

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

MISTY L. STINE
APPELLANT,

V.

CASS COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

CASE NO: 23R 0221

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Cass County, parcel number 130059617.
2. The Cass County Assessor (the County Assessor) assessed the Subject Property at \$447,166 for tax year 2023.
3. Misty L. Stine (the Taxpayer) protested this value to the Cass County Board of Equalization (the County Board) and requested an assessed value of \$393,298 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$442,411 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 November 24, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Misty Stine was present at the hearing for the Taxpayer.
8. Sasha Frye (Assessor) and Dana Long (Appraiser) 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 of the board.⁷
14. The order, decision, determination or action appealed from shall

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, 27 N.W.3d 1, 6 (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, 27 N.W.3d at 6 (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, 27 N.W.3d at 6.

⁶ *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

⁷ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

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

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

⁹ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6; *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).//

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

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is a structure originally built for use as a schoolhouse, now described as a one-story, single-family home. The original structure was built in 1954 with 5,124 square feet (SF) above grade and over crawl space. There are 17 fixtures, a quality rating of average, and a condition rating of good.
18. The Taxpayers argued that the Subject Property valuation is arbitrary and unreasonable due to an appraisal performed by Matt Wendt, Certified Residential Appraiser with Wendt Appraisal Services, Inc. (Wendt Appraisal).
19. The Wendt Appraisal has an effective date of August 19, 2024, and was performed “to determine market value for mortgage underwriting and mortgage transactions”¹⁶ as of the effective date.
20. The Commission must look to the value of the Subject Property as of January 1, 2023.¹⁷
21. 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.¹⁸
22. The Commission’s review of the Wendt Appraisal found that it used comparable sales inside and outside of Cass County. Comparable sales 1 and 2 are from Sarpy County, while comparable sales 3 through 5 are from Cass County. The Supplemental Addendum details “The market area was expanded to include a sale to bracket the subject’s GLA”, however, there are no sales that have more square footage than the Subject Property that were analyzed within the Wendt Appraisal sales grid and the Appraisal goes on to say that no properties larger than the Subject Property were found in Sarpy County.

¹⁶ Wendt Appraisal p. 6, *Scope of Work*.

¹⁷ Neb. Rev. Stat § 77-1301 (Cum. Supp. 2022)

¹⁸ *Cain v. Custer Cty. Bd. of Equal.*, 298 Neb. 834, 850, 906 N.W.2d 285, 298 (2018).

23. Comparable sale 3 is a two-story home which is typically not utilized as comparable to a ranch style home without adjustments for type of style using professionally accepted appraisal methods. No adjustments were made or discussed concerning the style of construction within the Wendt Appraisal.
24. The Assessor argued that Comparable sale 2 is also a two-story property in Sarpy County while the Wendt Appraisal labels the design as Ranch. The photo of comparable 2 in the Wendt Appraisal shows comparable 2 is a two-story home.¹⁹
25. Comparables 4 and 5 were labeled with the same conditional rating as the Subject Property within the sales grid but were given negative \$30,000 adjustments showing inconsistency in appraisal techniques.
26. The Wendt Appraisal adjusts all sizes of basement foundations at the same rate without explaining why one rate is used when the foundation sizes range from 686 SF to 1,680 SF.
27. The Wendt Appraisal states that basement finish is adjusted at a rate of \$14 per SF but only adjusts comparable sale 4 with 833 SF basement finish at \$10,000 added with the \$8,000 basement foundation adjustment.
28. The assessed value for real property may be different from year to year according to the circumstances.²⁰
29. The Commission finds that because the Wendt Appraisal is focusing on market conditions and adjustments for a value as of the effective date of August 19, 2024, paired with the unique features of the Subject Property, inconsistencies within the sales grid, and lack of explanation to reach the opinion of value with emphasis placed on comparable sales 1 through 3, the Commission is unable to give the Wendt Appraisal much weight.²¹

¹⁹ Wendt Appraisal p. 23.

²⁰ *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).

²¹ *Bottorf*, 7 Neb. App. at 167, 580 N.W.2d at 565 (“It is well established that the value of the opinion of an expert witness is no stronger than the facts upon which it is based.”).

30. The Taxpayer has produced sufficient competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
31. 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	\$ 37,241
<u>Improvements</u>	<u>\$405,170</u>
Total	\$442,411

3. This Decision and Order, if no further action is taken, shall be certified to the Cass County Treasurer and the Cass 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 year 2023.
7. This Decision and Order is effective on February 11, 2026.

Signed and Sealed: February 11, 2026



Jackie S. Russell, Commissioner