

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

SPIRIT OF PEACE CHURCH
Appellant,

CASE NO: 21E 0977

v.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
Appellee.

DECISION AND ORDER
AFFIRMING THE DECISION
OF THE DOUGLAS COUNTY
BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Vehicle is a motor vehicle in Douglas County, vehicle identification number (VIN) 1C6SRFHT2KN821582.
2. Spirit Of Peace Church (the Taxpayer) applied for a motor vehicle tax exemption in tax year 2021.
3. The Douglas County Board of Equalization (the County Board) denied the exemption for tax year 2021.
4. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
5. A Single Commissioner hearing was held on December 1, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
6. Michael Hanus was present at the hearing for the Taxpayer.
7. No one appeared on behalf of the County Board.

II. APPLICABLE LAW

8. The Commission's review of a determination of the County

Board of Equalization is de novo.¹

9. When the Commission considers an appeal of a decision of a county board of equalization, including an appeal of a decision approving or denying an exemption application, there are two burdens of proof.² The first involves a presumption that the board of equalization has faithfully performed its official duties and has acted upon sufficient competent evidence to justify its action.³ 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.⁴
10. “The burden of showing entitlement to a tax exemption is on the applicant.”⁵ “An exemption from taxation is never presumed.”⁶
11. 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.⁷
12. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing

¹ 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, 759 N.W.2d 464, 473 (2009).

² *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, 27 N.W.3d 1, 6 (2025).

³ *Id.*, 320 Neb. at 309, 27 N.W.3d at 6 (quoting *Cain v. Custer Cty. Bd. of Equal.*, 315 Neb. 809, 818, 1 N.W.3d 512, 521 (2024)). See also *City of York v. York Cty. Bd. of Equalization*, 266 Neb. 297, 301, 664 N.W.2d 445, 449 (2003) (citing *Pittman v. Sarpy Cty. Bd. of Equal.*, 258 Neb. 390, 603 N.W.2d 447 (1999)).

⁴ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6. See also *City of York*, 266 Neb. at 301, 664 N.W.2d at 449 (2003). : *id.* (citing *Firethorn Invest. v. Lancaster Cty. Bd. of Equal.*, 261 Neb. 231, 622 N.W.2d 605 (2001); then citing *US Ecology v. Boyd Cty. Bd. of Equal.*, 256 Neb. 7, 588 N.W.2d 575 (1999)).

⁵ *Woodmen of the World Life Ins. Soc’y v. Neb. Dep’t of Revenue*, 299 Neb. 43, 53, 907 N.W.2d 1,9 (2018).

⁶ *Id.*

⁷ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

evidence.⁸

13. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁹
14. All property in the State is subject to property tax unless an exemption is mandated or permitted by the Nebraska Constitution and enabling legislation is adopted by the Legislature.¹⁰ The Nebraska Constitution specifies that property of the state and its governmental subdivisions used for authorized public purposes is exempt from taxation and the Legislature may classify other exempt properties "owned by and used exclusively for agricultural and horticultural societies and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user."¹¹
15. Pursuant to that Constitutional authorization, the Legislature has created exemptions from property taxes.
16. "A motor vehicle tax is imposed on motor vehicles registered for operation upon the highways of this state, except ... Motor vehicles *owned and used exclusively* by an organization or society qualified for a tax exemption provided in subdivision (1)(c) or (d) of section 77-202 if an application for the exemption provided in this subdivision has been approved under subsection (2) of section 60-3,189[.]"¹²
17. For the purposes of the Motor Vehicle Registration Act, including section 60-3,185, "Owner means a person, firm, or corporation which *holds a legal title* of a motor vehicle [.]"¹³

⁸ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6; *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 175 645 N.W.2d 821, 826 (2002).

⁹ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹⁰ Title 350 Neb. Admin. Code ch 40, § 002.01 (07/2013).

¹¹ Neb. Const., art. VIII, §§ 2(1), (2).

¹² Neb. Rev. Stat. § 60-3,185(6) (Reissue 2021) (emphasis added).

¹³ Neb. Rev. Stat. § 60-342 (Reissue 2021) (emphasis added). No other categories of persons deemed an owner by this section apply in this appeal.

18. “Motor vehicles, owned (as defined in the Motor Vehicle Registration Act) and used exclusively by an agricultural or horticultural society, charitable, educational, religious, or cemetery organization or any organization for the exclusive benefit of any charitable, educational, religious, or cemetery organization may be exempt from the motor vehicle tax.”¹⁴
19. “Agency regulations, properly adopted and filed with the Nebraska Secretary of State, have the effect of statutory law.”¹⁵
20. “Statutes exempting property from taxation are to be strictly construed, and the burden of proving the right to exemption is on the claimant.”¹⁶

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

21. The Taxpayer is a nonprofit church corporation formed under the Nebraska Nonprofit Corporation Act.
22. At the hearing, the Taxpayer stated that, in tax year 2021, title to the Subject Vehicle was in both the Taxpayer’s name and Mr. Hanus’s name as indicated on the certificate of title from the Department of Motor Vehicles.
23. Again, “Motor vehicles, *owned* (as defined in the Motor Vehicle Registration Act) *and used exclusively* by an agricultural or horticultural society, charitable, educational, religious, or cemetery organization or any organization for the exclusive benefit of any charitable, educational, religious, or cemetery organization may be exempt from the motor vehicle tax.”¹⁷
24. Although the Taxpayer may be an entity which qualifies for a property tax exemption, that analysis is unnecessary here¹⁸

¹⁴ Title 350 Neb. Admin. Code ch 40, § 010.01 (07/2013).

¹⁵ *Upper Republican Nat. Res. Dist. v. Dundy Cty. Bd. of Equalization*, 300 Neb. 256, 278, 912 N.W.2d 796, 810 (2018).

¹⁶ *Fort Calhoun Baptist Church v. Washington Cty. Bd. of Equal.*, 277 Neb. 25, 30, 759 N.W.2d 475, 480 (2009)(citing *United Way v. Douglas Cty. Bd. of Equal.*, 215 Neb. 1, 337 N.W.2d 103 (1983)).

¹⁷ Title 350 Neb. Admin. Code ch 40, § 010.01 (07/2013) (emphasis added).

¹⁸ See *Acklie v Nebraska Dept. of Rev.*, 313 Neb. 28, 43, 982 N.W.2d 228, 239 (2022) (an appellate body need not engage in analysis that is not necessary to adjudicate the case before it).

because Mr. Hanus is not.¹⁹

25. Because the Subject Vehicle was co-owned by the Taxpayer and Mr. Hanus in tax year 2021, the Subject Vehicle was not owned exclusively by the Taxpayer and does not qualify for tax exempt status in that tax year.²⁰
26. The Taxpayer also presented the Taxpayer's Articles of Incorporation which provide that the Taxpayer's officers and directors are not personally liable for the Taxpayer's debts or obligations. The Taxpayer argued that the Articles of Incorporation therefore support the tax exemption.
27. The mutual rights and obligations of the Taxpayer and its officers and directors are not within the scope of the Commission's authority.²¹
28. 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.
29. 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.

IV. ORDER

IT IS ORDERED THAT:

1. The decision of the County Board of Equalization denying tax-exempt status for the Subject Vehicle for tax year 2021 is affirmed.
2. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
3. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.

¹⁹ See Neb. Rev. Stat. § 77-202(1)(d) (Cum. Supp. 2020).

²⁰ See Neb. Rev. Stat. § 60-3,185(6) (Reissue 2021).

²¹ See Neb. Rev. Stat. § 77-5007 (Reissue 2018).

4. Each party is to bear its own costs in this proceeding.
5. This Decision and Order shall only be applicable to tax year 2021.
6. This Decision and Order is effective on May 20, 2026.

SIGNED AND SEALED: May 20, 2026.

SEAL



James D. Kuhn, Commissioner