial studies were previously available, it follows that pre-2013 tax court precedent would rely on combined studies, which does nothing to rebut BCORE's preferred study now that more specific studies are available.

Hennepin County also urges us to rely on its proffered 9-month study, in conjunction with the 12-month study for the same taxing jurisdiction.[21] In addition to these 9-month studies, the Department also prepares 12-month sales ratio studies that include sales only between January and September of the assessment year. This court generally relies most heavily on the Department of Revenue's 9-month, rather than 12-month, sales ratio studies to minimize the possibility of "spearing." "Spearing can occur when the assessor places a value on a piece of property for the January 2 assessment date with knowledge at that time of what the property has recently sold for. With that hindsight, the assessor can place a market value on the property that is virtually 100% accurate based on the actual sale of the property." *Chodek v. Cnty. of Otter Tail*, No. 56-CV-13-1038 et al., 2017 WL 6813397, at *6 (Minn. T.C. Dec. 4, 2017) (citing *Prokop v. Cnty. of Ramsey*,

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[19] Resp't's Mem. Supp. Mot. Summ. J. 10-11 (citing *Rinkel Fam. Ltd. P'ship v. Cnty. of Ramsey*, No. CX-01-6589, 2003 WL 21359576 (Minn. T.C. June 10, 2003); *Augustine Bros. P'ship v. Cnty. of Ramsey*, No. TA-1619, 1989 WL 74298 (Minn. T.C. June 29, 1989); *Kashi Corp. v. Cnty. of Hennepin*, No. 28346, 2002 WL 1732994 (Minn. T.C. July 18, 2002); *Dezurik Corp. v. Cnty. of Stearns*, No. C1-97-1235 et al., 1999 WL 286300 (Minn. T.C. May 5, 1999); *RBF Invs., Inc. v. Cnty. of Hennepin*, No. 27-CV-07-07628, 2009 WL 499101 (Minn. T.C. Feb. 25, 2009); *Kmart Corp. v. Cnty. of Martin*, No. C1-01-201 et al., 2006 WL 771935 (Minn. T.C. Mar. 13, 2006).

[20] Pet'r's Mem. Law Opp'n Resp't's Mot. Summ. J. 4-5 (filed June 3, 2025); Second Decl. Nicolas A. Furia (signed June 3, 2025) ¶¶ 2, 3, Ex. 2, at 114 (showing commercial and industrial aggregation), and Ex. 3, at 125 (showing commercial and industrial separation).

[21] Resp't's Mem. Supp. Mot. Summ. J. 12.

No. TA-1263, 1988 WL 21277, at *3 (Minn. T.C. Feb. 19, 1988)). As we have previously observed, "this special hindsight is not available for sales occurring after January 2nd when the estimated market value has already been determined by the assessor." *Id.* That "special hindsight provided by including sales prior to the assessment date," we noted, "has the effect of artificially raising the assessment/sales ratio if the assessor based his estimated market value on the selling price." *Id.* By using the Department's 9-month study, limited as it is to sales between January and September, we necessarily "include only sales of which the assessor would not have had knowledge at the time of the assessment." *Id.* To prevent the effects of spearing, we decline to bolster the County's proffered 9-month study with its corresponding 12-month study.

Finally, Hennepin County argues we should not rely on BCORE's preferred study because BCORE did not present eCRVs (electronic certificates of real estate value, documents filed around the time of sale to outline sale terms, including price) to support the factual underpinning of BCORE's preferred study.[22] With this argument, the County misunderstands the procedural posture. On the parties' cross-motions for summary judgment, each party has put forth their preferred study as prime facie valid evidence. *See* Minn. Stat. § 278.05, subd. 4 ("The Department of Revenue sales ratio study shall be prima facie evidence of the level of assessment."). Both Rule 56 and statute allows the opposing party to submit evidence of unreliability, which the County declined to do. Minn. R. Civ. P 56.02(d) (allowing a party to dispute facts via affidavit); Minn. Stat. § 278.05, subd. 4 ("evidence of [a study's] reliability or unreliability may be introduced by any party …."). Here, BCORE's preferred study is prima facie valid (like the County's). Any claim that BCORE must independently support its preferred study is incorrect. *See IRC Mankato Heights*

[22] Resp't's Resp. Mem. 5-6 ("In a self-defeating evidentiary exercise, Petitioner has provided no eCRV[]s to foundate the county-wide study it seeks the Tax Court to adopt.").

v. Cnty. of Blue Earth, No. 07-CV-17-1521, 2019 WL 7176733, at *18 (Minn. T.C. Dec. 17, 2019) (rejecting similar extra burden argument and commenting: "Specifically because a Department sales ratio study is 'prima facie evidence of the level of assessment,' [petitioner] did not need to proffer any 'additional evidence' to demonstrate unequal assessment.").

For the forgoing reasons, we agree with BCORE that the subject property was unequally assessed when compared to other industrial properties in Hennepin County (without the first-class city) and thus grant its motion for summary judgment.

J.N.B.H.