

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

SPIRIT OF PEACE CHURCH  
INC.,  
APPELLANT,

V.

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

CASE NO: 22E 0957

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

**I. BACKGROUND**

1. The Subject Property is a motor vehicle registered in Douglas County for operation on the highways of this state.
2. Spirit of Peace Church Inc. (the Taxpayer) applied for an exemption from motor vehicle taxes in August of 2022,
3. The Douglas County Treasurer (the County Treasurer) recommended that the Application for Exemption from Motor Vehicle Taxes be denied for tax year 2022.
4. Spirit of Peace Church Inc. (the Taxpayer) protested this exemption determination to the Douglas County Board of Equalization (the County Board).
5. The County Board determined that the Application for Exemption from Motor Vehicle Taxes be denied for tax year 2022.
6. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
7. A Single Commissioner hearing was held on December 22, 2023, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.

8. Michael Hanus was present at the hearing for the Taxpayer.
9. Jimmie L Pinkham, III, Deputy Douglas County Attorney, was present for the County Board.

## II. APPLICABLE LAW

10. A motor vehicle tax is imposed on motor vehicles registered for operation upon the highways of this state.<sup>1</sup>
11. Motor vehicles owned and used exclusively by an organization or society qualified for tax exemption provided in subdivision (1)(c) or (d) of section 77-202 if an application for the exemption has been approved under subsection (2) of section 60-3,189 are exempt from the motor vehicle tax.<sup>2</sup>
12. The county board of equalization shall approve or deny the exemption on the basis of law and of rules and regulations adopted and promulgated by the Tax Commissioner.<sup>3</sup>
13. The rules and regulations adopted and promulgated by the Tax Commissioner state that the owner of a motor vehicle is as defined in the Motor Vehicle Registration Act.<sup>4</sup>
14. The Motor Vehicle Registration Act defines owner as a person, firm, or corporation which holds a legal title of a motor vehicle or trailer.<sup>5</sup>
15. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>6</sup>

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<sup>1</sup> Neb. Rev. Stat § 60-3,185 (Reissue 2021)

<sup>2</sup> Neb. Rev. Stat § 60-3,185(6) (Reissue 2021)

<sup>3</sup> Neb. Rev. Stat § 60-3,189(2) (Reissue 2021)

<sup>4</sup> Title 350 Neb. Admin. Code ch 40 § 010.01 (7/2013)

<sup>5</sup> Neb. Rev. Stat. § 60-342 (Reissue 2021)

<sup>6</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, 759 N.W.2d 464, 473 (2009).

16. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>7</sup>
17. 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.<sup>8</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.<sup>9</sup>
18. Secondly, 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>10</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>11</sup>
19. 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.<sup>12</sup> 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.<sup>13</sup>
20. The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>14</sup>

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<sup>7</sup> *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 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)).

<sup>8</sup> *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).

<sup>9</sup> *Pinnacle Enters.*, 320 Neb. at 309, \_\_\_ N.W.3d at \_\_\_.

<sup>10</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>11</sup> *Pinnacle Enters.*, 320 Neb. at 309, \_\_\_ N.W.3d at \_\_\_; *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

<sup>12</sup> Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

<sup>13</sup> Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

<sup>14</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

21. “Statutes exempting property from taxation are to be strictly construed, and the burden of proving the right to exemption is on the claimant”.<sup>15</sup>
22. Exclusive use means the primary or dominant use of property, as opposed to incidental use.<sup>16</sup>
23. The exclusive use of the property is what determines the exempt status.<sup>17</sup>
24. Further, a property owner's exemption from federal income taxation does not determine whether the owner's property is tax exempt under state law.<sup>18</sup>
25. There are two overriding factors Courts consider when a request for an exemption is before them. The first is that the property tax burden is necessarily shifted from the beneficiary of an exemption to others who own taxable property, and the second is that the power and right of the state to tax is always presumed.<sup>19</sup>
26. In addition, the Courts in Nebraska have developed several principles concerning requests for exemptions: (1) an exemption is never presumed but must be applied for;<sup>20</sup> (2) the alleged exempt property must clearly come within the provision granting the exemption;<sup>21</sup> (3) the laws governing property tax exemptions must be strictly construed;<sup>22</sup> (4) the courts must give a “liberal and not a harsh or strained construction ...to the terms ‘educational,’ ‘religious,’ and ‘charitable’ in order that the

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<sup>15</sup> *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, N.W.2d 103 (1983)).

<sup>16</sup> *Neb. Unit. Meth. Ch. v. Scotts Bluff Cty. Bd. of Equal.*, 243 Neb. 412, 499 N.W.2d 543 (1993).

<sup>17</sup> See, *Nebraska Conf. Assn. of Seventh Day Adventists v. Bd. of Equalization*, 179 Neb. 326, 138 N.W.2d 455 (1965).

<sup>18</sup> *Nebraska State Bar Found. v. Lancaster Cty. Bd. of Equal.*, 237 Neb. 1, 465 N.W.2d 111 (1991).

<sup>19</sup> See, e.g., *Jaksha v. State*, 241 Neb. 106, 112, 486 N.W.2d 858, 864 (1992); *Ancient and Accepted Scottish Rite of Freemasonry v. Board of County Com'rs*, 122 Neb. 586, 241 N.W. 93 (1932).

<sup>20</sup> *Pittman v. Sarpy Cty. Bd. of Equal.*, 258 Neb. 390, 398, 603 N.W.2d 447, 453 (1999).

<sup>21</sup> *Nebraska State Bar Foundation*, 237 Neb. at 4, 465 N.W.2d at 114.

<sup>22</sup> *Neb. Unit. Meth. Ch.*, 243 Neb. at 416, 499 N.W.2d at 547.

true intent of the constitutional and statutory provisions may be realized”;<sup>23</sup> and (5) this interpretation should always be reasonable.<sup>24</sup>

### **III. FINDINGS OF FACT & CONCLUSIONS OF LAW**

27. The Taxpayer alleged that the Subject Property had been exempted from motor vehicle tax in prior years but that Michael Hanus and Spirit of Peace Church, Inc., were being “targeted” by the County Board in this denial of its application for exemption motor vehicle tax in 2022.
28. The County Board presented email communications that show in mid-2021 the Douglas County Treasurer’s (County Treasurer) office discovered that there were several organizations that were receiving exemptions for motor vehicle taxes where the motor vehicle was titled in the name of an organization and an individual.
29. The County Treasurer’s office sent emails to several organizations, including the Taxpayer, advising that it would recommend denial for any motor vehicle tax exemption applications where an individual was listed on the title as well as various replies and correspondence from these organizations regarding their motor vehicle tax exemption applications.
30. The information presented to the Commission shows that the only question raised in the proceeding before the County Board was the exclusive ownership of the Subject Property.
31. The County Board presented the State of Nebraska 0 Vehicle Registration of the Subject Property for 2020, 2021, and 2022, showing the owners as “Spirit of Peace Church Inc” and “Michael Hanus.”
32. The Subject Property is titled in the name of the Taxpayer, “Spirit of Peace Church Inc.”, and “Michael Hanus”.

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<sup>23</sup> *Lincoln Woman’s Club v. City of Lincoln*, 178 Neb. 357, 363, 133 N.W.2d 455, 459 (1965).

<sup>24</sup> *Id.* (citing, *Young Men’s Christian Assn. of City of Lincoln v. Lancaster County*, 106 Neb. 105, 182 N.W. 593 (1921)).

33. The Subject Property is owned by Spirit of Peace Church Inc.”, and “Michael Hanus”.
34. The statutory language allows for exemptions from motor vehicle tax for motor vehicles “owned and used exclusively by an organization or society qualified for tax exemption provided in subdivision (1)(c) or (d) of section 77-202...”<sup>25</sup>
35. Assuming, as the County Board alleges it did when considering the application for exemption from motor vehicle taxes, that Spirit of Peace Church, Inc. is a qualified organization and the Subject Property is used exclusively by Spirit of Peach Church, Inc., the Commission must look to the ownership requirement.
36. “Statutory language is to be given its plain and ordinary meaning. An appellate court will not look beyond a statute to determine the legislative intent when the words are plain, direct, or unambiguous. When interpreting a statute, effect must be given, if possible, to all the several parts of a statute; no sentence, clause, or word should be rejected as meaningless or superfluous if it can be avoided. An appellate court must look to the statute's purpose and give to the statute a reasonable construction which best achieves that purpose, rather than a construction which would defeat it.”<sup>26</sup>
37. The plain and ordinary meaning of “a motor vehicle owned and used exclusively by an organization” is that the motor vehicle is owned exclusively by an organization and used exclusively by an organization. In order to make the modifier “exclusive” apply only to the use requirement would necessitate a comma after the word “owned” in the sentence.
38. The organizations that may own a motor vehicle under this provision are the same organizations that can qualify for tax exemption provided in subdivision (1)(c) or (d) of section 77-202,

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<sup>25</sup> Neb. Rev. Stat. §60-3,185 (Reissue 2021)

<sup>26</sup> *Inland Ins. Co. v Lancaster Cnty. Bd. of Equalization*, 316 Neb. 142, 149. 3 N.W.3d 351, 358 (2024) (Citing, *State v. Clemens*, 300 Neb. 601, 915 N.W.2d 550 (2018).)

which are agricultural and horticultural societies, educational, religious, charitable, or cemetery organizations.<sup>27</sup>

39. There is no provision in statute or case law for an individual to be an agricultural and horticultural society. There is no provision in statute or case law for an individual to be an educational, religious, charitable, or cemetery organization.
40. At the time of the application for exemption from motor vehicle taxes was filed and when the County Treasurer and County board reviewed the application the Subject Property was not owned exclusively by an organization or society qualified for tax exemption provided in subdivision (1)(c) or (d) of section 77-202.
41. The Application for Exemption from Motor Vehicle Taxes filed by the Taxpayer for the Subject Property should be denied for tax year 2022.
42. 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.
43. 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 the application for exemption from motor vehicle taxes for the Subject Property for tax year 2022 is affirmed.
2. The Subject Property shall be subject to motor vehicle taxes for tax year 2022
3. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas

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<sup>27</sup> See Neb. Rev. Stat. § 77-202 (1)(c) & (d) (Cum. Supp. 2022)

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 on December 10, 2025.

Signed and Sealed: December 10, 2025



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Steven A. Keetle, Commissioner