

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

RYAN & KYLEE BEACH  
TRUST  
APPELLANT,

V.

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

CASE NO: 23R 0921

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Douglas County, parcel number 2321465120.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$1,407,500 for tax year 2023.
3. Ryan & Kylee Beach Trust (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$1,407,500 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 November 21, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Elizabeth Sevcik was present at the hearing for the Taxpayer.
8. Tim Tran (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.<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>

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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).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
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 1.5 story, framed stucco, single-family home built in 2000 with 5,074 square feet (SF) above grade, walkout basement area of 2,759 SF with 2,142 SF full finish, three fireplaces, five full baths and one half bath, attached garage area of 1,125 SF, concrete porch areas totaling 1,800 SF, wood deck with 600 SF, in ground swimming pool with 760 SF, quality rating of very good, and a condition rating of good. The home sits on a lot with 23,103 SF.
17. The Taxpayer argued the Subject Property valuation is arbitrary or unreasonable based on lack of appropriate comparable properties used by the County Assessor's office in setting the 2023 valuation, and values not being uniformly or proportionately applied by the County Board during the protest process within the Subject Property neighborhood.
18. The Taxpayer argued that the Subject Property neighborhood is not comparable to the Legacy neighborhood which is used by the Assessor's office in setting valuations, due to lack of interconnecting streets, amenities available for use to the

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<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).

<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).

Legacy neighborhood such as walking trails, a park, and a lake, and also due to the difference in the quality of construction and condition of homes.

19. The Taxpayer stated in their written document that the sales prices within the Legacy neighborhood “have historically sold for prices above and beyond what a homeowner can expect to receive in the Reserve...for prices ranging from \$1.45M to \$2.2M, which are being referenced as comparative for our Residence...no such sale price has ever been received for any property in our subdivision.” This statement would hold true for principles and practices of appraisal if the argument of the properties in the Legacy neighborhood being constructed at a higher quality and with a higher condition rating than the properties in the Reserve neighborhood is true.

Using the Legacy neighborhood property sales in the absence of sales within the Reserve for comparability would fall within generally accepted mass appraisal practices as long as appropriate adjustments are made to the sold property in a sales comparison analysis.

20. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value.<sup>9</sup>
21. Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach using the guidelines in section 77-1371, (2) income approach, and (3) cost approach.
22. “In the sales comparison approach, appraisers develop opinions of value by analyzing closed sales, pending sales, active listings, and cancelled or expired listings of properties that are similar to the property being appraised.”<sup>10</sup>

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<sup>9</sup> 350 Neb. Admin. Code, ch. 10 § 003.01A (10/26/2014).

<sup>10</sup> Appraisal Institute, *The Appraisal of Real Estate* 351 (15th ed. 2020).

23. “A major premise of the sales comparison approach is that an opinion of the market value of a property can be supported by studying the market’s reaction to comparable and competitive properties.”<sup>11</sup>
24. “A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject’s unknown value.”<sup>12</sup>
25. Comparable properties share similar use (residential, commercial industrial, or agricultural), physical characteristics (size, shape, and topography), and location.<sup>13</sup>
26. The Appraiser stated that the Reserve neighborhood and the Legacy neighborhood are classified in the same land economic area for statistical measuring purposes due to lack of sales in the Reserve neighborhood alone to measure valuation changes in the market.
27. The Taxpayer did not demonstrate that by using properties located in the Legacy neighborhood for comparability, appropriate adjustments were not being made to account for the differences discussed by the Taxpayer to the neighborhoods and houses in general during the valuation process.
28. The Taxpayer argued that the Subject Property was not being uniformly and proportionately valued due to four properties that received valuation changes by the County Board during the Douglas County protest process.
29. The Taxpayer provided an “Exhibit A” summary document, as well as the corresponding Property Record Files (PRF) and some of the Notification of Board Action documents for the properties that received valuation changes.

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<sup>11</sup> Appraisal Institute, *The Appraisal of Real Estate* 351 (15th ed. 2020).

<sup>12</sup> Appraisal Institute, *Appraising Residential Properties*, at 334 (4<sup>th</sup> ed. 2007).

<sup>13</sup> See, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

30. The Taxpayer argued that the Subject Property land valuation should be adjusted to reflect an average price per acre of the properties that received adjustments. Based on the review of the submitted evidence, only one property received a reduction in land value but based on the Notification of Board Action, evidence was provided by the property owner to support a different valuation. Without that documentation for review by the Commission, it is unclear if the property data was incorrect prior to the adjustment and therefore, holds little weight with the Commission.
31. The Appraiser attested that multiple regression analysis is used to value land in the Subject Property land economic area. Multiple Regression Analysis (MRA) is an application used in valuation analyses and can have several coefficients to produce a value outcome. The Taxpayer has not demonstrated that the MRA of the properties that received a value adjustment is not appropriately applied to all properties provided, nor is not appropriately applied to the rest of the neighborhood.
32. The properties located at 3619 S 170<sup>th</sup> Ct and 16831 Pasadena Ct are two-story homes, while 17005 Pasadena Ct is a ranch style property. These properties submitted for review hold little weight with the Commission as they are not comparable styles to the Subject Property's 1.5 story construction among other components of contributory value that would require adjustment, such as size and basement finish.
33. The property located at 16811 Pasadena Ct holds the most weight with the Commission as being the most comparable to the Subject Property as a 1.5 story home. This property received a reduction in value from the County Board for reasoning indicated on the submitted Douglas County Board of Equalization 2023 document.
34. The Commission finds that after review of page 7 for both the Subject Property and the comparable property at 16811 Pasadena Ct, using generally accepted mass appraisal methods,

the contributory values of each component to the properties, are uniformly and proportionately applied. The Subject Property is larger, has basement finish, a swimming pool, additional concrete and decking, and therefore should be valued higher than the property which appears to have received a reduction in value from the County Board for data inconsistencies previously applied to the value.

- 35. The Taxpayer’s opinion of value was determined by averaging the County Board’s adjusted valuations of four non-comparable properties within the neighborhood. The Taxpayer’s method is not identified in statute and no evidence of its professional acceptance as an accepted mass appraisal method has been produced. Additional evidence appears to be available to determine the reasoning for the County Board changes but was not provided by either party. Therefore, the Commission finds it does not constitute competent evidence and gives little weight to it.
- 36. 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.
- 37. 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	\$ 232,600
<u>Improvements</u>	<u>\$1,174,900</u>

Total                      \$1,407,500

3. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas 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 11, 2024.

Signed and Sealed: December 11, 2024



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Jackie S. Russell, Commissioner