

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

CRYSTAL J. HANKINS,
APPELLANT,

CASE NO: 21R 0461

V.

DECISION AND ORDER
REVERSING THE DECISION
OF THE CASS COUNTY
BOARD OF EQUALIZATION

CASS COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

For the Appellant:
Crystal J. Hankins,
Pro Se

For the Appellee:
Christopher Perrone,
Cass County Attorney

This appeal was heard before Commissioners Steven Keetle and James Kuhn.

I. THE SUBJECT PROPERTY

The Subject Property is a residential parcel located in Cass County, Nebraska. The legal description and Property Record File (PRF) of the Subject Property is found at Exhibit 4.

II. PROCEDURAL HISTORY

The Cass County Assessor determined that the assessed value of the Subject Property was \$283,730 for tax year 2021.¹ Crystal J. Hankins (the Taxpayer) protested this assessment to the Cass County Board of Equalization (the County Board) and requested a taxable value of \$261,000.² The County Board determined that the taxable

¹ Exhibit 1.

² *Id.*

value of the Subject Property for tax year 2021 was \$321,120.³

The Taxpayer appealed the decision of the County Board to the Tax Equalization and Review Commission (the Commission). A single commissioner hearing was held, and a decision was issued on June 9, 2023. A rehearing was requested on July 7, 2023, and the June 9, 2023, Single Commissioner Decision was vacated on July 10, 2023. The Commission held a hearing on November 1, 2023. Prior to the hearing, the County Board exchanged exhibits. Exhibits 1-19 were admitted into evidence by stipulation, and pages 1 through 8 of Exhibit 21 were offered at the hearing and admitted into evidence. Exhibit 20, 22, and pages 9-15 of Exhibit 21 were not admitted into evidence.

III. STANDARD OF REVIEW

The Commission's review of the County Board's determination is de novo.⁴ When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.⁵ 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.⁶ 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.⁷

³ *Id.*

⁴ 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).

⁵ *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, 27 N.W.3d 1, 6 (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)).

⁶ *Pinnacle Enters.*, 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 *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).

⁷ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.

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.⁸ The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.⁹

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.¹⁰ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.¹¹

The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.¹² 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.¹³

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.¹⁴ The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.¹⁵ The Commission may take notice of

⁸ *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

⁹ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

¹⁰ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

¹¹ *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, 645 N.W.2d 821 (2002).

¹² 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) *abrogated on other grounds by Potts v. Bd. of Equalization*, 213 Neb. 37, 328 N.W.2d 175 (1982)); *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).

¹³ *Wheatland Indus., LLC v. Perkins Cty. Bd. of Equalization*, 304 Neb. 638, 935 N.W.2d 764 (2019) (quoting *Botdorf v. Clay Cty. Bd. of Equal.*, 7 Neb. App. 162, 168, 580 N.W.2d 561, 566 (1998)).

¹⁴ Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

¹⁵ *Id.*

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.¹⁶ The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁷

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.¹⁸

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.¹⁹ Nebraska courts have held that actual value, market value, and fair market value mean exactly the same thing.²⁰ 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.²¹ All real property in

¹⁶ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

¹⁷ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹⁸ Neb. Rev. Stat. § 77-112 (Reissue 2018).

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

²⁰ *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 180, 645 N.W.2d 821, 829 (2002).

²¹ Neb. Rev. Stat. § 77-131 (Reissue 2018).

Nebraska subject to taxation shall be assessed as of January 1.²² All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.²³

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.²⁴ Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value.²⁵ 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.²⁶ 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.²⁷ 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.²⁸ 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.²⁹ There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.³⁰

²² See Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

²³ Neb. Rev. Stat. § 77-201(1) (Reissue 2018).

²⁴ Neb. Const., art. VIII, § 1.

²⁵ *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).

²⁶ *Id.* See also *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb. App. 582, 597 N.W.2d 623 (1999).

²⁷ *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 411 N.W.2d 35 (1987).

²⁸ *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).

²⁹ *Newman v. County of Dawson*, 167 Neb. 666, 670, 94 N.W.2d 47, 49-50 (1959) (citations omitted).

³⁰ *Id.* at 673, 94 N.W.2d at 50.

V. FINDINGS OF FACT AND ANALYSIS

A. Summary of the Evidence

Crystal Hankins testified that she had twenty-five years of experience as an appraiser and had worked as a referee for the Douglas County Board of Equalization. Hankins testified that she did a search of properties built from 1995 to 2010 in Cass County with square footage above 1,500 square feet that sold within the same two-year sales period that County would use for 2021 assessments. Hankins testified that she performed an appraisal of the Subject Property. The County Board presented a copy of an appraisal presented at the protest hearing,³¹ however Hankins testified that she revised her appraisal. The revised appraisal report was not admitted into evidence. Hankins discussed recent sales of properties in two Sanitary and Improvement Districts (SIDs) in the County that she felt were similar to the Subject Property's SID. Hankins testified that she would have sold the Subject Property for \$261,000, more specifically that she would have asked for \$265,000 but settled for \$260,000.

Hankins answered questions about the square footage of the Subject Property and the dates of changes to this characteristic in the County's record and offered her opinions on the procedures of the County Assessor's office.

The County Board presented a written Assessor's information sheet explaining corrections to the characteristics of the Subject Property based on information presented at the County Board hearing.³² The County Board further presented a Property Record File (PRF) showing that the assessed value of the Subject Property following the proposed adjustments would be \$299,665, with a land component value of \$32,000 and an improvement component value of \$267,655.³³

³¹ Exhibit 3:2-5.

³² Exhibit: 10:3.

³³ Exhibit 5.

B. Analysis

The Taxpayer argued that mass appraisal, such as is used by the County Assessor (and in this case the County Board as well), is not as accurate as an appraisal performed by a certified appraiser. Ms. Hankins testified that she is a certified appraiser and performed an appraisal to determine the value of the Subject Property, however that appraisal was not received into the record before the Commission. Ms. Hankins offered some testimony regarding how she determined comparable sales and adjustments to those sales, however the specific information regarding those adjustments were not in evidence before the Commission.

The County Board presented the PRF for the properties that Ms. Hankins used in the appraisal presented at the County Board hearing,³⁴ as well as a PRF showing the initial valuation by the County Assessor,³⁵ the valuation as determined by the County Board,³⁶ and the revised valuation by the County Assessor with the corrected characteristics of the Subject Property.³⁷ This information shows that the County Board applied the Assessor's valuation model to these properties, including the Subject Property, uniformly and proportionally. The six sales show that the assessed values are supported by the sales prices.

The County Board argued that the Commission should question the accuracy of an appraisal of a property performed by the owner of that property. Ms. Hankins testified that her personal interest in the valuation of the Subject Property did not influence her research into comparable properties or her opinion of value, but the Commission has concerns about this personal interest in the outcome of the appraisal.

It is clear that the Commission can consider Ms. Hankins testimony both as the owner of the Subject Property and as an appraiser. "A

³⁴ Exhibit 11; Exhibit 12; Exhibit 13; Exhibit 14; Exhibit 15; Exhibit 16.

³⁵ Exhibit 4.

³⁶ Exhibit 5.

³⁷ Exhibit 10.

resident owner who is familiar with his or her property and knows its worth is permitted to testify as to its value without further foundation; this principle rests upon the owner's familiarity with the property's characteristics, its actual and potential uses, and the owner's experience in dealing with it.”³⁸ Ms. Hankins testimony regarding her opinion of value repeatedly referred to her experience and knowledge as an appraiser. “It is well established that the value of the opinion of an expert witness is no stronger than the facts upon which it is based.”³⁹

Ms. Hankins testified that based on information she received after the County Board hearing she revised her appraisal report for the Subject Property, that revised appraisal report is not before the Commission. Ms. Hankins testified about adjustments that she would make to the sales presented but the basis of these adjustments was not clear from her testimony. “When an *independent* appraiser using professionally approved methods of mass appraisal certifies that an appraisal was performed according to professional standards, the appraisal is considered competent evidence under Nebraska law.”⁴⁰ Additionally, the Ethics Rule in the Uniform Standards of Professional Appraisal Practices (USPAP) states: An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.⁴¹ It further states that an appraiser “must not advocate the cause or interest of any party or issue[.]”⁴²

³⁸ *Cain v. Custer Cty. Bd. of Equalization*, 298 Neb. 834, 850, 906 N.W.2d 285, 298 (2018) (citing *Darnall Ranch v. Banner Cty. Bd. of Equal.*, 276 Neb. 296, 753 N.W.2d 819 (2008), then citing *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 753 N.W.2d 802 (2008)).

³⁹ *Bottorf v. Clay Cty. Bd. Of Equal.*, 7 Neb. App. at 167, 580 N.W.2d at 565. See *McArthur v. Papio-Missouri River NRD*, 250 Neb. 96, 547 N.W.2d 716 (1996); *Lindsay Mfg. Co. v. Universal Surety Co.*, 246 Neb. 495, 519 N.W.2d 530 (1994).

⁴⁰ *Lincoln Cty. Bd. of Equalization v. W. Tabor Ranch Apartments, LLC*, 314 Neb. 582, 595, 991 N.W.2d 889 (2023) (citing *JQH La Vista Conf. Ctr. v. Sarpy Cty. Bd. of Equal.*, 285 Neb. 120, 825 N.W.2d 447 (2013)); then citing *Cain v. Custer Cty.*, 298 Neb. 834, 906 N.W.2d 285) (emphasis added).

⁴¹ Uniform Standards of Professional Appraisal Practice, 2020-21 Edition, at 7.

⁴² *Id.*

The weight to be given to expert testimony, and the credibility of witnesses, is a fact question to be decided by the fact finder at trial.⁴³ The difference between the value of the Subject Property as asserted by the Taxpayer versus the value as determined by the County Board comes down to the adjustments made to the sales by the Taxpayer as part of her appraisal process. The lack of information regarding the basis of these proposed adjustments as well as the Commissions concerns about an appraiser performing and appraisal of their own property and then advocating for that valuation causes the Commission to give little weight to the testimony of Ms. Hankins.

However, in light of the County Board's written Assessor's information sheet and PRF, and the corrections contained therein,⁴⁴ we are persuaded that the 2021 taxable value of the Subject Property should be \$299,665, with a land component value of \$32,000 and an improvement component value of \$267,655.⁴⁵

VI. CONCLUSION

The Commission finds that there is competent evidence to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its determination. The Commission also finds that there is clear and convincing evidence that the County Board's decision was arbitrary or unreasonable.

For all of the reasons set forth above, the determination of the County Board is vacated and reversed.

VII. ORDER

IT IS ORDERED THAT:

1. The decision of the Cass County Board of Equalization determining the value of the Subject Property for tax year 2021 is vacated and reversed.

⁴³ *Cabela's v. Cheyenne Cty.*, 8 Neb. App. at 596-97, 597 N.W.2d at 635 (citing *Coffey v. Mann*, 7 Neb. App. 805, 585 N.W.2d 518 (1998)).

⁴⁴ Exhibit: 10:3.

⁴⁵ Exhibit 5; Exhibit 10:1-2.

2. The assessed value of the Subject Property for tax year 2021 is:

Land	\$ 32,000
<u>Improvements</u>	<u>\$267,655</u>
Total	\$299,655

3. This Decision and Order, if no appeal is timely filed, shall be certified to the Cass County Treasurer and the Cass 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 May 20, 2026.⁴⁶

SIGNED AND SEALED: May 20, 2026.

SEAL



Steven A. Keetle, Commissioner

James D. Kuhn, Commissioner

⁴⁶ 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.