

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

JOAN CASEY  
APPELLANT,

CASE NO: 23R 0616

V.

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

LANCASTER COUNTY  
BOARD OF EQUALIZATION,  
APPELLEE.

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Lancaster County, parcel number 16-20-105-027-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$364,500 for tax year 2023.
3. Joan Casey (the Taxpayer) protested this value to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$364,500 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 the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Joan Casey was present at the hearing for the Taxpayer.
8. Tim Johns (Appraiser) and Brian Grimm 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.<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, raised ranch style, single-family home built in 1994 with 1,752 square feet (SF) above grade, walkout basement area of 825 SF with 700 SF full finish, 12 plumbing fixtures, one fireplace, quality rating of average (3), condition/desirability/utility (CDU) rating of typical (4), and built in garage area of 927 SF.
17. The Taxpayer stated that the Subject property is dis-equalized within its neighborhood and that the valuation is arbitrary or unreasonable.
18. The Taxpayer stated that the raised ranch style of the Subject property mirrors the features of a standard ranch and two-story home.
19. The Taxpayer stated that it is unreasonable for the County to call the Subject property a one-story home because of the construction that is neither just one-story nor two-story. The Taxpayer opined that since the County considers only one-story properties in sales comparison to the Subject property, it dis-equalizes the Subject.
20. The Appraiser attested that although the raised ranch houses feature both ranch style and two-story style qualities, all raised ranch style homes are classified as one-story properties due to

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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).

- little to no representation in the current sales study period across the county while being classified as raised ranch only.
21. The sales study period for the 2023 valuation year is comprised of arm's-length transactions from October 1, 2020, through September 30<sup>th</sup>, 2022.<sup>9</sup>
  22. The Taxpayer stated that the current CDU of the Subject property is not appropriate due to an unusual layout. The Taxpayer submitted "exhibit 2", the Property Record File (PRF) for 7549 San Mateo Ln for reference of a reduced condition due to functional obsolescence of a property.
  23. The Taxpayer did not submit evidence for the Commission to analyze to deem whether a functional obsolescence exists that may affect the CDU rating of the Subject property.
  24. The option was made available by the Commission to order a physical inspection by the Appraiser of the Subject property to analyze the condition rating which was denied by the Taxpayer.
  25. The Appraiser discussed CDU ratings with the Taxpayer at the hearing. Ultimately, the Taxpayer agreed with the current CDU of the property as identified.
  26. The Taxpayer provided three properties for analysis based on their comparability scores to the Subject property. Comparability scores are determined by the Assessor's office computer software to choose a property with the least number of adjustments to the comparable properties to better match the Subject property's data. Therefore, the lower the score, the more compatible.
  27. The properties submitted by the Taxpayer were not all sold properties within the sales study period. However, after analyzing the two unsold properties chosen by the Taxpayer at 7121 Eagle Ridge Cir and 7110 Eagle Ridge Cir, the valuations are in line with the Subject property value, supporting the idea

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<sup>9</sup> 350 Neb. Admin. Code, ch. 17, § 003.05A (7/5/2017).

- that the valuation process using generally accepted mass appraisal methods is equalized amongst the properties.
28. The Taxpayer stated concern with the value attributable to the Subject property built-in garage being the same as an attached garage, yet also higher than basement finish contributory value as demonstrated by Taxpayer's Exhibit 9 document.
  29. The Appraiser stated that the County utilizes Multiple Regression Analysis (MRA) to determine component contributory value within their data.
  30. When done properly, MRA considers all facets of components from within market sales to develop the necessary coefficient for the equation to determine value, in this case 49.0057 for Total Garage Area (TGA).
  31. The Taxpayer has not presented information to demonstrate that the coefficient for TGA is arbitrary or unreasonable.
  32. The Taxpayer stated that since the Subject property lot size is smaller, was valued less than larger lots in previous years, and was purchased in 1993 for less than the surrounding lots, it is unreasonable to value the lot at the same site method value as the larger lots.
  33. The Appraiser stated that there was a revaluation done on land and improvements in the Subject property's neighborhood using sales analyses. The Appraiser stated a factored adjustment will be applied to lot values when applicable to the parameters of their valuation process. For instance, a lot with a specific view, arterial proximity, and size.
  34. The Appraiser stated the Subject property did not meet any of the parameters for an adjustment and was therefore, valued the same as other lots in the neighborhood.
  35. The assessed value for real property may be different from year to year according to the circumstances. <sup>10</sup>For this reason, a prior year's assessment is not relevant to the subsequent year's

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<sup>10</sup> *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

valuation.<sup>11</sup> Similarly, prior assessments of other properties are not relevant to the subsequent assessment.<sup>12</sup>

36. The Appraiser provided a Comparable Sales Report to support the Subject property valuation with recently sold properties along with their PRFs, detailing their components of comparability and adjustments to the sale prices based on professionally accepted mass appraisal practices.
37. 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.
38. 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	\$ 86,500
<u>Improvements</u>	<u>\$278,000</u>
Total	\$364,500

3. This Decision and Order, if no further action is taken, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (Reissue 2018).

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<sup>11</sup> *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

<sup>12</sup> *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

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 September 16, 2024.

Signed and Sealed: September 16, 2024



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Jackie S. Russell, Commissioner