

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

LAURY MAHR  
APPELLANT,

CASE NO: 23R 0045

V.

DAKOTA COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Dakota County, parcel number 220124051.
2. The Dakota County Assessor (the County Assessor) assessed the Subject Property at \$318,780 for tax year 2023.
3. Laury Mahr (the Taxpayer) protested this value to the Dakota County Board of Equalization (the County Board) and requested an assessed value of \$202,735 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$318,780 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 June 25, 2024, at Divots Conference Center, 4200 W Norfolk Ave, Norfolk, NE, before Commissioner Jackie Russell.
7. Laury Mahr and Jim Steele were present at the hearing for the Taxpayer.
8. Sam Ferraro (Appraiser), Christy Abts (Assessor), and Melissa Collins 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 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 bi-level, single family, rural residential home built in 1995 with 1,466 square feet (SF) above grade, basement area of 1,014 SF with 934 SF full finish, nine fixtures, an attached garage with 875 SF, wood deck of 234 SF, quality rating of fair plus (2.5) and a condition rating of average (3). The property also has a farm implement shed with 2,520 SF.
17. The Appraiser is a Nebraska Certified Residential appraiser that was hired by the County Board to act as a protest referee.
18. The Taxpayer stated that the valuation increase is unreasonable for one year when the property has several original features that need repair. The increase amounted to \$116,045.
19. The Taxpayer provided a series of close-up photographs of the deck, siding, window(s), and door(s). It is unclear whether the window and door pictures are showcasing different locations on the property.
20. The Taxpayer stated that the windows and doors are original to the home and are showing signs of wear, the wood deck is showing signs of rot and warping, and the wood siding has some splitting issues.
21. The Appraiser opined that the issues presented by the Taxpayer were reflected in the quality and condition ratings of the

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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).

property, indicating that the house has been adequately maintained for its age and the areas of concern for repair are not enough to warrant an adjustment to the value.

22. The Assessor attested that the Subject Property had a 360 SF addition on the back side of the property that was converted to living space for 2023.
23. The Taxpayer attested that the addition had been complete and present at the property for years prior to 2023.
24. The Assessor attested that there was no permit issued to the Taxpayer that indicated a portion of the property was being enclosed, and therefore, was not caught until the aerial inspection of 2022 and added to the property value for 2023.
25. The Assessor stated that a combination of cost and sales analysis caused the increase for the Subject Property. Value was added to account for the additional 360 SF enclosed living space, and sales analysis showed a need for an increase based on generally accepted mass appraisal techniques utilizing the sales file data.<sup>9</sup>
26. The Appraiser submitted a series of Property Record Files (PRF) for the Subject Property and the comparable properties used for analysis to support the Subject Property valuation during the protest review.
27. 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.
28. 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.

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<sup>9</sup> Neb. Rev. Stat. § 77-1327(2) (Reissue 2018)

**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	\$ 21,290
<u>Improvements</u>	<u>\$297,490</u>
Total	\$318,780

3. This Decision and Order, if no further action is taken, shall be certified to the Dakota County Treasurer and the Dakota 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 July 17, 2024.

Signed and Sealed: July 17, 2024



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Jackie S. Russell, Commissioner