

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

SONJA L. SWANSON,
APPELLANT,

CASE NO: 23R 0565

V.

SARPY COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is a residential improvement on leased land in Sarpy County, parcel number 011574039.
2. The Sarpy County Assessor (the County Assessor) assessed the Subject Property at \$41,289 for tax year 2023.
3. Sonja L. Swanson (the Taxpayer) protested this value to the Sarpy County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$41,289 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 March 18, 2024, at the Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Sonja L. Swanson was present at the hearing for the Taxpayer.
8. Shane Grow and Terry Baker with the County Assessor's Office (the County Appraisers) 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
12. 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
13. 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.⁶ The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.⁷
14. The order, decision, determination or action appealed from shall

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

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 *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 Cnty. 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.

⁷ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.⁸ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁹

15. The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.¹⁰ The County Board need not put on any evidence to support its valuation of the property at issue unless the Taxpayer establishes that the County Board's valuation was unreasonable or arbitrary.¹¹
16. In an appeal, the Commission may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based.¹² The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.¹³ The Commission may take notice of judicially cognizable facts, may take notice of general, technical, or scientific facts within its specialized knowledge, and may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.¹⁴ The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁵

⁸ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁹ *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).

¹⁰ Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo County*, 179 Neb. 415, 138 N.W.2d 641 (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. County Bd. of Equal. of York County*, 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).

¹¹ *Wheatland Indus., LLC v. Perkins Cty. Bd. of Equalization*, 304 Neb. 638, 935 N.W.2d 764 (2019) (quoting *Bottorf v. Clay Cty. Bd. of Equal.*, 7 Neb. App. 162, 168, 580 N.W.2d 561, 566 (1998)).

¹² Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

¹³ *Id.*

¹⁴ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

¹⁵ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is a 1,216-square foot-mobile home built in 1999 and located on leased land. The Subject Property has a quality rating of fair and a condition rating of average.
18. The Taxpayer alleged that the assessed value of the Subject Property was not equalized with other comparable properties.
19. The County Board presented a packet of information regarding the valuation of the Subject Property including an appraiser's statement of the assessment of the Subject Property, the Property Record File (PRF) for the Subject Property, the PRFs for five comparable properties for equalization purposes, and the PRF for two recent sales near the Subject Property. There was also a list of all sales in the subdivision and a list of all properties in the subdivision.
20. The County Appraisers discussed the assessments of mobile homes in the Subject Property's market area. The assessments are bracketed into three different groups based on five sales of four properties that occurred between October 1, 2020, and September 30, 2022.
21. The County Appraisers stated that the groups were based on extremely limited information as the County Assessor's office often does not get information regarding mobile home sales.
22. The County Appraisers also stated that the main difference between the groups was the economic depreciation applied based on the age of the property.
23. The assessment information presented shows that a mobile home built between 1991 and 2000 received a +146% economic depreciation while a mobile home built in 2001 to the present received a +26% economic depreciation.
24. The economic depreciation amount applied to mobile homes built between 1991 and 2000 is based on a single sale. The economic depreciation for mobile homes built between 2001 and

the present is based on a single property that sold twice in two years.

25. The Taxpayer presented information regarding the Subject Property, located on Lot 13, and the property located nearby on Lot 10. The Subject Property is 1,216 square feet, was constructed in 1999, and had a Replacement Cost New (RCN) of 57,876 or \$47.60 per square foot (PSF) using the County's assessment model. The Lot 10 property is 1,088 square feet, was constructed in 2001, and had an RCN of \$54,781 or \$50.35 PSF using the County's assessment model. After depreciation is applied the Subject Property had a valuation of 41,289 or \$33.95 PSF while the Lot 10 property had a valuation of \$24,158 or \$22.20 PSF.
26. Everything about the Subject Property and the Lot 10 property indicates that they are similarly situated. However, their assessed values are drastically different.
27. "To set the valuation of similarly situated property, i.e. comparables, at materially different levels, i.e., value per square foot, is by definition, unreasonable and arbitrary, under the Nebraska Constitution."¹⁶
28. "Taxpayers are entitled to have their property assessed uniformly and proportionately, even though the result may be that it is assessed at less than the actual value."¹⁷
29. A review of the information presented, and the statements of the County Appraisers indicate that the difference in the assessments of the Subject Property and the Lot 10 property is the application of the economic depreciation factor, which itself is based on very limited information.
30. Applying an economic depreciation factor of +26%, as is applied to the Lot 10 property, to the Subject Property results in an

¹⁶ *Scribante v. Douglas County Board of Equalization*, 8 Neb. App. 25, 39, 588 N.W.2d 190, 199 (1999).

¹⁷ *Constructors, Inc. v. Cass Cty. Bd. of Equal.*, 258 Neb. 866, 873, 606 N.W.2d 786, 792 (2000).

assessed value for the Subject Property of \$21,148 or \$17.39 PSF for tax year 2023.¹⁸

31. The Commission finds that the equalized value of the Subject Property for tax year 2023 is \$21,148.
32. 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.
33. 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	\$ 0
<u>Improvements</u>	<u>\$21,148</u>
Total	\$21,148

3. This Decision and Order, if no further action is taken, shall be certified to the Sarpy County Treasurer and the Sarpy County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
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.

¹⁸ \$57,876 RCN x .71 Physical Depreciation = \$41,092
\$57,876 - \$41,092 = \$16,784
\$16,784 x .26 Economic Depreciation = \$4,364
\$16,784 + \$4,364 = \$21,148 Assessed Value
\$21,148 ÷ 1,216 square feet = \$17.39 PSF

6. This Decision and Order shall only be applicable to tax year 2023.
7. This Decision and Order is effective on January 13, 2026.

Signed and Sealed: January 13, 2026



Steven A. Keetle, Commissioner