

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

PAUL WALKER  
APPELLANT,

CASE NO: 23A 0558

V.

BUFFALO COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an agricultural parcel in Buffalo County, parcel number 660014000.
2. The Buffalo County Assessor (the County Assessor) assessed the Subject Property at \$429,440 for tax year 2023.
3. Paul Walker (the Taxpayer) protested this value to the Buffalo County Board of Equalization (the County Board) and requested an assessed value of \$300,000 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$429,440 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 September 6, 2024, at Law Enforcement Center, 111 Public Safety Drive, Community Building 2nd Floor, Grand Island, NE, before Commissioner James D. Kuhn.
7. Paul Walker was present at the hearing for the Taxpayer.
8. Roy Meusch (the Assessor) was 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.<sup>1</sup>
10. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
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."<sup>3</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. 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."<sup>4</sup>
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.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

<sup>2</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).

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

<sup>4</sup> *Id.* at 283-84.

<sup>5</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

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

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.<sup>7</sup>
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

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

16. The Subject Property is an agricultural parcel consisting of 100.130 acres of land. The Subject Property has thirteen different soil types and five use types. The Taxpayer purchased the Subject Property on April 1, 2022 for \$330,429.
17. The Taxpayer alleges that the Subject Property is overvalued because a portion of the land cannot be used consistent with the soil type/land use valuation ascribed to it.
18. The Taxpayer stated the Subject Property was listed for \$400,000 but purchased it for \$330,429. The Taxpayer feels the issues with poor wells and flooding caused the Subject Property to sell for less than original asking price.
19. The Taxpayer states the field has a blocked culvert on its east side that causes approximately 20 acres of the parcel to flood. The flooded portions then introduce grass and weeds into the field, creating issues that degrade the yield potential of the Subject Property. Thus the Land Capability Group (LCG) designations assigned to the Subject Property are inaccurate, and it is impossible for the field to achieve the yield potential it is valued at.
20. The Taxpayer provided photos taken from the cab of a tractor August 24<sup>th</sup> or 25<sup>th</sup> of 2024. The photos purport to show the grass and weeds that have been deposited by flooding.

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<sup>7</sup> *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).

<sup>8</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

21. The Taxpayer stated there are two water wells on the Subject Property. The Taxpayer stated that the north well is not good but would cost about \$50,000 to replace.
22. The Assessor stated all agricultural land is valued using the LCG code. These group various soils according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to average management.<sup>9</sup> A LCG is determined for each kind of soil and its current land use.<sup>10</sup>
23. The Assessor provided the property record file (PRF) for the Subject Property. The Subject Property is currently being assessed for 77.50 acres of irrigated land, 7.40 acres of dryland, 7.07 acres of grassland, 7.16 acres of waste land, and 1.0 acre of roads and ditches.
24. The Assessor provided a soil map showing the various soils on the Subject Property. The PRF appears to be accurate with what is shown on the soil map.
25. A taxpayer must present evidence that establishes the actual value of the property and evidence that the property was not fairly and proportionately assessed with other property in the county.
26. 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.
27. 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**

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<sup>9</sup> 350 Neb. Admin. Code, ch. 14, § 004.08E (Mar. 15, 2009); *see also* Neb. Rev. Stat. § 77-1363 (Cumm. Supp. 2024) (adjusting valuation method contained in regulations).

<sup>10</sup> *Id.*

**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	\$429,440
<u>Improvements</u>	<u>\$0</u>
Total	\$429,440

- 3. This Decision and Order, if no further action is taken, shall be certified to the Buffalo County Treasurer and the Buffalo 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 April 9, 2025.

Signed and Sealed: April 9, 2025



James D. Kuhn, Commissioner