

**BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION**

Jedidiah J. Sand,  
Appellant,

v.

Lancaster County Board of Equalization,  
Appellee.

Case No: 19A 0068

Decision and Order Affirming  
County Board of Equalization

Background

1. The Subject Property is an agricultural parcel, with a legal description of: S31 T8 R5 6<sup>th</sup> Principal Meridian, Lot 20 NE & SE NE.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$424,200 for tax year 2019.
3. Jedidiah J. Sand (the Taxpayer) protested this value to the Lancaster County Board of Equalization (the County Board) and requested an assessed value of \$321,000 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$424,200 for tax year 2019.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on March 29, 2021, at the Tax Equalization and Review Commission Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Jedidiah J. Sand was present at the hearing.
8. Tim Sealock (the Appraiser) was present for the County Board.

Applicable Law

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
10. The Commission’s review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
11. 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

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

<sup>2</sup> See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). “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.” *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).

sufficient competent evidence to justify its action.”<sup>3</sup> 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.”<sup>4</sup>

12. 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.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.<sup>7</sup>
15. The Commission’s Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

#### Findings of Fact & Conclusions of Law

16. The Taxpayer stated he purchased this property at a well-publicized public auction for \$331,000 in December 2016.
17. The Taxpayer stated he felt the price an individual is willing to pay for a property is what it is worth and the property should be valued accordingly.
18. The Appraiser stated the sale of the Subject Property was a disqualified sale due to it being an auction, which may have been because of distress or a willingness of the owner to sell at any cost.
19. The Appraiser stated that the referee who lowered the Subject Property’s value at the 2017 County Board of Equalization meetings to roughly 72% of the purchase price was in error and caused dis-equalization among all the other agricultural land parcels. The Appraiser stated that a 2016 sale price would have no bearing on the 2019 valuation and the Appraiser has qualified sales to support the current valuation.
20. “It is true that the purchase price of property may be taken into consideration in determining the actual value thereof for assessment purposes, together with all other relevant elements pertaining to such issue; however, standing alone, it is not conclusive of the actual value of property for assessment purposes. Other matters relevant to the

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<sup>3</sup> *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

<sup>4</sup> *Id.*

<sup>5</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

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

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

<sup>8</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

actual value thereof must be considered in connection with the sale price to determine actual value. Sale price is not synonymous with actual value or fair market value.”<sup>9</sup>

21. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
22. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be affirmed.

## ORDER

### IT IS ORDERED THAT:

1. The Decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2019 is affirmed.
2. The taxable value of the Subject Property for tax year 2019 is: **\$424,200**.
3. This Decision and Order, if no further action is taken, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (Reissue 2018).
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 2019.
7. This Decision and Order is effective on April 9, 2021.

Signed and Sealed: April 9, 2021

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James D. Kuhn, Commissioner

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<sup>9</sup> *Forney v. Box Butte County Bd. of Equalization*, 7 Neb.App. 417, 424, 582 N.W.2d 631, 637 (1998).