

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

JOHN GALT DEVELOPMENT
LLC
APPELLANT,

CASE NOS: 23R 0129 AND
24R 0262

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 residential parcel in Lancaster County, parcel number 11-15-119-011-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$122,200 for tax year 2023 and \$122,200 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 \$122,200 for tax year 2023 and \$122,200 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. Bret Smith and Jared Patterson (Appraisers) 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 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

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).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
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 Subject Property is a one-story, single-family property built in 1951 with 896 square feet (SF), a basement with bomb shelter listed on assessment record as a crawl space foundation, five plumbing fixtures, a quality rating of fair (2) and a condition/desirability/utility (CDU) rating of average minus (3).
17. The Taxpayer stated that the valuation of the Subject Property is arbitrary or unreasonable due to issues with the bomb shelter caving in, amplified from Habitat for Humanity removing a drainage system when a new house was built on the adjacent lot to the rear of the property.
18. The Taxpayer stated that the CDU of the property should be lowered due to the foundation's complications.
19. The Appraiser attested that the basement component for the bomb shelter was previously changed to crawl space (which does not add value to the property) due to the continuous water issues in the basement caused by runoff routed from the collapsing bomb shelter.

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

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).

20. The Appraiser stated that after interior inspection of the property in March 2022, the rest of the property was found to be in typical condition (4), but a CDU of average minus (3) was placed on the property to account for the basement issues.
21. The Taxpayer did not provide information to show the CDU rating of average minus (3) is arbitrary or unreasonable.
22. The Appraiser stated there was a revaluation conducted to the Subject Property neighborhood for 2023. As such, the result will be varying degrees of percentage increases (or decreases) to each property in the market study area dependent upon the property components and comparable sales within their study period.
23. A determination of actual value may be made by using professionally accepted mass appraisal methods.⁹ The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.¹⁰
24. The Appraiser provided a Comparable Sales Report to support the 2023 Subject Property valuation with recently sold properties along with their Property Record Files, detailing their components of comparability and adjustments to the sale prices based on professionally accepted mass appraisal practices to set the Subject Property valuation.
25. The Appraiser attested that the 2024 valuation did not change since the assessment-to-sale ratio for the neighborhood was compliant with state statute.
26. “A primary tool for measuring the ratio of assessment to actual value is the assessment-to-sales ratio. This ratio is calculated by dividing a parcel of property's assessed value by the sales price of that parcel of property.”¹¹
27. “[U]sing this ratio and using the median as the indicator of central tendency for a class or subclass of property, the median

⁹ Neb. Rev. Stat. § 77-112 (Reissue 2018).

¹⁰ Neb. Rev. Stat. § 77-112 (Reissue 2018).

¹¹ *County of Douglas v. Nebraska Tax Equal. & Rev. Comm'n*, 296 Neb. 501, 509, 894 N.W.2d 308, 314 (2017) (citing 442 Neb. Admin. Code, ch. 9, § 002.02 (2011)).

assessment-to-sales ratio would need to fall between 92 and 100 percent to be within the acceptable range.”¹²

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 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	\$122,200
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3. The taxable value of the Subject Property for tax year 2024 is:

Total	\$122,200
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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.

¹² *County of Douglas v. Nebraska Tax Equal. & Rev. Comm'n*, 296 Neb. 501, 509, 894 N.W.2d 308, 314 (2017).

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



Jackie S. Russell, Commissioner