

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

RANDAL F. & MARJORIE A.  
KING  
APPELLANT,

V.

CHASE COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

CASE NO: 23R 0473

DECISION AND ORDER  
REVERSING THE DECISION  
OF THE CHASE COUNTY  
BOARD OF EQUALIZATION

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Chase County, parcel number 150103328.
2. The Chase County Assessor (the County Assessor) assessed the Subject Property at \$979,755 for tax year 2023.
3. Randal F. & Marjorie A. King (the Taxpayer) protested this value to the Chase County Board of Equalization (the County Board) and requested an assessed value of \$749,500 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$979,755 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 August 1, 2024, at Holiday Inn Express & Suites, 300 Holiday Frontage Rd., North Platte, NE 69103, before Commissioner James D. Kuhn.
7. Randy F. King was present at the hearing for the Taxpayer.
8. Tori Mueller (the Assessor) 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>

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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).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
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 3,541 square foot (SF) one-story single-family house located on a 1.206 acre lot built in 2012.
17. The Taxpayer purchased the Subject Property on September 30, 2022 for \$806,458. The Subject Property was listed for over a year before the Taxpayer negotiated the final sale contract. The Taxpayer asserts that the Subject Property has not increased 21% over its purchase price within 3 months.
18. The Taxpayer argues the assessment should be 93% of the purchase price because the Property Tax Administrator stated in the 2022 Reports and Opinions that the average level of value for the state is 93% of purchase price.
19. The Taxpayer provided property record files (PRF) for the Subject Property and neighboring properties as comparable properties. The Taxpayer provided a spreadsheet that calculated a price per square foot (PPSF) for all the properties. The Subject Property has the highest PPSF.
20. The Taxpayer stated that if the Subject Property was valued at the average PPSF determined by the sample, the valuation

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<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).

<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).

would be \$718,823. If the Subject Property was valued at the 93% average level of value it would be \$749,500.

21. The Taxpayer's methodology is not a professionally accepted mass appraisal method.<sup>9</sup> The Commission must give this analysis little weight.
22. With limited exceptions, all real property is valued at 100% of its actual value.<sup>10</sup>
23. The Assessor attested that the 2023 valuation received a percentage increase adjustment based on an assessment-to-sale ratio analysis applied to all properties in the Subject Property's neighborhood. Nebraska law recognizes the use of assessment-to-sale ratio analysis for real property appraisal and equalization.<sup>11</sup>
24. Upon analyzing the PRF for the Subject Property, the Commission found discrepancies in what the Taxpayer asserts the assessed value was compared to what is shown in the PRFs. It appears a recent conversion between computer assisted mass appraisal systems has not accurately converted the information regarding the Subject Property.
25. The Commission finds that the PRFs are unreliable and cannot be afforded their typical credibility.
26. Without credible information to prove the correctness of the assessment or correctness of the comparable properties, the Commission finds the purchase price to be the best evidence of actual value for the 2023 tax year.<sup>12</sup>

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<sup>9</sup> See Neb. Rev. Stat. § 77-112.

<sup>10</sup> Neb. Rev. Stat. § 77-201.

<sup>11</sup> See 442 Neb. Admin. Code, ch. 9 § 002.02 (2011) (A primary tool for measuring the ratio of assessment to actual value is the assessment-to-sales ratio. This ratio is calculated by dividing a parcel of property's assessed value by the sales price of that parcel of property.); *County of Douglas v. Neb. Tax Equal'n Rev. Comm'n*, 296 Neb. 501, 509 (2017) "[U]sing this ratio and using the median as the indicator of central tendency for a class or subclass of property, the median assessment-to-sales ratio would need to fall between 92 and 100 percent to be within the acceptable range."

<sup>12</sup> Neb. Rev. Stat. § 77-112 (Actual value of real property for purposes of taxation means *the market value of real property* in the ordinary course of trade).

27. The Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
28. The Taxpayer has 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 vacated.

#### 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 vacated and reversed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$ 35,568
<u>Improvements</u>	<u>\$770,890</u>
Total	\$806,458

3. This Decision and Order, if no further action is taken, shall be certified to the Chase County Treasurer and the Chase 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 April 9, 2025.

Signed and Sealed: April 9, 2025



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James D. Kuhn, Commissioner

