

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

JARED M. FALTYS
APPELLANT,

V.

MADISON COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

CASE NO: 22R 0203

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

For the Appellant:

Jared M. Faltys,
Pro Se

For the Appellee:

Joseph Smith,
Deputy Madison County Attorney

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

I. THE SUBJECT PROPERTY

The Subject Property consists of a 5,958-square-foot, 1.5-story single-family home built in 2017¹ and a 4,076-square-foot accessory building² constructed in 2011.³ Both improvements are located on the same 10.69-acre parcel in Madison County, Nebraska.⁴ The legal description and Property Record File (PRF) of the Subject Property is found at Exhibit 12.

II. PROCEDURAL HISTORY

The Madison County Assessor determined the assessed value of the

¹ Exhibit 12:2-3.

² The Taxpayer referred to the 4,076 square foot accessory building as a “shouse” or “shed house.” This building was the only residential improvement on the parcel from approximately 2012 to 2017 with an assessment history shown at Exhibit 12:1.

³ Exhibit 12:4-5.

⁴ See Exhibit 12.

Subject Property was \$1,017,054 for tax year 2022. Jared M. Faltys (the Taxpayer) protested this assessment to the Madison County Board of Equalization (the County Board) and requested a taxable value of \$765,000.⁵ The County Board determined the taxable value of the Subject Property for tax year 2022 was \$1,017,054.⁶

The Taxpayer appealed the decision of the County Board to the Tax Equalization and Review Commission (the Commission). The Commission held a hearing on July 14, 2023. Prior to the hearing, the parties exchanged exhibits and submitted a pre-hearing conference Report, as ordered by the Commission. Exhibits 1-16 were admitted into evidence.

III. STANDARD OF REVIEW

The Commission's review of the County Board's determination is de novo.⁷ When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.⁸ 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.⁹ 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.¹⁰

⁵ Exhibit 1.

⁶ *Id.*

⁷ 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).

⁸ *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)).

⁹ *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).

¹⁰ *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.¹¹ The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.¹²

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.¹³ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.¹⁴

The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.¹⁵ 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.¹⁶

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.¹⁷ The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.¹⁸ The Commission may take notice of

¹¹ *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

¹² *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.

¹³ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

¹⁴ *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).

¹⁵ 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).

¹⁶ *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)).

¹⁷ Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

¹⁸ *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.¹⁹ The Commission's Decision and Order shall include findings of fact and conclusions of law.²⁰

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.²¹

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.²² Nebraska courts have held that actual value, market value, and fair market value mean exactly the same thing.²³ 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.²⁴ All real property in Nebraska subject to taxation shall be assessed as of January 1.²⁵ All taxable real property, with the exception of agricultural land and

¹⁹ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

²⁰ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

²¹ Neb. Rev. Stat. § 77-112 (Reissue 2018).

²² *Id.* (citing Neb. Rev. Stat. § 77-1371).

²³ *Omaha Country Club*, 11 Neb. App. at 180, 645 N.W.2d at 829.

²⁴ Neb. Rev. Stat. § 77-131 (Reissue 2018).

²⁵ See Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

horticultural land, shall be valued at actual value for purposes of taxation.²⁶

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.²⁷ “Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value.”²⁸ 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.²⁹ 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.³⁰ 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.³¹ 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.³² There must be something more, something which in effect amounts to an

²⁶ Neb. Rev. Stat. § 77-201(1) (Cum. Supp. 2022).

²⁷ Neb. Const., art. VIII, § 1.

²⁸ *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).

²⁹ *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).

³⁰ *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 411 N.W.2d 35 (1987).

³¹ *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).

³² *Pinnacle Enters.*, 320 Neb. at 309–10, 27 N.W.2d at 6 (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).

intentional violation of the essential principle of practical uniformity.³³

V. FINDINGS OF FACT

The Taxpayer and County Board stipulated that Exhibits 1 through 16 should be admitted. Exhibits 1 through 16 were received in evidence at the hearing. Exhibits 1 through 11 were provided by the Taxpayer and Exhibits 12 through 16 are Property Record Files (PRFs) provided by the County Board.

A. Testimony of Jared Faltys

Jared Faltys (the Taxpayer) stated in his testimony that the market determines prices and that there was no market for any residential property over one million dollars in Madison County. The Taxpayer testified that, as a certified public accountant, he relies on generally accepted accounting principles (GAAP). GAAP determines the “book value” for assets and uses the lower of market value or cost to determine book value. Thus, the Taxpayer asserted, he could not place a one-million-dollar asset on his accounting books under GAAP where there is no market for that asset. The Taxpayer asserted GAAP should be used in property valuations rather than the Marshall Valuation Service Cost Manual.

The Taxpayer did not testify to the actual value of the Subject Property. When asked by the Commission what evidence he had provided of actual value for tax year 2022, the Taxpayer said he provided the evidence in his exhibits, then referred to his letter to the Commission and some multiple listing service (MLS) printouts for three properties (Taxpayer’s Comparables) to compare to the Subject Property.³⁴ The Taxpayer asserted the Taxpayer’s Comparables are the only comparable properties. The PRF for the Subject Property and each of the Taxpayer’s Comparables was offered in evidence by the

³³ *Moser*, 312 Neb. at 775, 980 N.W.2d at 624) (quoting *Newman*, 167 Neb. at 672, 94 N.W.2d at 50).

³⁴ Exhibit 2:1-2, Exhibit 7, Exhibit 8, and Exhibit 9.

County Board.³⁵

The Taxpayer argues in Exhibit 2 that taxable value of the Subject Property was too high because, as of the 2022 assessment date, there had been no sale of any property in Norfolk, Nebraska for more than \$1,000,000 at any relevant time.³⁶ The first of the Taxpayer's Comparables is a one-and-one-half story, 3,659-square-foot home built in 2009 and located at 84470 539th Ave. in Meadow Grove, Nebraska (Comparable 1).³⁷ Comparable 1 sold for \$1,100,000 November 12, 2021.³⁸ The Taxpayer asserts in Exhibit 2 that Comparable 1 is not comparable to the Subject Property because it is a "one-of-a-kind" lake-front property with waterfront access to a private lake.³⁹ The land area of Comparable 1 consists of 5.05 acres.⁴⁰ Finally, Comparable 1 also has a "carriage house" in the upper floor of the detached garage with 1,072 finished square feet of living area.⁴¹ The Taxpayer did not quantify the values of each of the differences between the Subject Property and Comparable 1.

The Taxpayer's second comparable is a one-and-one-half story, 4,217-square-foot home built in 1987 and located at 6111 W. Omaha Drive in Norfolk, Nebraska (Comparable 2).⁴² Comparable 2 sold on July 6, 2021, for a price of \$680,896.⁴³ The land component of Comparable 2 was three acres.⁴⁴ The Taxpayer did not quantify the values of the differences between Comparable 2 and the Subject Property.

The Taxpayer's third comparable is a two-story, 5,296-square-foot home located at 1801 N. 37th in Norfolk, Nebraska (Comparable 3).⁴⁵

³⁵ See Exhibits 12 to 15.

³⁶ Exhibit 2:1.

³⁷ *Id.*; Exhibit 7. Exhibit 14:2.

³⁸ Exhibit 14:5.

³⁹ Exhibit 2:1.

⁴⁰ Exhibit 14:3.

⁴¹ Exhibit 14:2.

⁴² Exhibit 13:2.

⁴³ Exhibit 13:4.

⁴⁴ Exhibit 13:3.

⁴⁵ Exhibit 15:2.

Comparable 3 sold on December 27, 2019, for a price of \$765,000.⁴⁶ Comparable 3 is a 3.41-acre parcel and has a 1,584 square foot detached garage/workshop building.⁴⁷

The Taxpayer also testified about the Subject Property. As noted above, the Subject Property has two large improvements.⁴⁸ First, the Subject Property has a 5,958-square-foot, 1.5-story, single-family home with a 1,558 square foot attached garage built in 2017.⁴⁹ The Subject Property also has a 4,076-square-foot accessory building with a 2,818 square foot attached garage built in 2011.⁵⁰ Both houses are on the same 10.69-acre parcel.⁵¹

When the Taxpayer was asked at the hearing whether the Taxpayer's Comparables have similar structures to the Subject Property's 4,076 square foot accessory building, the Taxpayer answered that they do. However, the exhibits provided by the Taxpayer show only Comparable 1 has a second residential external dwelling. The Taxpayer claimed Comparable 2 had a horse barn, but no accessory building was shown on the property record card. As noted above, Comparable 3 had a 1,584 square foot detached garage.⁵² Nevertheless, with each of the three alleged comparable properties discussed above, the Taxpayer made no adjustments to the sales prices of the alleged comparable properties based upon a quantification of the differences between the comparable properties and the Subject Property.

Much of the Taxpayer's testimony and several of his exhibits are not relevant to this appeal. The Taxpayer gave his opinions on the fairness of the Nebraska property tax system and appeal process, including his prior appeal to the Commission in Case No. 20R 0329. The Taxpayer's opinions about the Nebraska property tax system and

⁴⁶ Exhibit 15:3.

⁴⁷ Exhibit 15:2-3.

⁴⁸ Exhibit 12.

⁴⁹ Exhibit 12:2.

⁵⁰ Exhibit 12:5.

⁵¹ See Exhibit 12.

⁵² See Exhibit 7.

appeal process are political questions upon which the Commission makes no judgment or comment. Several of the Taxpayer's exhibits have little or no factual relevance to the captioned appeal as they relate only to Case No. 20R 0329 or are copies of Regulations or publications from the Department of Revenue.⁵³ The Taxpayer also offered the Commission's Decision and Order in Case No. 20R 0329 at the hearing. The Commission took notice of its decision in Case No. 20R 0329.

The assessed value for real property may be different from year to year according to the circumstances.⁵⁴ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.⁵⁵ Nothing in the Taxpayer's testimony indicated Exhibit 10 or the decision in Case No. 20R 0329 are otherwise relevant to this case. As these exhibits do not relate to the facts at issue, they will not be discussed further. Exhibit 2 is the Taxpayer's letter to the Commission dated June 13, 2023.⁵⁶ Much of the content in Exhibit 2 also relates to the Taxpayer's 2020 tax appeal captioned as Case No. 20R 0329. Only those portions of Exhibit 2 relating to this appeal will be discussed.

The Taxpayer also sought to offer in evidence the offer to confess judgment offered to him by the County Board. The County Board objected and the Commission overruled the objection, allowing the Taxpayer to testify to the offer as an offer of proof. The Taxpayer testified as to the County Board's offer to confess judgment but did not offer the document. The Commission's Regulations do not allow the entry of an offer to confess judgment into evidence.⁵⁷ Therefore, the County Board's offer to confess judgment will not be considered.

⁵³ Exhibit 4; Exhibit 5; Exhibit 6; Exhibit 10; and Exhibit 11.

⁵⁴ *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Cum. Supp. 2020).

⁵⁵ *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

⁵⁶ Exhibit 2:1.

⁵⁷ Title 442 Neb. Admin. Code ch 4, § 003.01D ("An offer to confess judgment shall not be deemed to be an admission of the cause of action or relief to which the appellant/petitioner is seeking, and the offer shall not be given in evidence at the hearing.").

B. Testimony of Jeff Hackerott

Jeff Hackerott, the County Assessor, testified regarding the valuation of the Subject Property. Hackerott had served as County Assessor for 19 years.⁵⁸ He testified the two improvements on the Subject Property were assessed using the Cost approach. The land value of the 10.69 acres was determined to be \$98,000.⁵⁹ The value of the 5,958 square foot home was \$662,910.⁶⁰ And the value of the 4,076 square foot house was \$256,144.⁶¹ Hackerott explained that a computer assisted mass appraisal system was used to assess the two improvements, including calculations for replacement costs and depreciation. He agreed with the Taxpayer that the properties shown in Exhibits 13 to 15 were the most comparable to the Subject Property.

VI. ANALYSIS

The Taxpayer has not rebutted the presumption in favor of the County Board by competent evidence. “Competent evidence is evidence that is admissible and tends to establish a fact in issue.”⁶² Determining whether the presumption has been rebutted with competent evidence “may often be informed by considering whether the taxpayer has presented evidence that would call into question whether the valuation adopted by the Board is reasonable.”⁶³ “That is, evidence tending to show that the valuation is questionable can serve toward rebutting the presumption that the Board faithfully performed its duties.”⁶⁴ The Taxpayer also did not offer clear and convincing evidence to demonstrate the County Board decision was arbitrary or unreasonable. For the reasons stated below, the Taxpayer did not meet these burdens.

⁵⁸ Hackerott held the State Assessor Certificate and was formerly a licensed appraiser.

⁵⁹ Exhibit 12:3.

⁶⁰ Exhibit 12:2.

⁶¹ Exhibit 12:4. This total includes \$1,473 in valuation for a 16’x16’ utility shed.

⁶² *Cain v. Custer Cty. Bd. of Equal.*, 298 Neb. 834, 850, 906 N.W.2d 285, 297-98 (2018).

⁶³ *Betty L. Green Living Trust v. Morrill Cty. Bd. Of Equal.*, 299 Neb. 933, 943, 911 N.W.2d 551, 558-59 (2018).

⁶⁴ *Id.*, 299 Neb. at 943, 911 N.W.2d at 559.

A. Actual Value

“A 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.”⁶⁵

And although this sort of testimony is admissible evidence, it does not *automatically* lead to the conclusion that such evidence constitutes competent evidence contrary to the presumption. That determination involves considering not only whether the taxpayer presented admissible evidence but *specifically whether the substance of the evidence presented by the taxpayer was competent to rebut the presumption* that the Board faithfully performed its duties and had sufficient competent evidence to make its determinations.⁶⁶

Here, the Taxpayer opined about markets and accounting principles under GAAP. However, assessment methods are determined by statute and professionally accepted appraisal methods, not GAAP. GAAP is not a method of real property assessment. Rather, statutorily acceptable methods for assessing real property are professionally accepted mass appraisal methods including the sales comparison approach, income approach, and cost approach.⁶⁷ Accounting methods such as GAAP are not professionally accepted methods to value real property for tax purposes. The Taxpayer also said he could not sell the Subject Property for the assessed value. However, this is not testimony of the actual value.

The Taxpayer's opinion of value was determined by his knowledge of accounting practices, including GAAP. The Taxpayer's method is not identified in statute and no evidence of its professional acceptance as

⁶⁵ *Cain v. Custer Cty. Bd. of Equalization*, 298 Neb. at 850, 906 N.W.2d at 298 (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).

⁶⁶ *Betty L. Green Living Trust*, 299 Neb. at 948, 911 N.W.2d at 561 (emphasis added).

⁶⁷ Neb. Rev. Stat. § 77-112 (Reissue 2018) (citing Neb. Rev. Stat. § 77-1371).

an accepted mass appraisal method has been produced. Therefore, the Commission finds it does not constitute competent evidence and gives it little weight. The Taxpayer's opinion of value also does not constitute clear and convincing evidence the County Board decision was arbitrary or unreasonable.

B. Comparable Sales

The sales comparison approach is a valid valuation method.⁶⁸ “In the sales comparison approach, appraisers develop opinions of value by analyzing closed sales, pending sales, active listings, and cancelled or expired listings of properties that are similar to the property being appraised.”⁶⁹ “Comparable sales are recent sales of properties that are similar to the property being assessed in significant physical, functional, and location characteristics and in their contribution to value.”⁷⁰ Comparable properties share similar use (residential, commercial industrial, or agricultural), physical characteristics (size, shape, and topography), and location.⁷¹

A valid comparable sales analysis requires adjustments made between the subject property and any comparable properties that quantify the differences in value.⁷² Without sufficient adjustments, comparable sales are not competent evidence to rebut the presumption in favor of the County Board.⁷³

Here, the Taxpayer's Comparables do not adequately compare to the Subject Property to rebut the presumption the County Board faithfully performed its duties and acted upon sufficient competent evidence. The Taxpayer presented the MLS data, including sales prices

⁶⁸ *Id.*

⁶⁹ Appraisal Institute, *The Appraisal of Real Estate* 351 (15th ed. 2020).

⁷⁰ Neb. Rev. Stat. § 77-1371 (Reissue 2018).

⁷¹ International Association of Assessing Officers, *Property Assessment Valuation* 169-79 (3rd ed. 2010).

⁷² See Appraisal Institute, *Appraising Residential Properties* 334 (4th ed. 2007) (“A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject's unknown value.”)

⁷³ See *Betty L. Green Living Trust*, 299 Neb. at 946-47, 911 N.W.2d at 560-61.

and dates, for three properties, the Taxpayer's Comparables. The County Assessor agreed that these were probably the only comparable properties to the Subject Property. The sales dates are within three years of the assessment date and the Taxpayer's Comparables 2 and 3 both had recent sales under purchase prices lower than the assessed value of the Subject Property for tax year 2022. However, there is nothing in the exhibits offered by the Taxpayer or in the Taxpayer's testimony making any appropriate adjustments for the differences in features, quality, condition, etc., or how those differences impact the relative values of the Subject Property and the Taxpayer's Comparables.⁷⁴

There are notable differences between the Subject Property and the Taxpayer's Comparables. Comparable 3 is a two-story home while the Subject Property is a 1.5-story home.⁷⁵ Only Comparable 1 was shown to have an accessory building used for residential purposes like the Subject Property. The accessory building in Comparable 1 is a living space or room above a detached garage without any description of the unit, square footage, or other features. By contrast, the Subject Property's accessory building is a 4,076-square-foot residential dwelling.⁷⁶

The Taxpayer provided no evidence showing how the differences or similarities between the Taxpayer's Comparables and the Subject Property would impact their relative values. Rather, the Taxpayer's opinion of value was determined by comparing MLS data on three recent sales without any adjustments or analysis to compare the properties. Simply comparing MLS sales data without making adjustments is not a professionally accepted mass appraisal method.

⁷⁴ The Taxpayer also did not provide any PRFs for the Taxpayer's Comparables or refer to the facts contained in the PRFs provided by the County Board for those properties in his testimony. Title 442 Neb. Admin. Code ch 5, § 020.09B provides that, "[a]ny party utilizing comparable properties as evidence of value or for purposes of demonstrating equalization or a lack of equalization shall provide complete and legible copies of the County Assessor's Property Record File for those comparable properties for the tax year at issue." The Order for Hearing and Notice of Hearing states the same requirement.

⁷⁵ Compare Exhibit 12 with Exhibit 9.

⁷⁶ Exhibit 12:4.

Therefore, the Commission finds the evidence offered relating to the Taxpayer's Comparables does not constitute competent evidence and we give it little weight.

C. The Taxpayer provided no evidence of land valuation.

In Exhibit 2, the Taxpayer testified to differences in acreage and land location between the Taxpayer's Comparables and the Subject Property. For example, the Taxpayer points out Comparable 2 sold with an additional forty acres that should be discounted at an estimated \$5,000 per acre from the Comparable 2 sales price.⁷⁷ The Taxpayer provided no basis for this estimated land value or how the land was assessed on any of the four parcels. Therefore, the Taxpayer's argument about land valuation differences does not rebut the initial presumption or constitute clear and convincing evidence that the County Board decision was 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 all of 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 Madison County Board of Equalization determining the value of the Subject Property for tax year 2022 is affirmed.

⁷⁷ Exhibit 2:2. *See also* Exhibit 8:1-2.

2. The assessed value of the Subject Property for tax year 2022 is:

Land	\$ 98,000
<u>Improvements</u>	<u>\$ 919,054</u>
Total	\$ 1,017,054

3. This Decision and Order, if no appeal is timely filed, shall be certified to the Madison County Treasurer and the Madison County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
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 March 18, 2026.⁷⁸

Signed and Sealed: March 18, 2026.

SEAL



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner

⁷⁸ 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.