

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

THOMAS L. TIESO
APPELLANT,

CASE NO: 23R 0839

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 16-11-303-002-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$602,100 for tax year 2023.
3. Thomas L. Tieso (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 \$602,100 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 June 11, 2024 at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska before Commissioner James D. Kuhn.
7. Thomas L. Tieso was present at the hearing for the Taxpayer.
8. Tim Johns (the Appraiser) was 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
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶

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).

⁶ *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.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 Taxpayer provided a spreadsheet with ten homes and the Subject Property that showed the latest purchase price and the assessed value of each for years 2018 thru 2023. The Taxpayer then showed the value increase or decrease of each home per year for years 2020 to 2023. The Taxpayer added each year's difference per home, and then averaged those totals for all the properties. The average increase in value of the ten homes was \$102,590; the Subject Property increased \$165,000 over that same period. Given the average increase in value of the ten homes, the Taxpayer asserted the Subject Property should be valued at \$550,000.
17. The Taxpayer stated some of the homes used in the spreadsheet have had significant improvements since they were purchased, and those improvements are not reflected in the valuation increases. The Taxpayer stated several homes have sold for significantly less than the listing price, including the Subject Property.
18. The Appraiser provided a comparable sales report for the Subject Property with five comparable sales that were adjusted for any differences to make them similar to the Subject Property. Property record files for the Subject Property and the five comparable properties were provided by the Appraiser.

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).

19. The Appraiser stated a reappraisal was done for the Subject Property's neighborhood for the 2023 tax year. When reappraising a neighborhood, the Appraiser stated they are valuing properties at Market Value and not doing a percentage adjustment. Market value is "the amount for which property may be sold by a willing seller who is not compelled to sell it to a buyer who is willing but not compelled to buy it."⁹ In deciding market value, "the situation and condition of the property as it was at that time and all the other facts and circumstances shown by the evidence that affected or had a tendency to establish its value."¹⁰
20. Under § 77-112, actual value of real property for purposes of taxation may be determined using professionally accepted mass appraisal methods, including, but not limited to, (1) the sales comparison approach, taking into account factors such as location, zoning, and current functional use; (2) the income approach; and (3) the cost approach.¹¹ This statute does not require use of all the specified factors, but requires use of applicable statutory factors, individually or in combination, to determine actual value of real estate for tax purposes.
21. The Taxpayers method of determining value for the Subject Property is not an acceptable appraisal method. The Taxpayer did not provide any property record files of comparable homes that show the Subject Property is being valued unfairly or differently than similar homes.
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

⁹ *Henn v. American Family Mut. Ins. Co.*, 295 Neb. 859, 866, 894 N.W.2d 179, 184-85 (2017).

¹⁰ *Henn v. American Family Mut. Ins. Co.*, 295 Neb. 859, 866, 894 N.W.2d 179, 184-85 (2017).

¹¹ Neb. Rev. Stat. §§ 77-112, 77-1371 (Reissue 2018).

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 | \$137,500 |
| <u>Improvements</u> | <u>\$464,600</u> |
| Total | \$602,100 |

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 January 30, 2025.

Signed and Sealed: January 30, 2025



James D. Kuhn, Commissioner