

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

RYAN SULLIVAN
APPELLANT,

CASE NO: 23R 0986

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 17-26-204-008-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$476,700 for tax year 2023.
3. Ryan Sullivan (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 \$476,700 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 July 12, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Ryan Sullivan was present at the hearing for the Taxpayer.
8. Tim Johns (Appraiser) and Priscilla Hruby 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
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 Subject Property is a one-story, single family residential home built in 1985 with 2,312 square feet (SF) above grade, basement area of 1,643 SF with 600 SF full finish, 16 plumbing fixtures, 1,232 SF attached garage, 519 SF wood deck, a quality rating of average (3), and a condition/desirability/utility (CDU) rating of average minus (3). The lot is 43,838 SF.
17. The Taxpayer stated that the valuation does not accurately reflect the market value of the home as it does not take into consideration the condition of the property or drainage issues of the lot.
18. The Taxpayer argued that while the 2016 purchase price of the property is not relevant to the 2023 value, the owners were able to secure the home for a lower dollar amount due to the functionality of the property and opined that any future sale would have to make the same concessions as the property has not been cured of any functional issues.
19. The Taxpayer opined that there is functional obsolescence in the layout of the property due to multiple additions to the property creating excess, unusable space. There are no windows in the basement, the master bath houses a bathtub in the middle of the room due to plumbing access, all major components of the property are original to the build date, and the house rests at

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).

the water table line causing the need for multiple sump pumps in the basement.

20. The Taxpayer argued previous adjustments made to the CDU rating showed a visible difference in the immediate neighborhood valuations, but now argues that the property is valued too high for the neighborhood.
21. The Appraiser attested that the current CDU rating of average minus means that deferred maintenance is recognized but a fair rating is close to unlivable, which would be the next CDU rating available for use.
22. The Taxpayer stated that the current upkeep of the property is adequate with the Appraiser's explanation of the CDU rating, but opined the property value is still too high.
23. The Taxpayer did not provide information to quantify the functional obsolescence described to the property.
24. The Taxpayer provided several Property Record Files (PRF) for comparable properties for analysis. The Taxpayer did not provide any information quantifying adjustments to the comparable properties for review.
25. Comparable sales are recent sales of properties that are similar to the property being assessed in significant physical, functional, and location characteristics and in their contribution to value.⁹
26. "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."¹⁰ If the comparable property is inferior in some respect, the sale price is adjusted upward, just as if it is superior, it will be adjusted downward.¹¹
27. The Taxpayer argued the land value increase was unreasonable with current drainage issues, the placement of an electrical

⁹ Neb. Rev. Stat. § 77-1371 (Reissue 2018).

¹⁰ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

¹¹ *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

- tower to the rear of the property, and also the proposed development of the otherwise vacant land to the rear of the lot.
28. The Taxpayer provided a Preliminary Plat for Hidden Hills to display a proposed development. The plat however, describes the area in question behind the Subject Property as an outlot reserved for greenspace, drainage, and Les Transmission line, therefore, not to be used for structural development purposes.
 29. The Appraiser stated that the Subject Property abuts an outlot for storm water and detention as well as open green space, as shown on the submitted Hidden Hills Addition Final Plat, which is tracked and analyzed by the Assessor's office, shown to be desirable in the market, and commands a 10% premium.
 30. 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 to set the Subject Property valuation.
 31. 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.
 32. 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	\$192,500
<u>Improvements</u>	<u>\$284,200</u>
Total	\$476,700

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 July 30, 2024.

Signed and Sealed: July 30, 2024



Jackie S. Russell, Commissioner