

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW
COMMISSION

AMANDA K. DEVINE
APPELLANT,

CASE NO: 23R 0660

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 17-16-234-003-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$298,900 for tax year 2023.
3. Amanda K. Devine (the Taxpayer) protested this value to the Lancaster County Board of Equalization (the County Board) and requested a value of \$200,000 for 2023.
4. The County Board did not take action on the protest due to the electronically submitted protest being caught in a spam email folder. The County Board acknowledged the situation via an August 18, 2023, letter to the Taxpayer.
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 December 9, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Amanda Devine was present at the hearing for the Taxpayer.

8. Bret Smith (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 1.¹
10. The Commission's review of a determination of the County Board of Equalization is de novo.²
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."³ 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."⁴
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.⁵

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

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 *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁴ *Id.* at 283-84.

⁵ 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.⁶
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.⁷
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁸

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Subject Property is a one-story, single-family residence built in 1964 with 1,939 square feet (SF) above grade, basement area of 1,296 SF with 700 SF full finish, one fireplace, 11 plumbing fixtures, attached garage area of 480 SF, quality of average (3) and condition/desirability/utility (CDU) of typical (4).
17. The Taxpayer emailed a protest of the 2023 Subject Property valuation to the Lancaster County Clerk timely on June 21, 2023. The Taxpayer then contacted the County Clerk's office through email on July 29, 2023, inquiring about the status of the protest. A review of the situation by Lancaster County showed that the initial email was routed to the spam folder which became inaccessible after 30 days, not considered by the County Board and therefore, deemed denied.
18. The Taxpayer stated that although the property was initially purchased above the 2020 assessed value in August of 2020 for \$265,000, the valuation has now exceeded the purchase price and become arbitrary or unreasonable. The Taxpayer submitted four comparable properties that were found through the use of a

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

⁷ *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).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

search program developed by an unidentified source that was advertised in the Lincoln Journal Star. The Taxpayer did not provide the Property Record Files (PRF) for any of the properties presented for comparison. Without the details contained in the PRF, the Commission is unable to determine whether the properties discussed are comparable to the Subject Property and gives them little weight.⁹

19. The Appraiser stated that three of the properties submitted for comparison were believed to be non-arm's length transactions on the assessment records and the fourth property at 6225 Colby St. was used on the Comparable Sales Report submitted for review.
20. The Appraiser discussed the Subject Property valuation process using generally accepted mass appraisal methods specific to a sales comparison analysis to the Taxpayer for the lack of a referee meeting at the time of the protest.
21. The Appraiser stated there was a revaluation conducted to the Subject Property neighborhood for 2023. As such, the result will be varying degrees of percentage increases (or decreases) to each property in the market study area dependent upon the property components and comparable sales within their study period.
22. The Appraiser provided a Comparable Sales Report to support the Subject Property valuation with recently sold properties, along with a document titled *2820 Leonard Street* also detailing other components of comparability and valuation supporting uniformity.

⁹ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on November 6, 2024, includes the following:

NOTE: *Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

23. 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.
24. 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	\$ 48,000
<u>Improvements</u>	<u>\$ 250,900</u>
Total	\$ 298,900
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 December 17, 2024.

Signed and Sealed: December 17, 2024



Jackie S. Russell, Commissioner