

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

JANE FRANCES SHANLE
HOPPENS TRUST
APPELLANT,

V.

KEITH COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

CASE NO: 23R 0040

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Keith County, parcel number 034400500.
2. The Keith County Assessor (the County Assessor) assessed the Subject Property at \$857,140 for tax year 2023.
3. Jane Frances Shanle Hoppens Trust (the Taxpayer) protested this value to the Keith County Board of Equalization (the County Board) and requested an assessed value of \$613,265 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$857,140 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 August 1, 2024, at Holiday Inn Express & Suites, 300 Holiday Frontage Rd., North Platte, NE 69103, before Commissioner James D. Kuhn.
7. Jane F. Hoppens was present at the hearing for the Taxpayer.
8. Rory Roundtree (County Attorney) and Shandra McNerney (the 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 the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.³ 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.⁴ 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.⁵
12. 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. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board."⁶
13. The order, decision, determination or action appealed from shall be affirmed unless evidence is adduced establishing that the

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

² See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cnty. 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 Cnty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).

³ *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, ___ N.W.3d ___ (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)).

⁴ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___ (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).

⁵ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___.

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

order, decision, determination, or action was unreasonable or arbitrary.⁷

14. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁸
15. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁹
16. The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁰
- 17.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

18. The Taxpayer stated the Subject Property has had higher percentage value increases than comparable properties. The assessed value for real property may be different from year to year according to the circumstances.¹¹ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹² The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹³
19. The Taxpayer states that the floor plan of the Subject Property is obsolete and should be taken into consideration when valuing. The Taxpayer stated that the neighborhood should also be

⁷ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁸ *Omaha Country Club v. Douglas Cnty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

⁹ Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cnty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (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. Cnty. Bd. of Equal. of York Cnty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

¹⁰ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹¹ *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988).

¹² *Id.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

¹³ Neb. Rev. Stat §77-1301 (Cum. Supp 2022)

- considered obsolete. The Taxpayer did not quantify the value the floor plan or neighborhood would affect the Subject Property.
20. The Taxpayer stated the Kalkowski home is a good comparable. The Kalkowski home is valued at \$487,365 per the property record card provided by the Assessor. The Subject Property is valued \$857,140. The Assessor stated the previous assessor placed a 38% functional depreciation on the Kalkowski property to account for a structural issue with the understanding that the depreciation would be removed when the structural issue was resolved.
 21. The Taxpayer must introduce competent evidence of actual value of its property in order to successfully claim that a property is overvalued.
 22. The Taxpayer did not provide evidence of the actual value of the Subject Property for tax year 2023.
 23. 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.
 24. 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	\$38,265
<u>Improvements</u>	<u>\$818,875</u>
Total	\$857,140

3. This Decision and Order, if no further action is taken, shall be certified to the Keith County Treasurer and the Keith 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 December 5, 2025.

Signed and Sealed: December 5, 2025



James D. Kuhn, Commissioner