

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

JOHN GALT DEVELOPMENT  
LLC  
APPELLANT,

CASE NOS: 23C 0135 AND  
24C 0267

V.

LANCASTER COUNTY  
BOARD OF EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an improved commercial parcel in Lancaster County, parcel number 16-16-114-015-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$535,100 for tax year 2023 and \$572,500 for tax year 2024.
3. John Galt Development LLC (the Taxpayer) protested these values to the Lancaster County Board of Equalization (the County Board) for tax year 2023 and for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$535,100 for tax year 2023 and \$572,500 for tax year 2024.
5. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on December 16, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Mark Becher was present at the hearing for the Taxpayer.

8. Jacob VanPelt (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>

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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 a commercial office structure located in Lincoln's "Trade Center", built in 1988 with 5,400 square feet with an investment class rating of 2, and an income model condition rating of average minus (3).
17. The Taxpayer supplied the Real Estate Transfer Statement from the 2018 purchase and opined that because the property has a unique layout which inhibits functionality of the structure, and the condition is the same as the date of purchase, the valuations for 2023 and 2024 are arbitrary and unreasonable.
18. The Taxpayer alleged that no tenant would fully utilize the space in its current condition and therefore, is currently renting the space at a discounted rate.
19. The Taxpayer did not present information to quantify what amount of loss is present due to the functionality of the property.
20. The Taxpayer did not present information regarding comparable properties for the Commission to analyze.
21. The Appraiser attested there was a revaluation conducted to the Subject Property's neighborhood for 2023 and again for 2024. As such, the income model used was adjusted according to typical income and typical expenses for like properties where necessary, and an updated capitalization rate was extracted from the market data for each of these years.

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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).

22. All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.<sup>9</sup>
23. Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. 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 section 77-1371, (2) income approach, and (3) cost approach.<sup>10</sup>
24. The Appraiser stated that an income approach model with typical income and expense data from the local market is used to set the Subject Property valuation. The structure rating of the property (in this case, average minus) dictates the income model used for the property.
25. The Appraiser provided a list of sold commercial properties within the Trade Center neighborhood to show that the valuation of the Subject Property falls within range of the local market data.
26. The Appraiser provided a spreadsheet labeled “All Trade Center Parcels 2024” to show that the valuation of the Subject Property is uniform within the neighborhood.
27. The Appraiser stated that the property is currently receiving an adjustment for lack of finish in an approximately 20’x 30’ area at a reduction of \$50 a square foot. The rest of the property is said to be in average minus condition in comparison to other properties of like use.
28. The Taxpayer did not provide any quantifiable evidence to rebut the assessed value of tax year 2023 or tax year 2024.
29. 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.
30. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or

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<sup>9</sup> Neb. Rev. Stat. § 77-201(1)-(3) (Reissue 2018).

<sup>10</sup> Neb. Rev. Stat. § 77-112 (Reissue 2018).

unreasonable and the decision of the County Board should be affirmed.

**IV. ORDER**

**IT IS ORDERED THAT:**

1. The decisions of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2023 and tax year 2024 are affirmed.

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

|       |           |
|-------|-----------|
| Total | \$535,100 |
|-------|-----------|

3. The taxable value of the Subject Property for tax year 2024 is:

|       |           |
|-------|-----------|
| Total | \$572,500 |
|-------|-----------|

4. This Decision and Order, if no further action is taken, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (Reissue 2018).

5. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.

6. Each party is to bear its own costs in this proceeding.

7. This Decision and Order shall only be applicable to tax year 2023 and 2024.

8. This Decision and Order is effective on January 23, 2025.

Signed and Sealed: January 23, 2025



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Jackie S. Russell, Commissioner