

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

JASON P. GALINDO
APPELLANT,

CASE NO: 23R 0230

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 16-30-318-010-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$460,900 for tax year 2023.
3. Jason P. Galindo (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 \$460,900 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 12, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie Russell.
7. Jason Galindo was present at the hearing for the Taxpayer.
8. Tim Johns (Appraiser) and Priscilla Hruby 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
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 Subject Property is a one-story, single family residential home built in 2015 with 1,644 square feet (SF) above grade, basement area of 1,644 SF with 1,050 SF full finish, 13 plumbing fixtures, attached garage of 773 SF, a quality rating of average (3) and a condition/desirability/utility (CDU) rating of typical (4).
17. The Taxpayer opined that the Subject Property is not equalized with surrounding properties of comparability.
18. The Taxpayer stated that the Subject Property resides in a flood zone which affects the value as well as the appreciation of the property.
19. The Taxpayer opined that based on the submitted documents: "How could rising floodwaters impact your home's value", a blog from the American Flood Coalition, and "Do floodplain delineations decrease property values?" a paper written by Alison Hill, a 7.3-8.6% decrease in property value will occur within a floodplain.
20. The Taxpayer submitted a Lancaster County/City of Lincoln GIS map which shows that a floodplain delineation effects the SW

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).

corner of the property. It is unclear of the actual amount of SF affected.

21. The Taxpayer attested that the Subject Property had flood insurance coverage for 2023.
22. The Taxpayer submitted a FEMA Standard Flood Hazard Determination Form that indicates in Section II box C1 that flood insurance is available to the Subject Property. The form also indicates in Section I box 5 that no flood insurance is required. This is indication that the improvements on the parcel are in proximity to a flood zone, but the risk is not great enough for FEMA to require additional coverage of the structures.
23. The Appraiser attested that local data is monitored on the effects of the sales within flood zones and a negative 10% adjustment is made to the land where structures are affected by floodplain delineations. The Subject Property structures are not affected.
24. The information submitted by the Taxpayer does not support an adjustment for land only within a flood zone, but rather, structures affected by a floodplain delineation with the potential to flood.
25. The Taxpayer provided a spreadsheet with seven properties listed with a price per square foot (PPSF) analysis. The Taxpayer also submitted Property Record Files (PRF) for comparable properties 1-3 and suggested that an average of the PPSF of those properties would be an acceptable PPSF of the Subject Property.
26. While the properties used for comparison do not have recent sales, they are all ranch style homes with like quality and condition to the Subject. However, adjustments must be made for components of superiority and inferiority compared to the Subject property before compiling a PPSF. Simply utilizing PPSF without consideration of all components of value is not an acceptable appraisal practice.

27. The Appraiser submitted PRFs and a Comparable Sales Report for analysis of the sales approach to value. Adjustments have been made to the comparable sales using generally accepted mass appraisal practices through sales comparison and multiple regression analysis to arrive at a valuation for the Subject Property.
28. 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.
29. 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	\$117,000
<u>Improvements</u>	<u>\$343,900</u>
Total	\$460,900
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 (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 July 17, 2024.

Signed and Sealed: July 17, 2024



Jackie S. Russell, Commissioner