

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

ANDREW W. SONNELAND  
APPELLANT,

CASE NO: 23R 1078

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 17-28-405-001-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$434,000 for tax year 2023.
3. Andrew W. Sonneland (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 \$434,000 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 July 11, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Andrew and Jane Sonneland were present at the hearing for the Taxpayer.
8. 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.<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>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</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).

<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).

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 1½ story, single family residential home built in 1985 with 2,979 square feet (SF) above grade, basement area of 1,898 SF with no finish, 12 plumbing fixtures, an attached garage of 596 SF, a quality rating of average (3), and a condition/desirability/utility (CDU) rating of typical (4). The lot size is 11,301 SF.
17. The Taxpayers stated that the increase in valuation from \$327,700 to \$434,000 is arbitrary, unreasonable, and excessive to the neighborhood.
18. The Taxpayers stated there needs to be control over the amount of increase in one year to the value.
19. All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.<sup>9</sup>
20. 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. Actual value is the most probable price expressed in terms of money that a

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<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).

<sup>9</sup> Neb. Rev. Stat. § 77-201(1)-(3) (Reissue 2018)

property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property, the analysis shall include a consideration of the full description of the physical characteristics of the real property and an identification of the property rights being valued.<sup>10</sup>

21. The Taxpayers stated that they used Zillow to search comparable properties using parameters of square footage, bedroom count, bathroom count, and location within the same zip code as the Subject Property.
22. The Taxpayers provided a spreadsheet of properties compiled from their search that detailed the properties price/value, transaction date, difference in sale amount/value to the Subject Property, SF amount, bedroom count, and bathroom count.
23. The Taxpayers provided Property Record Files (PRF) for the comparable properties listed on the spreadsheet.
24. 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.<sup>11</sup>
25. Market sales must take place within the time period of October 1, 2020, thru September 30, 2022, in setting the 2023 valuations.<sup>12</sup> Therefore, 951 Evergreen Dr, 610 Sycamore Dr, and 1100 Coachmans Dr, are outside of that acceptable date range for analysis.
26. The square footage amount on the Taxpayer's spreadsheet appears to add the main floor (above grade) SF with the basement SF of each property as verified through the PRFs,

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<sup>10</sup> Neb. Rev. Stat. § 77-112 (Reissue 2018).

<sup>11</sup> Neb. Rev. Stat. § 77-1371 (Reissue 2018).

<sup>12</sup> 350 Neb. Admin. Code, ch 17, § 003.05A (7/15/2017).

while the Subject Property's SF is only the main floor and creates an imbalance in the comparison.

27. When comparing physical characteristics of like properties, 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.<sup>13</sup>
28. The Taxpayers did not quantify adjustments for physical characteristic differences to the sold properties for analysis.
29. "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>14</sup>
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 acceptable 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.

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<sup>13</sup> *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

<sup>14</sup> Appraisal Institute, *Appraising Residential Properties*, at 334 (4<sup>th</sup> ed. 2007)

**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	\$ 75,000
<u>Improvements</u>	<u>\$359,000</u>
Total	\$434,000

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 25, 2024.

Signed and Sealed: July 25, 2024



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Jackie S. Russell, Commissioner