

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

JESSICA RIGGINS  
APPELLANT,

CASE NO: 23R 0407

V.

NEMAHA COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Nemaha County, parcel number 640028659.
2. The Nemaha County Assessor (the County Assessor) assessed the Subject Property at \$158,657 for tax year 2023.
3. Jessica Riggins (the Taxpayer) protested this value to the Nemaha County Board of Equalization (the County Board) and requested an assessed value of \$122,486 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$158,657 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 8, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Jessi Riggins was present at the hearing for the Taxpayer.
8. Mallory Lempka (Assessor) and Morgan Ritchie (Deputy Attorney) 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.<sup>1</sup>
10. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
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."<sup>3</sup> 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."<sup>4</sup>
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.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

<sup>2</sup> 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).

<sup>3</sup> *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

<sup>4</sup> *Id.* at 283-84.

<sup>5</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>6</sup> *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.<sup>7</sup>
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

### III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Subject Property is a one-story, single family residential home built in 1993 with 1,056 square feet (SF) above grade, basement area of 1,056 SF, 6 plumbing fixtures, a grade/quality rating of 5, and a condition rating of normal (NML). There are three additional outbuildings on the parcel and the lot contains 2.27 acres of land.
17. The Taxpayer stated that the property valuation is arbitrary based on her analysis.
18. The Taxpayer stated that a data inaccuracy from the January 1 record was contested during the county protest. The Property Record File (PRF) showed 240 SF of gross living area (GLA) rather than 240 SF enclosed porch area. The county agreed, corrected the data, but did not adjust value.
19. The Assessor attested that the difference of 240 SF GLA to 240 SF enclosed porch area did not create a new opinion of value.
20. The Taxpayer did not submit information to quantify what impact on value, if any, should result from an adjustment in 240 SF of GLA to 240 SF of enclosed porch area.
21. The Taxpayer provided two parcels for analysis in comparison to the Subject Property. The Taxpayer stated concerns with the land value of the Subject Property compared to the parcels and questioned the different land use descriptions as shown on the

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<sup>7</sup> *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).

<sup>8</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

submitted Nemaha County Assessor property detail pages for each.

22. The Assessor attested that each of the comparable properties provided by the Taxpayer have been classified as agricultural land<sup>9</sup> with home site as opposed to the Subject Property's classification of market home site with no agricultural use.
23. Agricultural use land shall constitute a separate and distinct class of property for purposes of property taxation and shall be valued at seventy-five percent of its actual value.<sup>10</sup> Comparing property of agricultural land class to property without agricultural land class would not be considered a professionally accepted mass appraisal practice.
24. The Assessor attested that properties with improvements in the Subject Property neighborhood had a 40% adjustment uniformly applied to the improvement (structure) values based on measures of central tendency to bring the market within the acceptable range of 92-100% according to Neb. Rev. Stat. § 77-5023(2)(c).
25. 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.
26. 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.

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<sup>9</sup> Neb. Rev. Stat. § 77-1363 (Reissue 2018).

<sup>10</sup> Neb. Rev. Stat. § 77-201(2) (Reissue 2018).

2. The taxable value of the Subject Property for tax year 2023 is:

|                     |                  |
|---------------------|------------------|
| Land                | \$ 31,990        |
| <u>Improvements</u> | <u>\$126,667</u> |
| Total               | \$158,657        |

3. This Decision and Order, if no further action is taken, shall be certified to the Nemaha County Treasurer and the Nemaha 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 22, 2024.

Signed and Sealed: July 22, 2024



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Jackie S. Russell, Commissioner