

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

KRIS WHEELER,
APPELLANT,

CASE NO: 23A 0483

V.

SAUNDERS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is a rural residential parcel in Saunders County, parcel number 003744501.
2. The Saunders County Assessor (the County Assessor) assessed the Subject Property at \$743,523 for tax year 2023.
3. Kris Wheeler (the Taxpayer) protested this value to the Saunders County Board of Equalization (the County Board) and requested an assessed value of \$617,679 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$743,523 for tax year 2023.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on March 19, 2024, at Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Kris and Randy Wheeler were present at the hearing for the Taxpayer.
8. Richard Register, Deputy County Attorney, and Rhonda Andresen, County Assessor, were present for the County Board.

II. APPLICABLE LAW

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹
10. The Commission's review of a determination of the County Board of Equalization is de novo.²
11. When considering an appeal, a presumption exists 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."³ 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. 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. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board."⁴
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.⁵

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

² 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).

³ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁴ *Id.* at 283-84.

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁷
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁸

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Subject Property is a 20-acre rural residential parcel improved with a 3,756 square-foot residence constructed in 1999 with a swimming pool added in 2012, and various outbuildings.
17. The Taxpayer contests the assessed value of the residence and pool.
18. The County Board presented the Property Record File (PRF) for the Subject Property, which shows the characteristics of the Subject Property and the contributory value of these characteristics in determining the assessed value of the Subject Property.
19. The Taxpayer alleged that the assessed value of the pool was based on incorrect information contained in the PRF.
20. The Taxpayer alleged that the pool was 750 square feet rather than 1000 as listed on the PRF for the Subject Property. Taxpayer drew the irregular shape of the pool but could not provide any measurements to show a square footage of the pool.

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

⁷ *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cty. Bd. of Equal. of York Cty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

21. The Taxpayer presented a table of five sold properties and alleged that these recent sales indicated that the assessed value of the Subject Property was higher than market value.
22. The Taxpayer presented a table of five assessment comparables and alleged that the assessed value of the Subject Property was not equalized with other comparable properties.
23. The Taxpayer presented a table of four properties with pools and alleged that the pool on the Subject Property was not being assessed in the same way as other pools in the county.
24. The Taxpayer presented partial PRF for the fourteen properties contained in the three tables presented. The Taxpayer provided photographs and information from the internet for some of the sold properties.
25. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.⁹
26. “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.”¹⁰
27. The evidence supplied by the Taxpayer does not contain information necessary to determine the comparability of the fourteen properties presented to the Subject Property. For example, none of the fourteen PRFs provided contain information about the quality of construction rating for the parcel or the contributory value of their features and amenities. None of the PRFs provided for parcels that had swimming pools contain any information about the swimming pools which would allow the Commission to determine how they were assessed or their contribution to value.

⁹ See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

¹⁰ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

28. The County Assessor provided charts regarding thirteen parcels in the County for comparison to the Subject Property.
29. The County Assessor provided Parcel Summary Sheets for each of these thirteen parcels.
30. The Parcel Summary Sheets do not contain information necessary to determine the comparability of the thirteen properties to the Subject Property. For example, none of the thirteen Parcel Summary Sheets provided contain information about the quality of construction for the parcel or the contributory value of their features and amenities. None of the Parcel Summary Sheets provided for parcels that have swimming pools contain any information about the pools which would allow the Commission to determine how they were assessed or their contribution to value.
31. The PRFs provided by the Taxpayer and the Parcel Summary Sheets provided by the Assessor do contain information indicating differences between the Subject Property and the properties offered as comparables by the Taxpayer and the Assessor, however they do not have all of the characteristics of the properties, such as quality rating, with which to determine the comparability of the properties to the Subject Property or the proper sales comparison adjustments to make them comparable to the Subject Property.
32. The County Assessor provided a more complete PRF for the Subject Property and two properties, one directly across the street from the Subject Property and one directly to the east of the Subject Property. These three PRFs show that differences in the assessed value of these properties are attributable to differences in characteristics and amenities such as size, style, quality, condition, basement finish, outbuildings, garages, etc.
33. 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.

34. 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 determining the taxable value of the Subject Property for tax year 2023 is affirmed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$ 90,307
<u>Improvements</u>	<u>\$653,216</u>
Total	\$743,523

3. This Decision and Order, if no further action is taken, shall be certified to the Saunders County Treasurer and the Saunders 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 2023.
7. This Decision and Order is effective on August 22, 2025.

Signed and Sealed: August 22, 2025



Steven A. Keetle, Commissioner