

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

CHEEMA INVESTMENTS
APPELLANT,

V.

DAWES COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

CASE NO: 22R 0221

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, P.C.,
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 1.67-acre residential parcel improved with a 2,765 square foot two-story single-family residence, located in rural Dawes County, Nebraska. The legal description and Property Record File (PRF) of the Subject Property are found at Exhibit 2.

II. PROCEDURAL HISTORY

The Dawes County Assessor (County Assessor) determined the assessed value of the Subject Property was \$89,460¹ for tax year 2022. Cheema Investments (the Taxpayer) protested this assessment to the Dawes County Board of Equalization (the County Board) and

¹ Exhibit 1.

requested a assessed value of \$48,000. The County Board determined the taxable value of the Subject Property for tax year 2022 was \$89,460.²

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 25, 2023. Prior to the hearing, the parties exchanged exhibits as ordered by the Commission. Exhibits 1 through 6 were admitted into evidence.

III. STANDARD OF REVIEW

The Commission’s review of the County Board’s determination is de novo.³ When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.⁴ 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.⁵ 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.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.⁷ The burden

² *Id.*

³ 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).

⁴ *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)).

⁵ *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).

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

⁷ *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

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

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.⁹ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.¹⁰

The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.¹¹ 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.¹²

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.¹³ The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.¹⁴ 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

⁸ *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.

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

¹⁰ *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).

¹¹ 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).

¹² *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)).

¹³ Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

¹⁴ *Id.*

evaluation of the evidence presented to it.¹⁵ The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁶

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.¹⁷

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.¹⁸ Nebraska courts have held that actual value, market value, and fair market value mean exactly the same thing.¹⁹ 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.²⁰ All real property in Nebraska subject to taxation shall be assessed as of January 1.²¹ All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.²²

¹⁵ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

¹⁶ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹⁷ Neb. Rev. Stat. § 77-112 (Reissue 2018).

¹⁸ *Id.*

¹⁹ *Omaha Country Club*, 11 Neb. App. at 180, 645 N.W.2d at 829.

²⁰ Neb. Rev. Stat. § 77-131 (Reissue 2018).

²¹ See Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

²² Neb. Rev. Stat. § 77-201(1) (Reissue 2018).

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.²³ Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value.²⁴ 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.²⁵ 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.²⁶ 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.²⁷ 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.²⁸ There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.²⁹

²³ Neb. Const., art. VIII, § 1.

²⁴ *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).

²⁵ *Id.*; *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb. App. 582, 597 N.W.2d 623 (1999).

²⁶ *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 411 N.W.2d 35 (1987).

²⁷ *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).

²⁸ *Newman v. County of Dawson*, 167 Neb. 666, 670, 94 N.W.2d 47, 49-50 (1959) (citations omitted).

²⁹ *Id.* at 673, 94 N.W.2d at 50.

V. FINDINGS OF FACT

A. Testimony of Kuldip Singh

Kuldip Singh is a member of Cheema Investments, LLC. Singh testified the Subject Property was acquired in 2012.³⁰ He noted the property had both a private well and a community water connection. Singh testified he had turned off the private well to facilitate repairs to the property. However, he was not aware of the community water connection until that pipe froze in 2015. This caused the pipe to burst, resulting in significant water damage, damage to plumbing, and structural damage.³¹ He testified that at one point there was a six-foot-tall wall of ice inside the improvement. Singh stated he had all the drywall torn out down to the studs and that the structure had no electrical service. Singh stated it would not be economically feasible to make necessary repairs to the improvement and that it would ultimately cost a significant amount to remove the damaged structure from the lot.

Singh further testified he had received a homeowner's insurance claim amount of \$70,000. He also gave his opinion that the value of the property was no more than \$10,000.

B. Testimony of Lindy Coleman

Lindy Coleman had been the Dawes County Assessor for seventeen years and held the State Assessor Certificate. Coleman was directly involved in the 2022 assessment. She stated she did not recall when she last personally visited the Subject Property, but it was after the water damage had occurred. Coleman stated she saw mold in the Subject Property, as well as torn-out drywall.

Coleman used the cost approach to value the Subject Property as well as similar properties in Dawes County. The quality of the improvement was assessed as average, but the condition was deemed

³⁰ The purchase price on February 10, 2012, was \$77,700 as shown in Exhibit 2:1.

³¹ See Exhibit 5.

to be badly worn. She noted a 77% depreciation was used, which accounted for the water damage. Coleman opined the value of the Subject Property would be significantly higher had the water damage not occurred as there have been many sales of similar rural residential properties in Dawes County.

VI. ANALYSIS

The insurance claim payment amount is not in and of itself an indicator of the actual value of the Subject Property, and the opinion of value given by the insurance company was made on April 30, 2015, more than six years prior to the assessment date of January 1, 2022.³² Because of the length of time between the insurance payment and the effective date of January 1, 2022, the Commission gives little weight to Exhibit 5.

Likewise, the Taxpayer's opinion of value of \$10,000 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.³³ 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 in the relevant timeframe. Rather, he testified a neighbor purchased a 1.7 acre property from the Taxpayer in May 2017, but he did not say what the sale price was or what improvements, if any were on that property. He also did not present any evidence that the property was comparable to the Subject Property. Because of the length of time between the sale of the comparable property and the effective date of January 1, 2022, the Commission gives the sale little weight. Likewise, because of the lack of information about the comparable property and its sale terms, the Commission gives little weight to this testimony.

While the Taxpayer provided testimony detailing the type of damage that occurred to the Subject Property, there was no evidence

³² *Id.*

³³ *Darnall Ranch, Inc. v. Banner Cty. Bd. of Equalization*, 276 Neb. 296, 309-10, 753 N.W.2d 819, 830 (2008) (citations omitted).

provided to quantify the effect of the damage on the actual value of the Subject Property. While it is true that “[p]hysical depreciation is loss in value due to physical deterioration,”³⁴ the Taxpayer has not shown that the County Board’s reliance on the assessment including 77% physical depreciation was arbitrary or unreasonable. There is not clear and convincing evidence the taxable value based upon the quality and condition ratings was arbitrary or unreasonable.

VII. CONCLUSION

The Commission finds there is not competent evidence to rebut the presumption the County Board faithfully performed its duties and had sufficient competent evidence to make its determination. The Commission also finds there is not clear and convincing evidence 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 assessed value of the Subject Property for tax year 2022 is:

Land	\$ 22,680
<u>Improvements</u>	<u>\$ 66,780</u>
Total	\$ 89,460

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.

³⁴ Marshall & Swift/Boeckh, LLC, *Residential Cost Handbook*, at E-1 (12/2010).

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, 2026.³⁵

SIGNED AND SEALED: June 2, 2026.

SEAL



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner

³⁵ 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.