

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

PORTZ FAMILY REVOCABLE
TRUST
APPELLANT,

V.

LANCASTER COUNTY
BOARD OF EQUALIZATION,
APPELLEE.

CASE NOS: 23R 0174, 24R
0740

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

I. BACKGROUND

1. The Subject Property consists of an improved residential parcel in Lancaster County, parcel number 17-27-430-009-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$600,600 for tax year 2023 and \$600,600 for tax year 2024.
3. Mark Portz on the behalf of Portz Family Revocable Trust (the Taxpayer) protested these values to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$600,600 for tax year 2023 and \$600,600 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 October 16, 2025 at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Mark Portz was present at the hearing for the Taxpayer.

8. Tim Johns (Appraiser) and Joe Mayhew 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
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.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
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.⁶ The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action

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

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 *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.

of the board.⁷

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.⁸ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁹

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.¹⁰ 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.¹¹

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.¹² The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.¹³ 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.¹⁴ The Commission's

⁷ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

⁸ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁹ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___; *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

¹⁰ 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).

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

¹² Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

¹³ *Id.*

¹⁴ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

Decision and Order shall include findings of fact and conclusions of law.¹⁵

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is a two-story, single-family home built in 1991 with above grade area of 3,757 square feet (SF), walkout basement with 1,717 SF of which 1,400 SF is fully finished. There are 25 plumbing fixtures, one fireplace, and a built-in garage with 798 SF. The overall quality rating is 4.0 (good), and the condition rating is 3.0 (average minus).
18. The Taxpayer argued that the valuations of both 2023 and 2024 were arbitrary and unreasonable due to the condition of the property and the supplied appraisal report completed by Brett Raasch with Elite Appraisal Network (Raasch Appraisal).
19. The Taxpayer alleged that due to the need for repairs to the roof, deck, and fencing, and concrete and settling issues, the condition of the Subject Property is inaccurate.
20. The Taxpayer did not provide sufficient information to show that the Subject Property condition of “average minus” was arbitrary or unreasonable as the Raasch Appraisal noted the same issues discussed and indicated that the condition was “average.”
21. The Raasch Appraisal showed an opinion of value of \$550,000 as of the effective date of October 8, 2025.
22. When an independent appraiser using professionally approved methods of mass appraisal certifies that an appraisal was performed according to professional standards, the appraisal is considered competent evidence under Nebraska law.¹⁶
23. The Appraiser argued that since the effective date of the Raasch Appraisal was October 8, 2025, it was not indicative of actual value on January 1, 2023, or January 1, 2024.

¹⁵ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹⁶ *Cain v. Custer Cty. Bd. of Equal.*, 298 Neb. 834, 850, 906 N.W.2d 285, 298 (2018).

24. 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.¹⁷
25. The Appraiser provided a Comparable Sales Report to support the 2023 Subject Property valuation with recently sold properties along with their PRFs. These documents detailed the components of comparability and adjustments to the sale prices based on professionally accepted mass appraisal practices to support the Subject Property valuation.
26. The Appraiser stated that an assessment-to-sales ratio analysis was conducted for the Subject Property neighborhood for tax year 2024. The analysis indicated that valuations were still compliant within the allowable range of 92-100%¹⁸ and therefore, there was no change in value for the 2024 tax year.
27. “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.”¹⁹
28. “[U]sing this ratio and using the median as the indicator of central tendency for a class or subclass of property, the median assessment-to-sales ratio would need to fall between 92 and 100 percent to be within the acceptable range.”²⁰ Such studies may also be used by assessing officials in establishing assessed valuations.²¹
29. The Commission must look to the value of the Subject Property as of January 1 of each tax year.²²

¹⁷ 350 Neb. Admin. Code, ch 17, § 003.05A (7/5/2017).

¹⁸ Neb. Rev. Stat. § 77-5023(2)(c) (Reissue 2018).

¹⁹ *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)).

²⁰ *Id.*

²¹ Neb. Rev. Stat. §77-1327(3) (Reissue 2018).

²² Neb. Rev. Stat. § 77-1301 (Cum. Supp. 2022).

30. The assessed value for real property may be different from year to year according to the circumstances.²³ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.²⁴ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.²⁵
31. The Raasch Appraisal provides six comparable sales for analysis to reach the opinion of value. However, weight is only given to the three most recent sales (comparable sales 1-3), all from the 2025 calendar year as shown within the appraisal sales grid and the Supplemental Addendum pages.
32. The Commission's analysis of the Raasch Appraisal indicates that comparable sales 4-6 sold in the calendar year of 2024. These sales would reconcile to a higher Subject Property value in conjunction with as well as in the absence of comparable sales 1-3 as their adjusted sale prices of \$578,625, \$597,640, and \$679,435, respectively, as they are all higher than the October 8, 2025, opinion of value of \$550,000. This indicates that comparable sales 1-3 show a decreasing value for the Subject Property but are also most reflective of the 2025 market and not the 2023 or 2024 tax years.
33. For these reasons, the Commission concludes that the Raasch Appraisal is not sufficiently representative evidence of the January 1, 2023, or January 1, 2024, taxable value for the Subject Property and it does not clearly and convincingly show the County Board's valuation decisions were arbitrary or unreasonable.
34. The Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.

²³ *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

²⁴ *Affiliated Foods Coop.*, 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).

²⁵ *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

35. However, 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 for tax years 2023 and 2024 is:

Land	\$ 92,000
<u>Improvements</u>	<u>\$508,600</u>
Total	\$600,600

3. 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.
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 20XX.
7. This Decision and Order is effective on January 21, 2026.

Signed and Sealed: January 21, 2026



Jackie S. Russell, Commissioner