

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

ROBERT SHEEHAN  
APPELLANT,

CASE NO: 23R 0623

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 10-35-409-005-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$124,100 for tax year 2023.
3. Robert Sheehan (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 \$124,100 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 20, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S Russell.
7. Robert Sheehan was present at the hearing for the Taxpayer.
8. Bret Smith (The Appraiser) and Brayden Richardson 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 home on a slab foundation with 725 SQFT, a quality rating of 2 (fair), and a condition rating of 3 (average minus/below typical). The Subject Property was purchased for \$59,900 in 2019 for a residence for the Taxpayer's son.
17. The Taxpayer stated that the property valuation was unreasonable due to the condition of the property and stated that pictures of the property could be produced to view.
18. To support the condition descriptions, the Taxpayer was given additional time to submit printed interior photos from his phone which were provided to the Commission shortly after the adjournment of the hearing on March 20, 2024.
19. The Taxpayer detailed the condition by stating that the detached garage structure was askew, at one point there was water leakage from the roof of the home causing damage to portions of the drywall in the bathroom and kitchen, and the plumbing had previously froze leaving damaged flooring to be replaced in the bathroom. The windows are original to the property and needing replacement, and the exterior paint is peeling on both the home and garage.
20. While the pictures submitted by the Taxpayer detailed deferred maintenance needing attention at the property, there was no

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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).

additional information submitted to quantify the needed repairs and no other properties submitted with like condition for valuation comparison.

21. The Appraiser adduced that the Subject Property was physically inspected after county protest but was already given a downward conditional adjustment following a physical inspection in April of 2020. The Appraiser agreed that the property had deferred maintenance as described by the Taxpayer, but not enough to quantify an additional condition adjustment to their property.
22. The Appraiser issued a condition, utility, and desirability (CDU) rating of below typical (3) for the subject property's condition in 2020 and attested that is still an accurate condition rating. The Taxpayer has not demonstrated the condition rating to be arbitrary or unreasonable.
23. The Appraiser produced a comparable sales report for review with Property Record Files for the Subject Property and three comparable properties with like quality, condition, and similar size and age.
24. The Appraiser adjusted the comparable properties as needed based on their Multiple Regression Analysis model for Sales Comparison Approach to Value, to find actual value of 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	\$ 33,000
<u>Improvements</u>	<u>\$ 91,100</u>
Total	\$124,100

- 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).
- 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 2, 2024.

Signed and Sealed: April 2, 2024



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Jackie S. Russell, Commissioner