

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

JASON HUCK  
APPELLANT,

CASE NO: 23A 1038

V.

**DECISION AND ORDER  
REVERSING THE DECISION  
OF THE LANCASTER  
COUNTY BOARD OF  
EQUALIZATION**

LANCASTER COUNTY  
BOARD OF EQUALIZATION,  
APPELLEE.

**I. BACKGROUND**

1. The Subject Property is an agricultural parcel in Lancaster County, parcel number 13-14-300-004-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$285,200 for tax year 2023.
3. Jason Huck (the Taxpayer) protested this value to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$285,200 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 May 29, 2023, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Jason Huck was present at the hearing for the Taxpayer.
8. Sue Bartek (the Appraiser) 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>

---

<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 Taxpayer stated a majority of the acres on the Subject Property is Dryland, but 9.63 acres is Waste. The Taxpayer stated similar parcels of Dryland with non-tillable ground in it are classified as Waste and feels the Subject Property should be treated the same.
17. The Appraiser stated that most of the non-tillable ground should be classified as Waste however the fence line should still be classified as Grassland to be consistent with all other similar properties in Lancaster County.
18. The Commission agrees that 9.63 acres should be classified as Waste.
19. As Waste ground is assessed at \$750 per acre in Lancaster County, 9.63 acres of Waste ground would be valued at \$7,222.<sup>9</sup>
20. As 9.63 Dryland acres are now valued as Waste, the value of those acres must be removed from the overall land value. This results in a new Dryland acre value of \$263,533.<sup>10</sup>
21. This results in a new value of \$270,755 for the Subject Property.<sup>11</sup>

---

<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).

<sup>9</sup> 9.63 acres x \$750 Waste=\$7,222.

<sup>10</sup> 9.63 acres x \$2,250 Dryland=\$21,667. \$285,200 assessed - \$21,667=\$263,533.

<sup>11</sup> \$263,533 + \$7,222=\$270,755



7. This Decision and Order is effective on October 11, 2023.

Signed and Sealed: October 11, 2023



---

James D. Kuhn, Commissioner