

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

BELGRADE L.L.C.  
APPELLANT,

V.

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

CASE NOS: 23C 1137, 24C  
0835

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

**I. BACKGROUND**

1. The Subject Property consists of a single improved commercial parcel in Douglas County with parcel numbers 1310900001 and 1310900003. Only parcel number 1310900003 is the subject of this appeal.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$473,700 for tax years 2023 and 2024.
3. Belgrade L.L.C. (the Taxpayer) protested these values to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$473,700 for tax years 2023 and 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 March 6, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Bob Belgrade was present at the hearing for the Taxpayer.
8. Landon Friesen (Deputy County Attorney) and Mark Jenkins (the Appraiser) 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.<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 the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>3</sup>
12. 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.<sup>4</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.<sup>5</sup>
13. 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.<sup>6</sup> The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.<sup>7</sup>

---

<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

<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> *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)).

<sup>4</sup> *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).

<sup>5</sup> *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.

<sup>6</sup> *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

<sup>7</sup> *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.

14. 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>8</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>9</sup>
15. The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.<sup>10</sup> 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.<sup>11</sup>
16. 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.<sup>12</sup> The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.<sup>13</sup> 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 evaluation of the evidence presented to it.<sup>14</sup> The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>15</sup>

---

<sup>8</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>9</sup> *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).

<sup>10</sup> 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).

<sup>11</sup> *Wheatland Indus., LLC v. Perkins Cty. Bd. of Equalization*, 304 Neb. 638, 935 N.W.2d 764 (2019) (quoting *Botdorf v. Clay Cty. Bd. of Equal.*, 7 Neb. App. 162, 168, 580 N.W.2d 561, 566 (1998)).

<sup>12</sup> Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

<sup>13</sup> *Id.*

<sup>14</sup> Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

<sup>15</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

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

17. The Subject Property is part of a Tax Increment Financing project (TIF) under the Nebraska Community Development Law.
18. “TIF is a financial incentive local governments can give developers to help pay the costs of redeveloping blighted areas. When a blighted area is redeveloped, the property tax revenue from the area should increase. One way local governments can provide TIF funds is to freeze the property tax base in the project area before any redevelopment takes place. Any future property taxes which exceed the frozen amount are collected and placed in a trust fund. These funds are then used to pay redevelopment costs. This is the type of plan used by the Agency for the project at issue; under the contract's terms, the TIF funds are paid to the redevelopers, who advanced the money for the redevelopment.”<sup>16</sup>
19. Douglas County has elected to treat the “base value” of property assessments of TIF projects as one parcel number and the “excess value” as another, even though both parcel numbers are the exact same property.
20. The Subject Property’s “base value” parcel number is 1310900001 and the “excess value” parcel number is 1310900003. The Taxpayer appeals only the County Board’s decision related to the “excess value” of the Subject Property assigned to parcel number 1310900003.
21. The Taxpayer stated the Subject Property’s 12.1% increase in value was due to the streetcar project being built in Omaha.
22. The Taxpayer presented no evidence showing how the streetcar project impacts the valuation of the Subject Property. If the Taxpayer’s contention is that the assessment increase was intended to fund the streetcar project, the Commission is

---

<sup>16</sup> *Cnty. Dev. Agency v. PRP Holdings, L.L.C.*, 277 Neb. 1015, 1016, 767 N.W.2d 68, 70, 70 (2009).

without authority to address this issue. The decision of the County Board relates to the assessed value of the Subject Property, not how the tax revenue is used. Therefore, the only issues before the Commission in this appeal are whether the Taxpayer has presented competent evidence to rebut the presumption that the County Board faithfully performed its duties and acted on competent evidence in valuing the Subject Property and whether the County Board's valuation decision was arbitrary or unreasonable.

23. The Taxpayer provided income and expense information for the Subject Property. The Taxpayer disagreed with the expense, rental, vacancy and collection rates being used in the county's income approach. The Taxpayer asserted the expense factor should reflect the actual factor of 86% not the 35% used in the County's income approach.
24. The Taxpayer provided a spreadsheet with a comparison of the Assessors model versus the Taxpayer's actual numbers. The only differences between the models were the rental rates and the expenses.
25. 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>17</sup>
26. In assessing real property under the income approach, the assessor looks to market income and expense data.<sup>18</sup>
27. "Actual or reported figures can be used as long as they reflect typical figures (or typical figures can be used for all properties)."<sup>19</sup>

---

<sup>17</sup> Neb. Rev. Stat. § 77-112 (Reissue 2018).

<sup>18</sup> See International Association of Assessing Officers, *Standard on Mass Appraisal of Real Property* § 4.4 (July 2017).

<sup>19</sup> International Association of Assessing Officers, *Standard on Mass Appraisal of Real Property* § 4.4 (July 2017).

28. The Taxpayer did not demonstrate that the Taxpayer's income and expense information reflects the market.
29. The Taxpayer's opinion of value was determined by a modified income approach using what the Taxpayer says were actual income and expense data for the Subject Property, but which were not shown to reflect the market. The Taxpayer's modified income approach is not identified in statute and no evidence of its professional acceptance as an accepted mass appraisal method has been produced. Therefore, the Commission finds it does not constitute competent evidence and gives it little weight.
30. The Appraiser stated there was a revaluation conducted to the Subject Property neighborhood for 2023. The increases (or decreases) to each property in the market study area were dependent upon the property data components and comparable sales within the study period.
31. The Appraiser stated a new valuation model was developed using market data as well as published information used in valuation of income producing properties. The streetcar project was not considered for the valuation of the Subject Property.
32. The Appraiser asserted information used in the income approach valuation is "typical in the market" and does not use each properties actuals when doing mass appraisal. The Appraiser stated the Taxpayer's use of 86% for an expense factor is not typical in the market.
33. The Appraiser stated that condition is the biggest factor in valuations of these types of properties. Values used in valuations of similar properties are the same for properties with the same condition.
34. 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.
35. The Taxpayer has not adduced clear and convincing evidence that the determinations of the County Board are arbitrary or

unreasonable and the decisions 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 years 2023 and 2024 are affirmed.
2. The taxable value of the Subject Property's "excess value" for tax years 2023 and 2024 is: \$473,700.
3. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
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 years 2023 and 2024 for parcel number 1310900003.
7. This Decision and Order is effective on February 27, 2026.

Signed and Sealed: February 27, 2026



---

James D. Kuhn, Commissioner