

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

HUSSAM KAKISH  
APPELLANT,

CASE NO: 23R 0434

V.

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Douglas County, parcel number 0611370498.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$1,412,200 for tax year 2023.
3. Hussam Kakish (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$1,412,200 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 22, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Hussam Kakish was present at the hearing for the Taxpayer.
8. Lisa Humlicek (Appraiser) 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.<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 home built in 2014 with 3,623 square feet (SF) above grade, walkout basement area of 3,605 SF with 3,120 SF full finish, four full baths, one half bath, three fireplaces, garage area of 1,673 SF, quality of very good, and condition of good. The Subject Property resides in a newer development with approximately 200 lots and an approximate 80% build-out of the neighborhood.
17. The Taxpayer argued that the valuation increase is arbitrary or unreasonable and opined it is not sustainable for the Subject Property.
18. The Taxpayer provided several methods of neighborhood analyses for the Commission to consider labeled Exhibits A – D. Exhibit A shows several ranch property sales with varying year built, quality, condition, square foot, and a price per square foot (PPSF) analysis of the sales price compared to the Subject Property using nine of the included sales. The Taxpayer removed properties believed to be in newer or a remodeled condition but made no adjustments to the comparable properties for differing components of value prior to finalizing the PPSF. A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more

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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).

like the subject, its price is brought closer to the subject's unknown value.<sup>9</sup>

19. Likewise, Exhibit B shows 10 homes without pools while Exhibit C shows 10 homes with pools and both documents averaging a PPSF on their respective exhibit. Again, this does not truly analyze a comparable property to the Subject Property, but rather only analyzes a PPSF before any adjustments are made. If the comparable property is inferior in some respect, the sale price is adjusted upward, just as if it is superior, it will be adjusted downward.<sup>10</sup>
20. Exhibit D shows 10 sales of 1.5 story homes with an average PPSF analysis. Ranch properties and 1.5 story homes are not comparable and therefore, would not be used for comparison in an appraisal analysis. Comparable properties share similar use (residential, commercial industrial, or agricultural), physical characteristics (size, shape, and topography), and location.<sup>11</sup>
21. The Taxpayer's opinions of value were determined without making adjustments in any of the value comparisons to account for contributory value differences in the comparable properties prior to a PPSF comparison. This method is not identified in statute and no evidence of its professional acceptance as an accepted mass appraisal method has been produced. Therefore, the Commission finds it does not constitute competent evidence and gives no weight to it.
22. The Appraiser stated there was a revaluation conducted to the Subject Property neighborhood for 2023. As such, the result will be varying degrees of percentage increases (or decreases) to each property in the market study area dependent upon the property components and comparable sales within their study period.

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<sup>9</sup> *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

<sup>10</sup> *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

<sup>11</sup> *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

23. The Appraiser provided the Subject Property's Property Record File (PRF) which details the cost value analysis and sales used to determine the Subject Property value. Page 6 gives a description of the methodology used which is based upon generally accepted mass appraisal methods. Page 7 details the contributory value of the Subject Property components (which would be used in any comparability analysis) and the final two pages of the packet along with page 10, detail the sales of the neighborhood that support that the Subject Property's value.
24. 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.
25. 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	\$ 228,500
<u>Improvements</u>	<u>\$1,183,700</u>
Total	\$1,412,200
3. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas 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 December 18, 2024.

Signed and Sealed: December 18, 2024



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Jackie S. Russell, Commissioner