

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

RYAN R. WILCOX
APPELLANT,

CASE NO: 23R 0187

V.

RED WILLOW COUNTY
BOARD OF EQUALIZATION,
APPELLEE.

DECISION AND ORDER
AFFIRMING THE DECISION
OF THE RED WILLOW
COUNTY BOARD OF
EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Red Willow County, parcel number 001470200.
2. The Red Willow County Assessor (the County Assessor) assessed the Subject Property at \$330,209 for tax year 2023.
3. Ryan R. Wilcox (the Taxpayer) protested this value to the Red Willow County Board of Equalization (the County Board) and requested an assessed value of \$250,000 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$330,209 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 July 31, 2024, at Holiday Inn Express & Suites, 300 Holiday Frontage Rd., North Platte, NE 69103, before Commissioner James D. Kuhn.
7. Ryan R. Wilcox was present at the hearing for the Taxpayer.
8. Kristi Korell (the Assessor) 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. Unless an exception applies, all real property subject to taxation shall be subject to taxation and shall be valued at its actual value.² Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used.³
11. "It is true that the purchase price of property may be taken into consideration in determining the actual value thereof for assessment purposes, together with all other relevant elements pertaining to such issue; however, standing alone, it is not conclusive of the actual value of property for assessment purposes. Other matters relevant to the actual value thereof must be considered in connection with the sale price to determine actual value. Sale price is not synonymous with actual value or fair market value."⁴
12. The Commission's review of a determination of the County Board of Equalization is de novo.⁵

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

² Neb. Rev. Stat. § 77-201 (Supp. 2022).

³ Neb. Rev. Stat. § 77-112 (Reissue 2018).

⁴ *Forney v. Box Butte County Bd. of Equalization*, 7 Neb.App. 417, 424, 582 N.W.2d 631, 637, (1998).

⁵ 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).

13. 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.”⁶ 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.”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
15. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁹
16. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.¹⁰
17. The Commission’s Decision and Order shall include findings of fact and conclusions of law.¹¹

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

⁶ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁷ *Id.* at 283-84.

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

⁹ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

¹⁰ *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).

¹¹ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

18. The Taxpayer stated he purchased the Subject Property in November of 2022 for \$250,000. He had negotiated the purchase price with the prior owners, and he feels the transaction was arms-length because the property had been on the market for almost a year. Some personal property was included in the sale (e.g., oven, refrigerator, curtains) but nothing of great value.
19. The Taxpayer feels the Assessor assumed the interior of the home had been periodically updated. The Taxpayer stated the Subject Property's interior is very dated, having not been fully updated since the 1950s. The Subject Property does have some functional updates for the prior owners' accessibility, such as a walk-in tub. The basement is unfinished.
20. The Taxpayer did not present evidence regarding the impact of these conditions on the assessed value of the Subject Property. The Taxpayer did not present evidence showing that the County Assessor had failed to consider these conditions when assessing the value of the Subject Property.
21. The Taxpayer provided comparable properties that he asserts are similar in square footage to the Subject Property. He asserts that these properties with similar square footage have a valuation substantially less than the Subject Property.
22. The Assessor stated homes with similar square footage as the Subject Property are not typical in the neighborhood. The Subject Property has an area of nearly 3,000 square foot. The comparable properties presented by the Assessor all had areas below 1,730 square feet. The Assessor ran a Price Per Square Foot (PPSF) analysis to compare the Subject Property to the comparable properties and found that the Subject Property had the lowest PPSF.
23. The PPSF analysis is not a preferred method to use for comparison as it discounts the qualitative data of each property that would otherwise be adjusted to make them similar to the Subject Property. In the absence of a full sales comparison

analysis, a PPSF analysis carries some weight as a reference to evaluate valuations based on other methodologies.

24. The Commission notes that within the industry only the main floors of a home are used to analyze the square footage of a property. The Taxpayer's analysis added the main floor square footage and the basement square footage together to arrive at a total square footage; this is inconsistent with standard practices and must be given little weight by the Commission. The Assessor's analysis did follow industry guidelines for a PPSF analysis. The results indicate that the Subject Property is not over-valued based on its relative size. Without evidence showing that the other properties have similar characteristics to the Subject Property, the Commission does not consider this PPSF analysis to be competent evidence to rebut the Subject Property's assessed value.
25. The Assessor testified that the real estate market for the area was high and required her office to increase values for the entire town of McCook. The Subject Property's neighborhood was increased 10% and lot values were increased.
26. The Assessor's CAMA (computer assisted mass appraisal) system cost approach analysis used for determining values utilizes the Marshall & Swift costing data for June 2018. After analyzing the property record file (PRF), it appears the data is correct and depreciation is being uniformly applied.
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.

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	\$ 26,145
<u>Improvements</u>	<u>\$304,064</u>
Total	\$330,209

3. This Decision and Order, if no further action is taken, shall be certified to the Red Willow County Treasurer and the Red Willow 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 April 9, 2025.

Signed and Sealed: April 9, 2025



James D. Kuhn, Commissioner