

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

CHEEMA INVESTMENTS
LLC,
APPELLANT,

V.

DAWES COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

CASE NO: 22C 0223

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

For the Appellant:

Kuldip Singh,
Pro Se

For the Appellee:

Kent A. Hadenfeldt,
Simmons Olsen Law Firm,
Special Dawes County Attorney

This appeal was heard before Commissioners Hotz and Kuhn.
Commissioner Hotz presided.

I. THE SUBJECT PROPERTY

The Subject Property is a 45-room hotel located in the city of Chadron, Dawes County, Nebraska. The legal description and Property Record File (PRF) of the Subject Property is found at Exhibit 2.

II. PROCEDURAL HISTORY

The Dawes County Assessor (County Assessor) determined the assessed value of the Subject Property was \$1,829,920¹ for tax year 2022. Cheema Investments, LLC (the Taxpayer) protested this assessment to the Dawes County Board of Equalization (the County

¹ Exhibit 1.

Board) and requested a taxable value of \$774,185.² The County Board determined the taxable value of the Subject Property for tax year 2022 was \$1,829,920.³

The Taxpayer appealed the decision of the County Board to the Tax Equalization and Review Commission (the Commission). Prior to the hearing, the parties exchanged exhibits and submitted a pre-hearing conference report, as ordered by the Commission. Exhibits 1 through 12 were admitted into evidence. Exhibits 13 and 14 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

The second burden of proof requires that from that point forward, the reasonableness of the valuation fixed by the board of equalization

² *Id.* At the hearing, the Taxpayer gave an opinion of value of \$625,000.

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.

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 judicially cognizable facts, may take notice of general, technical, or scientific facts within its specialized knowledge, and may utilize its

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 *Bottorf 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.*

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 Nebraska subject to taxation shall be assessed as of January 1.²² All taxable real property, with the exception of agricultural land and

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 *Id.*

²⁰ *Omaha Country Club*, 11 Neb. App. at 180, 645 N.W.2d at 829.

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

²² See Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

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

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.*; *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.*, 167 Neb. at 673, 94 N.W.2d at 50.

V. FINDINGS OF FACT AND ANALYSIS

A. Testimony of Kuldip Singh

Kuldip Singh is a member of Cheema Investments, LLC. Singh testified the Subject Property was acquired by the Taxpayer in 2019 in a foreclosure sale for \$1,000,000. He further testified the Subject Property should have been assessed using the income capitalization approach because it is an income-producing property. Singh also stated the Subject Property had deferred maintenance issues that related to the circumstances of the foreclosure. Singh indicated the roof of the Subject Property was in a deteriorated condition as of the January 1, 2022, effective date. Singh testified he had received a bid of \$320,000 to repair the roof. Singh also stated the conference room, which constituted approximately one-third of the property, had been unusable for several years due to its poor condition.

Singh had submitted a profit and loss statement for calendar years 2021 and 2022.³¹ He asserted that hotels with particular franchise branding typically sell for three times the yearly revenue, whereas independent hotels sell for twice the yearly revenue. Singh's opinion of value was based on various hotel business trade magazines he had read and which, he stated, suggest these valuation methods. No such magazines were submitted into evidence and Mr. Singh did not specify how, if at all, such analysis would apply to the Subject Property. Singh further stated the Subject Property should not be assessed at a value greater than these ratios. Singh ultimately opined the market value of the Subject Property to be \$625,000 for tax year 2022.

B. Testimony of Darrell Stanard

Darrell Stanard is a Licensed Appraiser with thirty years' experience. Stanard and his appraisal company were hired by the

³¹ Exhibit 11.

Dawes County Assessor to assist in appraising several properties, including the Subject Property.

Stanard testified his team visited the Subject Property during 2021 and remeasured, took new photographs, confirmed the rentable room count, room rates, and whether any deferred maintenance issues were present on the Subject Property. He stated there were deferred maintenance issues regarding air conditioning units. Stanard did not recall whether he inspected the conference room area.

Once Stanard had completed his inspections, he submitted his data to the County Assessor for use in assessment. Stanard also testified he considered all three approaches to value, concluding the cost approach was the most applicable to the Subject Property. He stated the Marshall & Swift depreciation tables were used to arrive at the depreciation figures applied to the Subject Property. Stanard ultimately agreed with the 2022 assessed value for the Subject Property.³²

C. Testimony of Lindy Coleman

Lindy Coleman had been the Dawes County Assessor for seventeen years and held the State Assessor Certificate. Coleman stated she was directly involved in the assessment of the Subject Property for tax year 2022 and had previously inspected the Subject Property sometime during 2021. Coleman noted the conference room contained storage boxes during the inspection.

Coleman testified she used a computer-assisted mass appraisal (CAMA) system in valuing the Subject Property using the cost

³² Stanard is a licensed residential appraiser, credentialed to appraise residential property. See, Neb. Rev. Stat. § 76-2213. He is not a certified general appraiser, who would be credentialed to appraise commercial property. See, Neb. Rev. Stat. § 76-2207.20. A licensed residential appraiser doing assessment work for a County Assessor is exempted from the requirements of the Real Property Appraiser Act. Neb. Rev. Stat. § 76-2221(9). However, a licensed residential appraiser working for a County Board may be in violation of the Real Property Appraiser Act if an opinion of value is given outside the scope of the appraiser's credentials. Neb. Rev. Stat. § 76-2201, *et seq.* In this case, it is not clear that Stanard was credentialed to give an opinion of value of the Subject Property, which was a commercial property.

approach to value. Coleman stated she did not assign any functional depreciation for the Subject Property as she believed none was warranted. She also stated no adjustments or overrides were put into the CAMA system as none were warranted. Coleman noted the Subject Property had been assigned a 42% physical/functional depreciation but did not know if comparable properties were assigned a similar depreciation figure.

Coleman stated she used the cost approach in valuing similar properties throughout Dawes County, and therefore the Subject Property's value was equalized with other properties in the jurisdiction.

VI. ANALYSIS

“In general, for income-producing properties, the income approach is the preferred valuation approach when reliable income and expense data are available, along with well-supported income multipliers, overall rates, and required rates of return on investment.”³³ Here, Coleman testified she did not gather income and expense data herself, instead hiring Stanard's firm to gather such information. Stanard was unclear in his testimony as to whether such adequate reliable income and expense data was available for Dawes County. Because it is difficult for an assessor to evaluate management quality, typical income and expense figures are deemed to reflect typical management. Income flows are averaged across comparable businesses to reflect typical management and smoothed or stabilized across years to eliminate random fluctuations. In mass appraisal, expenses frequently are expressed as percentages instead of fixed amounts. They may also be analyzed and expressed on a per-unit basis.³⁴

Although the Taxpayer argued an income approach should have been used to value the Subject Property, and income and expense data was provided, there was no testimony or other evidence to indicate the

³³ International Association of Assessing Officers, *Standard on Mass Appraisal of Real Property* § 4.4 (July 2017).

³⁴ International Association of Assessing Officers, *Fundamentals of Mass Appraisal* 175 (2011).

Subject Property's actual figures represented typical income and expense data for comparable businesses.

Further, Singh's opinion of value of \$625,000 is not persuasive. A corporate officer may be competent to offer an opinion of value, provided the officer is familiar with the property and has knowledge of general values in the vicinity.³⁵ Singh was familiar with the Subject Property as the business owner, but he presented no information indicating any knowledge of general values in the vicinity. Rather, he testified he had read certain trade magazines for the hospitality industry which, he asserted, contained statements that franchise hotels sell for three times their yearly revenue while independent hotels sell for twice their yearly revenue. These trade magazines were not entered into evidence. Moreover, Singh did not explain how these trade magazines are in any way relevant to the vicinity of Dawes County or surrounding areas. Singh provided no further basis for the valuation model he described. Therefore, his opinion of value is not persuasive evidence.

Instead, Nebraska law allows an assessor to value properties using a professionally accepted mass appraisal method, including the cost approach.³⁶ Coleman selected this approach to value the Subject Property. The application of this approach to the 24-year-old Subject Property is not without concern, as the "cost approach is more reliable for newer structures of standard materials, design, and workmanship."³⁷ The Taxpayer raised the issue regarding the condition of the conference room which may have a bearing on depreciation, but he did not quantify that issue. The Property Record File (PRF) for the Subject Property shows a condition rating of "average" was applied to the entire property. However, the Taxpayer

³⁵ *Darnall Ranch, Inc. v. Banner Cty. Bd. of Equalization*, 276 Neb. 296, 309-10, 753 N.W.2d 819, 830 (2008) (citations omitted).

³⁶ Neb. Rev. Stat. § 77-112 (Reissue 2018).

³⁷ International Association of Assessing Officers, *Standard on Mass Appraisal of Real Property* § 4.2 (July 2017).

did not provide evidence to demonstrate the “average” condition rating was arbitrary or unreasonable.

The Taxpayer did not demonstrate any errors in the building’s square footage measurements or depreciation figures. Accordingly, the Commission finds the County Board’s reliance on the Assessor’s use of the cost approach to value the Subject Property was not arbitrary or unreasonable.

VII. CONCLUSION

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 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.

VIII. ORDER

IT IS ORDERED THAT:

1. The decision of the Dawes County Board of Equalization determining the taxable value of the Subject Property for tax year 2022 is affirmed.
2. The taxable value of the Subject Property for tax year 2022 is:

Land	\$ 74,185
<u>Improvements</u>	<u>\$ 1,755,735</u>
Total	\$ 1,829,920

3. This Decision and Order, if no appeal is timely filed, shall be certified to the Dawes County Treasurer and the Dawes 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 2022.
7. This Decision and Order is effective for purposes of appeal on June 2, 2026.³⁸

SIGNED AND SEALED: June 2, 2026.

SEAL



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner

³⁸ 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.