

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

DANNY J. JOHNSON
APPELLANT,

CASE NO: 23R 0441

V.

GAGE COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Gage County, parcel number 004547000.
2. The Gage County Assessor (the County Assessor) assessed the Subject Property at \$370,235 for tax year 2023.
3. Danny J. Johnson (the Taxpayer) protested this value to the Gage County Board of Equalization (the County Board) and requested an assessed value of \$272,335 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$370,235 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 6, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Danny J. Johnson was present at the hearing for the Taxpayer.
8. Darrel L. Stanard (Appraiser) and Patti Milligan (Assessor) 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

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).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
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 1.5 story, single-family home built in 1927 with 2,084 square feet (SF) above grade, basement area of 2,084 SF, one bathroom, quality rating of average (3), and condition rating of average plus (3.5). Located in rural Gage County, the lot consists of 8.6 acres and houses five additional outbuilding structures, along with a 672 SF detached garage.
17. The Taxpayer stated that the Subject Property valuation is arbitrary or unreasonable due to no updates or conditional changes since the purchase in 2020, and opined the increase was not equalized with the properties given for comparison.
18. The Taxpayer provided a document compiled of comparable properties located in different sections of the same township-range of 6-7 (matching the Subject Property township-range) within Gage County with lower valuation increases. No Property Record Files (PRF) for these properties were given for review by the Commission, but website print outs were provided. The website printouts do not contain as detailed information for comparison purposes and the Commission cannot fully analyze

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

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).

comparability to the Subject Property.⁹ It should also be noted that none of the properties submitted had a sale that took place within the statutory sales study period of October 1, 2020, thru September 30, 2022, for further analysis.¹⁰

19. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value.¹¹
20. Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach using the guidelines in section 77-1371, (2) income approach, and (3) cost approach. 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. In analyzing the uses and restrictions applicable to real property, the analysis shall include a consideration of the full description of the physical characteristics of the real property and an identification of the property rights being valued.¹²
21. The Assessor attested that a revaluation of eight townships was conducted for the 2023 tax year, which included the Subject Property's township. A revaluation includes a review of all properties within a classification and locational area to

⁹ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on October 3, 2024, includes the following:

***NOTE:** Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

¹⁰ 350 Neb. Admin. Code, ch. 17, § 003.05A (7/5/2017).

¹¹ 350 Neb. Admin. Code, ch. 10 § 003.01A (10/26/2014).

¹² Neb. Rev. Stat. § 77-112 (Reissue 2018).

determine property data accuracy along with a change to calculating costing tables, and or depreciation tables, based on cost and sales comparison analyses using generally acceptable mass appraisal methods. 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.

22. The Appraiser stated that an interior inspection of the Subject Property has not been conducted, but that data was gathered from exterior inspections and the last known sales listing to determine accuracy within the assessment record. The listing description of the property prompted a change to the conditional rating, which combined with the table updates lend to the increase of the Subject Property valuation.
23. The Appraiser provided a “Supportive Analysis For System Override – Market Sales Data” document for review using a sales comparison analysis grid format. PRFs were also given to support the data included on the analysis. While two of the properties used were sales from after the statutory sales study period, two properties from within the sales study period show an equalized value analysis to the Subject Property using generally accepted mass appraisal methods.
24. The Taxpayer has not presented information to demonstrate that the revaluation of the Subject Property has not been applied equitably to the data of other properties that would create an arbitrary or unreasonable valuation for the Subject Property.
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.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$ 41,950
<u>Improvements</u>	<u>\$328,285</u>
Total	\$370,235

3. This Decision and Order, if no further action is taken, shall be certified to the Gage County Treasurer and the Gage 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 9, 2024.

Signed and Sealed: December 9, 2024



Jackie S. Russell, Commissioner