

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

GERROD LAMBRECHT
APPELLANT,

CASE NO: 23R 1018

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 16-02-205-032-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$1,814,600 for tax year 2023.
3. Gerrod Lambrecht (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 \$1,814,600 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 October 8, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Carly Bahramzad was present at the hearing for the Taxpayer.
8. Jennifer Crystal-Clark (Attorney) and Tim Johns (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 Subject Property is a one-story, single-family residence built in 1994 with 5,594 square feet (SF) above grade, walkout basement area of 5,545 SF with 5,500 SF full finish, five single-story fireplaces, 26 plumbing fixtures, attached garage area of 968 SF, quality rating of very good (5), and condition/desirability/utility (CDU) rating of typical (4).
17. The Taxpayer stated the valuation of the Subject Property was arbitrary or unreasonable due to the difference in the percentage increase comparative to the neighborhood and presented an independent appraisal report by Benjamin J. Hynek in support of the requested valuation of \$1,525,000.
18. The Appraiser argued that the appraisal report was showing discrepancies in the data for the Subject Property as well as two of the comparable properties in comparison to the Property Record Files (PRF) of the County Assessor's office submitted for review by the County.
19. Review of the PRFs does indicate discrepancies in the bathroom data and fireplace data for the Subject Property and Comparable properties One and Two which are not explained in the content of the appraisal report. The PRFs also state that interior inspections of each property have been conducted by the Assessor's office of each property.

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).

20. The Hynek Appraisal Report does not clarify the reasoning behind the discrepancies, or what source the data came from, just that it was reliable to the appraiser. Further, with the number of adjustments and amounts of each, the content of the appraisal report does not provide sufficient information for the Commission to understand the rationale for the reviewer's opinions and conclusions⁹, and therefore, the Commission gives it little weight.
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 Comparable Sales Report submitted by the Appraiser shows that generally accepted mass appraisal practices have been applied to adjust comparable properties according to the data obtained by their office to support the value the Subject Property. Property Record Files for each comparable were also submitted for the Commission to review.
23. The Taxpayer has 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.

⁹ Uniform Standards of Professional Appraisal Practice (USPAP) Standard 4.2(i), 2024.

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

Land	\$ 251,300
<u>Improvements</u>	<u>\$1,563,300</u>
Total	\$1,814,600

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 October 31, 2024.

Signed and Sealed: October 31, 2024



Jackie S. Russell, Commissioner