

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

TANNER STROUP
APPELLANT,

CASE NO: 23R 0991

V.

**DECISION AND ORDER
REVERSING 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 located at 2115 Gunnison Drive, in the city of Lincoln, Lancaster County, Nebraska. The parcel ID number is 12-36-403-002-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$279,700 for tax year 2023.
3. Tanner Stroup (the Taxpayer) protested this valuation to the Lancaster County Board of Equalization (the County Board).
4. Following the recommendation of a referee in the protest process, the County Board determined the taxable value of the Subject Property was \$286,000 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 26, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Robert W. Hotz.
7. Tanner Stroup and Lisa Stroup were present at the hearing for the Taxpayer.

8. Timothy Sealock, an appraiser with the County Assessor, 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

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 Taxpayer purchased the Subject Property in January 2022, for \$250,000. The seller also had the last name of Stroup, and the County Assessor did not consider the sale an arms-length transaction. Concurrent with the transaction the Taxpayer obtained an appraisal which resulted in an opinion of value of \$260,000.
17. The Taxpayer identified sales of several properties that were put forward as comparables to the Subject Property. Each of these comparables were analyzed and adjustments were made. The adjustments were subjective, and largely based upon principles relating to cost-to-cure rather than being based upon depreciation.
18. The County Assessor utilized a mass appraisal sales comparison approach, utilizing the sales of comparable properties from a two-year period just prior to the effective date of January 1, 2023. That approach resulted in an assessed value of \$279,700.
19. The County Board's determination of taxable value was based upon a recommendation of the referee who was hired by the

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).

County Board at the time of the protest. The referee's recommendation of taxable value was based upon a time adjustment which resulted in a 10% increase from the assessed value.

20. The Commission finds the time adjustment by the referee was unreasonable, as it gave too much weight to the most current year of the two-year assessment period.
21. The Commission finds the adjustments made by the Taxpayer to alleged comparable properties were not consistent with professionally accepted mass appraisal methods.
22. The Commission finds that the methodology used by the County Assessor was consistent with professionally accepted mass appraisal methods.
23. Clear and convincing evidence has been adduced that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be vacated and reversed.

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 vacated and reversed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$ 62,000
<u>Improvements</u>	<u>\$217,700</u>
Total	\$279,700

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 April 2, 2024.

Signed and Sealed: April 2, 2024



Robert W. Hotz, Commissioner