

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

JESSICA STATES- THIELE
APPELLANT,

CASE NO: 23R 1022

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 16-20-411-002-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$838,200 for tax year 2023.
3. Jessica States-Thiele (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 \$838,200 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. Jessica States-Thiele and Nick Thiele were 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 1993 with 2,660 square feet (SF) above grade, basement area of 2,660 SF with 2,000 SF full finish, 18 plumbing fixtures, 1 fireplace, an attached garage with 600 SF, a wood deck of 433 SF, a quality rating of good (4), and a condition/desirability/utility (CDU) rating of typical (4). The lot is approximately 3 acres and also houses a detached garage of 1,296 SF.
17. The Taxpayers stated that the Subject Property received an unreasonable increase in one year with no changes or updates to the property.
18. Ms. States-Thiele attested to having seven years real estate salesperson experience in the Lancaster market and opined that luxury homes on in-town lots were used to value the Subject Property.
19. The Taxpayers opined that realtors and appraisers can only use comparable properties within five years of the Subject Property year built.
20. The Taxpayers did not present information to demonstrate that the ages used in the sales comparison analysis by the County were arbitrary or unreasonable.

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).

21. The Taxpayers questioned the reliability of the comparable properties chosen by the County for analysis.
22. The Appraiser attested that the Comparable Sales Report functions in such a way as to choose the comparable properties that required the least number of qualitative adjustments in comparison to the Subject Property.
23. 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
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.” Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007). 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.¹⁰
25. The Taxpayers provided two multiple listing service (MLS) detail reports for analysis.
26. The MLS report for 9201 S 53rd Street, shows a closing date of March 2023 written on the document.
27. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹¹ The Assessor’s office is responsible for using market sales within the time period of October 1, 2020, thru September 30, 2022, in setting the 2023 valuations.¹² Therefore, the closing date of 9201 S 53rd Street would not comply with the statutory deadline for the 2023 valuation year and is given little weight by the Commission for the 2023 valuation.

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

¹⁰ *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

¹¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

¹² 350 Neb. Admin. Code, ch. 17, § 003.05A (7/5/2017).

28. The Taxpayer did not provide the Property Record File (PRF) for any of the properties presented for comparison purposes. Without the details contained in the PRF, the Commission is unable to determine whether the properties discussed are comparable to the Subject Property.¹³
29. 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.
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.

¹³ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on June 6, 2024, includes the following:

NOTE: *Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

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	\$187,000
<u>Improvements</u>	<u>\$651,200</u>
Total	\$838,200

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