

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

CHAD WINSLOW,
APPELLANT,

CASE NO: 23R 0095

V.

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

LANCASTER COUNTY
BOARD OF EQUALIZATION,
APPELLEE.

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Lancaster County, parcel number 16-19-143-005-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$394,100 for tax year 2023.
3. Chad Winslow (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 \$394,100 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 11, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Chad Winslow was present at the hearing for the Taxpayer.
8. Tim Johns (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 1.¹
10. The Commission's review of a determination of the County Board of Equalization is de novo.²
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."³ 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."⁴
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.⁵
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

² 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).

³ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁴ *Id.* at 283-84.

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁶ *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.⁷
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁸

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Taxpayer provided the Counties comparable sales report with additional notations under each property with items that he feels makes them not as comparable. Five comparable sales were provided, each having items such as new roof, new deck, new carpet and paint, garage addition, new appliances, custom cabinetry, new HVAC, fence, landscaping, windows as well as possibly better location.
17. The Taxpayer stated the sales comparables are better than the Subject Property and not really comparable. The Taxpayer feels the assessment should be closer to \$340,000.
18. The Appraiser stated the comparable sales report has all the information for each property and adjustments are made for any differences between the properties. The Appraiser stated the comparability factor for each property is very similar and it would be difficult to find better comparables. The Appraiser would not recommend any change to the valuation for 2023 tax year.
19. The County Board presented the Property Record File for the Subject Property and each of the properties on the Counties comparable sales report.
20. "A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject

⁷ *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).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject's unknown value.”⁹

21. The Counties comparable sales report shows that the sales price of each of the comparable sales was adjusted to account for differences between the comparable sales and the Subject Property.
22. The Taxpayer did not quantify the differences between the comparable sales and the Subject Property and the amount of adjustments different from those made by the County Assessor's office needed for the differences he outlined.
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	\$96,600
<u>Improvements</u>	<u>\$297,500</u>
Total	\$394,100

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

⁹ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

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 January 21, 2025.

Signed and Sealed: January 21, 2025



James D. Kuhn, Commissioner