

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

MICHAEL F. QUBTY
APPELLANT,

CASE NO: 23R 0521

V.

YORK COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in York County, parcel number 930031660.
2. The York County Assessor (the County Assessor) assessed the Subject Property at \$105,458 for tax year 2023.
3. Michael F. Qubty (the Taxpayer) protested this value to the York County Board of Equalization (the County Board) and requested an assessed value of \$65,417 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$105,458 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 **October 15, 2024**, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Michael F. Qubty was present at the hearing for the Taxpayer.
8. Nathan Heinz (County Attorney) and Kurt Bulgrin (the 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 the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.³ The first involves a presumption 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.⁴ 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.⁵
12. The second burden of proof requires that 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."⁶
13. The order, decision, determination or action appealed from shall be affirmed unless evidence is adduced establishing that the

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

² See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cnty. 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 Cnty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).

³ *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, ___ N.W.3d ___ (2025). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus. v. Nuckolls Cty. Bd. of Equal.*, 231 Neb. 653, 654-55, 437 N.W.2d 501, 502 (1989)).

⁴ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___ (quoting *Cain v. Custer Cty. Bd. of Equal.*, 315 Neb. 809, 818, 1 N.W.3d 512, 521 (2024)). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus.*, 231 Neb. at 654-55, 437 N.W.2d at 502).

⁵ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___.

⁶ *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

order, decision, determination, or action was unreasonable or arbitrary.⁷

14. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁸
15. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁹
16. The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁰

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Taxpayer stated the Subject Property is valued in excess of what he believes the true value should be. The Taxpayer stated that he would sell the Subject Property for \$30,000 less than the current assessment.
18. The Taxpayer provided photos to show the condition of the Subject Property. The Taxpayer stated the home has two bedrooms on the second floor but neither has a closet. Other items related to the value of the Subject Property include the detached garage needing siding, the roof needing fixed and only one small bathroom in the house.
19. The Taxpayer did not provide any comparable properties or property record files showing the Subject Property was valued unfairly or differently than similar properties.
20. "If a taxpayer's property is assessed at a value in excess of its actual value, or in excess of that value at which others are

⁷ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁸ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___; *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

⁹ Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cnty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value) *abrogated on other grounds by Potts v. Bd. of Equalization*, 213 Neb. 37, 328 N.W.2d 175 (1982)); *Lincoln Tel. and Tel. Co. v. Cnty. Bd. of Equal. of York Cnty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

¹⁰ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

taxed, then the taxpayer has a right to relief.”¹¹ However, the burden is on the taxpayer to show by clear and convincing evidence that the valuation placed upon the taxpayer’s property when compared with valuation placed on other similar property is grossly excessive.¹² This burden requires evidence of the assessed and market value for both the Subject Property and a comparable property.

21. The Assessor stated the Subject Property was being valued using generally accepted mass appraisal methods. The Assessor provided three comparable properties showing the Subject Property was valued the same as similar properties.
22. 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.
23. 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 | \$10,417 |
| <u>Improvements</u> | <u>\$95,041</u> |
| Total | \$105,458 |

¹¹ *Lancaster Cty. Bd. of Equalization v. Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (citing *AT&T Information Sys. v. State Bd. of Equal.*, 237 Neb. 591, 467 N.W.2d 55 (1991); then citing *Zabawa v. Douglas Cty Bd. of Equal.*, 17 Neb. App. 221, 757 N.W.2d 522 (2008)).

¹² *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___; *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

3. This Decision and Order, if no further action is taken, shall be certified to the York County Treasurer and the York 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 10, 2025.

Signed and Sealed: December 10, 2025



James D. Kuhn, Commissioner