

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

MICHAEL KHALILI,
APPELLANT,

CASE NO: 21R 0183

V.

SARPY COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

For the Appellant:

Michael Khalili,

For the Appellee:

Andrea Gosnold-Parker,
Deputy Sarpy County Attorney

This appeal was heard before Commissioners Robert W. Hotz and James D. Kuhn. Commissioner Hotz presided.

I. THE SUBJECT PROPERTY

The Subject Property is a 1.757-acre residential parcel improved with a 3,051 square foot home located at 22452 Ponderosa Road, Gretna, Sarpy County, Nebraska. The legal description and Property Record File (PRF) of the Subject Property is found at Exhibit 4.

II. PROCEDURAL HISTORY

The Sarpy County Assessor (the County Assessor) determined the assessed value of the Subject Property was \$704,398 for tax year 2021.¹ Michael Khalili (the Taxpayer) protested this assessment to the Sarpy County Board of Equalization (the County Board) and requested

¹ Exhibit 1.

a taxable value of \$550,000.² The County Board determined the taxable value of the Subject Property for tax year 2021 was \$704,398.³

The Taxpayer appealed the decision of the County Board to the Tax Equalization and Review Commission (the Commission). A Single Commissioner hearing was held on February 21, 2023, and an Order was issued on March 6, 2023. However, the Taxpayer subsequently made a timely request for rehearing on March 13, 2023, so the Commission issued an Order vacating the March 6, 2023, Order and setting the matter for hearing.⁴

Prior to the hearing, the parties exchanged exhibits and submitted a pre-hearing conference Report, as ordered by the Commission. Exhibits 1-52, and 54 were admitted into evidence. Exhibit 53 was not admitted into evidence.

III. STANDARD OF REVIEW

The Commission's review of the County Board's determination is de novo.⁵ When the Commission considers an appeal of a decision of a county board of equalization there are two burdens of proof.⁶ The first involves a presumption that the board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action.⁷ That presumption remains until there is competent evidence to the contrary

² Exhibit 17:2.

³ Exhibit 1.

⁴ See Case File.

⁵ See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner County 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 County Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).

⁶ *Pinnacle Enters. v. Sarpy Cty. Bd. of Equal.*, 320 Neb. 303, 309, ___N.W.3d. ___ (2025). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus. v. Nuckolls Cty. Bd. of Equal.*, 231 Neb. 653, 654-55, 437 N.W.2d 501, 502 (1989)).

⁷ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___ (quoting *Cain v. Custer Cty. Bd. of Equal.*, 315 Neb. 809, 818, 1 N.W.3d 512, 521 (2024)). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus.*, 231 Neb. at 654-55, 437 N.W.2d at 502).

presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary.⁸

The second burden of proof requires that 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.⁹ The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.¹⁰

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.¹¹ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.¹²

The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.¹³ The County Board need not put on any evidence to support its valuation of the property at issue unless the Taxpayer establishes that the County Board's valuation was unreasonable or arbitrary.¹⁴

In an appeal, the Commission may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based.¹⁵ The Commission may consider all questions necessary to determine taxable value of property as it hears

⁸ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___.

⁹ *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

¹⁰ *Id.*

¹¹ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

¹² *Pinnacle Enters.*, at 309-10, ___ N.W.3d at ___; *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

¹³ Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo County*, 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 County*, 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).

¹⁴ *Wheatland Indus., LLC v. Perkins Cty. Bd. of Equalization*, 304 Neb. 638, 935 N.W.2d 764 (2019) (quoting *Bottomf v. Clay Cty. Bd. of Equal.*, 7 Neb. App. 162, 168, 580 N.W.2d 561, 566 (1998)).

¹⁵ Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

an appeal or cross appeal.¹⁶ The Commission may take notice of judicially cognizable facts, may take notice of general, technical, or scientific facts within its specialized knowledge, and may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.¹⁷ The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁸

IV. RELEVANT LAW

Under Nebraska law,

Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and a willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property the analysis shall include a full description of the physical characteristics of the real property and an identification of the property rights valued.¹⁹

Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach using the guidelines in Neb. Rev. Stat. § 77-1371, (2) income approach, and (3) cost approach.²⁰ Nebraska courts have held that actual value, market value, and fair market value mean exactly the same thing.²¹ Taxable value is the percentage of actual value subject to taxation as directed by Neb. Rev. Stat. § 77-201 and has the same meaning as assessed value.²² All real property in

¹⁶ *Id.*

¹⁷ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

¹⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹⁹ Neb. Rev. Stat. § 77-112 (Reissue 2018).

²⁰ *Id.*

²¹ *Omaha Country Club*, 11 Neb. App. at 180, 645 N.W.2d at 829.

²² Neb. Rev. Stat. § 77-131 (Reissue 2018).

Nebraska subject to taxation shall be assessed as of January 1.²³ All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.²⁴

Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by the Nebraska Constitution.²⁵ Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value.²⁶ 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.²⁷ Uniformity requires that whatever methods are used to determine actual or taxable value for various classifications of real property that the results be correlated to show uniformity.²⁸ Taxpayers are entitled to have their property assessed uniformly and proportionately, even though the result may be that it is assessed at less than the actual value.²⁹ If taxable values are to be equalized it is necessary for a Taxpayer to establish by clear and convincing evidence that the valuation placed on the property when compared with valuations placed on other similar properties is grossly excessive and is the result of systematic exercise of intentional will or failure of plain legal duty, and not mere errors of judgment.³⁰ There

²³ See Neb. Rev. Stat. § 77-1301(1) (Laws 2019, LB512, § 14, eff. May 30, 2019).

²⁴ Neb. Rev. Stat. § 77-201(1) (Reissue 2018).

²⁵ Neb. Const., art. VIII, § 1.

²⁶ *Lancaster Cty. Bd. of Equalization v. Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (Syllabus by the Court); see also *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).

²⁷ *Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (Syllabus by the Court); see also *MAPCO*, 238 Neb. 565, 471 N.W.2d 734 (1991); *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb. App. 582, 597 N.W.2d 623 (1999).

²⁸ *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 411 N.W.2d 35 (1987).

²⁹ *Equitable Life v. Lincoln County Bd. of Equal.*, 229 Neb. 60, 425 N.W.2d 320 (1988); *Fremont Plaza v. Dodge Cty. Bd. of Equal.*, 225 Neb. 303, 405 N.W.2d 555 (1987).

³⁰ *Pinnacle Enters.*, 320 Neb. at 309–10, ___ N.W.2d at ___ (quoting *Moser*, 312 Neb. at 767, 980 N.W.2d at 619). See also *Newman v. County of Dawson*, 167 Neb. 666, 670, 94 N.W.2d 47, 49-50 (1959) (citations omitted).

must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.³¹

V. FINDINGS OF FACT

A. Summary of the Evidence

1. Testimony of Michael Khalili

Michael Khalili testified the Subject Property residence was built in 2019. He asserted that since the tax year 2020 assessment was \$550,000, an increase to an assessment of \$704,398 was excessive.

Khalili provided property record files for eight properties he asserted were comparable to the Subject Property and that had incurred assessment increases from tax year 2020 to tax year 2021 at a much lower percentage than the Subject Property incurred.³² He also provided a spreadsheet illustrating numerous comparisons he was highlighting.³³ The property Khalili pointed to as being the most comparable to the Subject Property was at 22125 Copper Ridge Road.

2. Neighborhoods of the Subject Property and Comparable Properties

The record and testimony indicate that none of the properties offered by Khalili as comparables were located in the same “neighborhood” as the Subject Property, as designated by the County Assessor.³⁴ The Subject Property was located in neighborhood “GEW.”³⁵ All of the comparable properties offered by Khalili were located in neighborhood “GCRH.”³⁶

³¹ *Moser*, 312 Neb. at 775, 980 N.W.2d at 624) (quoting *Newman*, 167 Neb. at 672, 94 N.W.2d at 50).

³² Exhibits 5 to 12.

³³ Exhibit 3.

³⁴ The two neighborhoods were divided by 224th Street. Neighborhood GEW was entirely West of 224th Street and neighborhood GCRH was entirely East of 224th Street. The GCRH neighborhood was commonly known as Copper Ridge.

³⁵ Exhibit 4:1.

³⁶ Exhibits 5:1, 6:1, 7:1, 8:1, 9:1, 10:1, 11:1, and 12:1.

3. Economic Depreciation

The GCRH properties were all assigned an economic depreciation of -3%.³⁷ The Subject Property, in neighborhood GEW, was assigned an economic depreciation of -7%. When using the cost approach, economic depreciation is deducted from the total replacement cost new. When economic depreciation is a negative percentage, that amount is added to the Total Replacement Cost New. Therefore, the reason the Subject Property had more negative economic depreciation added to its total replacement cost new was because it was located in a distinctly different neighborhood from all of the comparable properties.

4. Physical Depreciation/Year Built

On the other hand, the Subject Property had a smaller percentage of physical depreciation added to its Total Replacement Cost New because of the lesser age of the improvements of the Subject Property as compared to the improvements of all of the comparable properties. As of the effective date of January 1, 2021, the Subject Property improvement was less than two years old, whereas the improvements of the comparable properties ranged in age from four to 15 years.

5. Total Depreciation

The total depreciation of the Subject Property and each of the comparable properties is the combination of all forms of depreciation relating to the particular property. The total depreciation percentages, as well as some of the other relevant cost approach factors, are shown in the table below.

³⁷ “Economic depreciation results from external economic forces which depress the value of the property.” *Wheatland Indus.*, 304 Neb. at 647, 935 N.W.2d at 771 (quoting *First Nat. Bank v. Otoe Cty.*, 233 Neb. 412, 414, 445 N.W.2d 880, 882 (1989)).

Property	Neighborhood Designation	Year Built ³⁸	Physical Depreciation ³⁹	Economic Depreciation ⁴⁰	Total Depreciation ⁴¹
Subject Property	GEW	2019	1%	-7%	-6%
22125 Copper Ridge Road	GCRH	2015	6%	-3%	3%
12018 S. 224 th St.	GCRH	2014	6%	-3%	4%
12229 Bobwhite Road	GCRH	2013	8%	-3%	5%
12221 Bobwhite Road	GCRH	2017	4%	-3%	1%
12021 S. 223 rd Circle	GCRH	2008	12%	-3%	9%
12125 Bobwhite Road	GCRH	2006	13%	-3%	10%
11909 S. 222 nd Circle	GCRH	2013	8%	-3%	5%
22313 Ponderosa Road	GCRH	2017	4%	-3%	1%

³⁸ Exhibits 5:2, 6:2, 7:2, 8:2, 9:2, 10:2, 11:2, and 12:2.

³⁹ Exhibits 5:3, 6:3, 7:3, 8:3, 9:3, 10:3, 11:3, and 12:3.

⁴⁰ *Id.*

⁴¹ *Id.*

6. Inspection of the Subject Property

At the time of the Single Commissioner Hearing on February 21, 2023, no internal inspection by the County Assessor had been performed for the Subject Property. However, after the Single Commissioner Order was vacated and the matter was set for hearing before a panel of Commissioners, an internal inspection was completed by the County Assessor.

7. Testimony of Martin Becker

Martin Becker testified on behalf of the County Board. Becker had been an employee of the County Assessor for nine years and was previously employed in county assessors' offices for approximately 12 years. Becker held the State Assessor Certificate.

Becker testified he completed the internal inspection of the Subject Property in May 2021. As a result of that inspection, Becker noted some corrections to be made to the property record card and some changes were also warranted to what was later admitted into evidence as Exhibit 16.

Becker testified that since the Subject Property was almost new (built in 2019) the Cost Approach was used to determine its value.⁴² Becker utilized a Residential Data Sheet, Cost Approach Data form to determine the value of the Subject Property.⁴³ He testified that after making corrections based upon his inspection, the corrected value was \$706,156, which was actually higher than it was at the time of the initial assessment at \$704,398.

⁴² "The cost approach is more reliable for newer structures of standard materials, design, and workmanship." International Association of Assessing Officers, *Standard on Mass Appraisal of Real Property* § 4.2 (January 2008). The cost approach derives a value indication "By estimating the current cost to construct a reproduction of (or replacement for) the existing structure, including an entrepreneurial incentive, deducting depreciation from the total cost, and adding the estimated land value." Appraisal Institute, *The Dictionary of Real Estate Appraisal* 67 ("Cost Approach") (4th ed. 2002).

⁴³ Exhibit 20:3.

B. Analysis

A County Assessor may use the Cost Approach to determine the actual value of a Subject Property.⁴⁴ The evidence in this appeal indicates the cost approach utilized by the County Assessor was appropriate and reasonable. As of the effective date of January 1, 2021, the improvement on the Subject Property was less than two years old. As noted above, the cost approach is a reliable method for the assessment of newer properties.

We also find that based upon the evidence received, the depreciation adjustments to the Total Replacement Cost New were appropriate and reasonable. We see no basis for a finding that the Subject Property was not assessed consistent with the principles of the Uniformity Clause of the Nebraska Constitution.⁴⁵

Finally, Khalili's assertion that the percentage increase in the assessment of the Subject Property was excessive and that it exceeded the percentage increases of his alleged comparables is without merit. Actual value may be determined "using professionally accepted mass appraisal methods, including, but not limited to," the sales approach, the income approach, and the cost approach.⁴⁶ Assessment and appraisal standards do not recognize any method that takes into account the percentage assessment increase from the prior tax year. Further, Nebraska law does not prescribe any assessment or appraisal standard that takes into account the percentage assessment increase from the prior year.⁴⁷

VI. FINDINGS OF FACT

The Commission finds that there is not competent evidence to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its determination. The

⁴⁴ Neb. Rev. Stat. § 77-112 (Reissue 2018).

⁴⁵ Neb. Const., art. VIII, § 1.

⁴⁶ Neb. Rev. Stat. § 77-112 (Reissue 2018).

⁴⁷ See *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 613, 428 N.W.2d 201, 206 (1988).

Commission also finds that there is not clear and convincing evidence that the County Board's decision was arbitrary or unreasonable.

For the reasons set forth above, the determination of the County Board should be affirmed.

VII. ORDER

IT IS ORDERED THAT:

1. The decision of the Sarpy County Board of Equalization determining the value of the Subject Property for tax year 2021 is affirmed.
2. The assessed value of the Subject Property for tax year 2021 is:

Land	\$170,000
<u>Improvements</u>	<u>\$534,398</u>
Total	\$704,398

3. This Decision and Order, if no appeal is timely filed, shall be certified to the Sarpy County Treasurer and the Sarpy 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 2021.

7. This Decision and Order is effective for purposes of appeal on December 10, 2025.⁴⁸

Signed and Sealed: December 10, 2025

SEAL



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner

⁴⁸ Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. § 77-5019 (Reissue 2018) and other provisions of Nebraska Statutes and Court Rules.