BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

JASON D. LOOS,
APPELLANT,

V.

LANCASTER COUNTY
BOARD OF EQUALIZATION,
APPELLEE.

CASE NO: 23R 1105

DECISION AND ORDER
AFFIRMING THE DECISION
OF THE LANCASTER
COUNTY BOARD OF
EQUALIZATION

For the Appellant:
Jason D. Loos,
Pro Se

For the Appellee:
Daniel J. Zieg,
Deputy Lancaster County
Attorney

This appeal was heard before Commissioners Steven Keetle and Robert Hotz.

I. THE SUBJECT PROPERTY

The Subject Property is a residential parcel improved with a 720 square-foot one-story residence located in Lancaster County, Nebraska. The legal description and Property Record File (PRF) of the Subject Property is found at Exhibit 4.

II. PROCEDURAL HISTORY

The Lancaster County Assessor determined that the assessed value of the Subject Property was $161,200 for tax year 2023. Jason D. Loos (the Taxpayer) protested this assessment to the Lancaster County Board of Equalization (the County Board) and requested a taxable value of $122,000. The County Board determined that the taxable value of the Subject Property for tax year 2023 was $161,200.[1]

The Taxpayer appealed the decision of the County Board to the Tax Equalization and Review Commission (the Commission). The Commission held a hearing on October 3, 2024. Prior to the hearing, the parties exchanged exhibits, as ordered by the Commission. Exhibits 1 through 22 were admitted into evidence. Exhibit 23 was not admitted into evidence.

III. STANDARD OF REVIEW

The Commission's review of the County Board's determination is de novo.[2] When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.[3] The first involves a presumption 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.[4] 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.[5]

The second burden of proof requires that 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.[6] The burden

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[1] Exhibit 1.
[2] See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner County 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 County Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).
[3] *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, 27 N.W.3d 1, 6 (2025). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus. v. Nuckolls Cty. Bd. of Equal.*, 231 Neb. 653, 654-55, 437 N.W.2d 501, 502 (1989)).
[4] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6 (quoting *Cain v. Custer Cty. Bd. of Equal.*, 315 Neb. 809, 818, 1 N.W.3d 512, 521 (2024)). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus.*, 231 Neb. at 654-55, 437 N.W.2d at 502).
[5] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.
[6] *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.[7]

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.[8] Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.[9]

The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.[10] The County Board need not put on any evidence to support its valuation of the property at issue unless the Taxpayer establishes that the County Board's valuation was unreasonable or arbitrary.[11]

In an appeal, the Commission may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based.[12] The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.[13] The Commission may take notice of judicially cognizable facts, may take notice of general, technical, or scientific facts within its specialized knowledge, and may utilize its experience, technical competence, and specialized knowledge in the

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[7] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.
[8] Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).
[9] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6; *Omaha Country Club v. Douglas County Bd. of Equal.,* 11 Neb. App. 171, 645 N.W.2d 821 (2002).
[10] Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo County*, 179 Neb. 415, 138 N.W.2d 641 (1965) (determination of actual value) *abrogated on other grounds by Potts v. Bd. of Equalization*, 213 Neb. 37, 328 N.W.2d 175 (1982)); *Lincoln Tel. and Tel. Co. v. County Bd. of Equal. of York County,* 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).
[11] *Wheatland Indus., LLC v. Perkins Cty. Bd. of Equalization*, 304 Neb. 638, 935 N.W.2d 764 (2019) (quoting *Bottorf v. Clay Cty. Bd. of Equal.*, 7 Neb. App. 162, 168, 580 N.W.2d 561, 566 (1998)).
[12] Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).
[13] *Id.*

evaluation of the evidence presented to it.[14] The Commission's Decision and Order shall include findings of fact and conclusions of law.[15]

IV. RELEVANT LAW

Under Nebraska law,

> Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and a 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 full description of the physical characteristics of the real property and an identification of the property rights valued.[16]

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 Neb. Rev. Stat. § 77-1371, (2) income approach, and (3) cost approach.[17] Nebraska courts have held that actual value, market value, and fair market value mean exactly the same thing.[18] Taxable value is the percentage of actual value subject to taxation as directed by Neb. Rev. Stat. § 77-201 and has the same meaning as assessed value.[19] All real property in Nebraska subject to taxation shall be assessed as of January 1.[20] All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.[21]

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[14] Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).
[15] Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).
[16] Neb. Rev. Stat. § 77-112 (Reissue 2018).
[17] *Id.* (citing Neb. Rev. Stat. § 77-1371).
[18] *Omaha Country Club*, 11 Neb. App. at 180, 645 N.W.2d at 829.
[19] Neb. Rev. Stat. § 77-131 (Reissue 2018).
[20] See Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).
[21] Neb. Rev. Stat. § 77-201(1) (Cum. Supp. 2022).

Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by the Nebraska Constitution.[22] "Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value."[23] The purpose of equalization of assessments is to bring the assessment of different parts of a taxing district to the same relative standard, so that no one of the parts may be compelled to pay a disproportionate part of the tax.[24] Uniformity requires that whatever methods are used to determine actual or taxable value for various classifications of real property that the results be correlated to show uniformity.[25] Taxpayers are entitled to have their property assessed uniformly and proportionately, even though the result may be that it is assessed at less than the actual value.[26] If taxable values are to be equalized it is necessary for a Taxpayer to establish by clear and convincing evidence that the valuation placed on the property when compared with valuations placed on other similar properties is grossly excessive and is the result of systematic exercise of intentional will or failure of plain legal duty, and not mere errors of judgment.[27] There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.[28]

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[22] Neb. Const., art. VIII, § 1.

[23] *Lancaster Cty. Bd. of Equalization v. Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (Syllabus by the Court); see also *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).

[24] *Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (Syllabus by the Court); see also *MAPCO*, 238 Neb. 565, 471 N.W.2d 734 (1991); *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb. App. 582, 597 N.W.2d 623, (1999).

[25] *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 411 N.W.2d 35 (1987).

[26] *Equitable Life v. Lincoln County Bd. of Equal.*, 229 Neb. 60, 425 N.W.2d 320 (1988); *Fremont Plaza v. Dodge Cty. Bd. of Equal.*, 225 Neb. 303, 405 N.W.2d 555 (1987).

[27] *Pinnacle Enters.*, 320 Neb. at 309–10, 27 N.W.2d at 6 (quoting *Moser*, 312 Neb. at 767, 980 N.W.2d at 619). See also *Newman v. County of Dawson,* 167 Neb. 666, 670, 94 N.W.2d 47, 49-50 (1959) (Citations omitted).

[28] *Moser*, 312 Neb. at 775, 980 N.W.2d at 624) (quoting *Newman*, 167 Neb. at 672, 94 N.W.2d at 50).

V. FINDINGS OF FACT AND ANALYSIS

A. Summary of the Evidence

Jason Loos testified that the value of the Subject Property was reduced for the 2024 tax year and alleged that its value should also be reduced for tax year 2023 in this appeal. Loos testified that the Subject Property had not been updated since 2008 and that the County Assessor's office inspected the Subject Property in February of 2023. Loos stated that the Subject Property had windows that were rotting out and that he started to update the kitchen and bathroom but did not finish, in addition to other condition issues. Loos alleged that the condition of the neighborhood and other nearby properties should reduce the value of the Subject Property. The taxpayer alleged that the value of the Subject Property was not equalized with other properties in the area. The Taxpayer testified about the traffic that goes by the Subject Property as well as the number of registered sex offenders in the same zip code as the Subject Property

The County Board called Bret Smith, an appraiser with the Lancaster County Assessor's office who was involved with the assessment of the Subject Property. Smith testified regarding the assessment models and comparable properties used in the assessment of the Subject Property. Smith testified that the Property Record File (PRF) for the Subject Property was accurate after considering Loos' testimony.

B. Analysis

The Taxpayer first alleged that the value of the Subject Property should be reduced because the County Board reduced the value in a subsequent tax year. The Commission, however, must make its determination of value based on the tax year and the evidence before it. The assessed value for real property may be different from year to year according to the circumstances.[29] The Nebraska Supreme Court

[29] *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

has held that "[T]he value of property under a prior assessment is not admissible to prove the value of real estate under a subsequent assessment."[30] Additionally, a decree fixing the value of property under a prior assessment is immaterial and not admissible to prove value under a subsequent assessment.[31] For these reasons, the Commission concludes that subsequent assessments, and subsequent determinations of the County Board are not relevant to the prior assessment.[32]

The Taxpayer alleged that the value of the Subject Property should be reduced due to physical characteristics of the Subject Property, the amount of traffic on the street the Subject Property is located on, or the condition of other properties in the area. The testimony of Mr. Smith demonstrated that all of these characteristics were considered when valuing the Subject Property either in determining its condition rating or discounting the value of the lot based on its location on a busy street. The PRF for the Subject Property and the County's 2023 Residential Valuation Methodology support this conclusion.[33]

The Taxpayer's allegation that the assessed value of the Subject Property is not equalized with other comparable properties is also not supported by the record. The Taxpayer discussed three properties that he alleged were comparable to the Subject Property and used in a purported "Market Value Analysis" presented to the County Board at the protest.[34] The County Board presented the PRF for the three alleged comparable properties in this "Market Value Analysis" as well as the PRF for three additional comparable properties. The PRF for the Taxpayer's three properties show that two of these properties were

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[30] *Cain v. Custer Cty. Bd. of Equalization*, 315 Neb. 809, 821-22 1 N.W.3d 512, 522-23 (2024) (citing *Affiliated Foods Co-op v. County of Madison*, 229 Neb. 605, 428 N.W.2d 201 (1988); then citing *DeVore v. Board of Equalization*, 144 Neb. 351, 13 N.W.2d 451 (1944)).
[31] *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988) (citing *DeVore v. Board of Equal.,* 144 Neb. 351, 13 N.W.2d 451 (1944)); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).
[32] See *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).
[33] See, Exhibit 4 (PRF) and Exhibit 19 (Methodology)
[34] See, Exhibit 2:5

substantially changed after the sale and one was transferred as a "Trustee's Deed" in 2022.[35] This would call into question these sales as valid sales for assessment purposes under Nebraska law.[36] The "Market Value Analysis" does not address these factors, in addition to not providing support for the plus or minus adjustments, and therefore the Commission gives it little weight in determining the value of the Subject Property.

After reviewing all of the properties presented by the Taxpayer, as well as those provided by the County Board of Equalization, we find there is support for the County Board's determination of value. Those properties with superior characteristics have a higher per square foot value than the Subject Property while those with inferior characteristics have a lower per square foot value than the Subject Property.

VI. CONCLUSION

The Commission finds that there is not competent evidence to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its determination. The Commission also finds that there is not clear and convincing evidence that the County Board's decision was arbitrary or unreasonable.

For all of the reasons set forth above, the determination of the County Board should be affirmed.

VII. ORDER

IT IS ORDERED THAT:

1. The decision of the Lancaster County Board of Equalization determining the value of the Subject Property for tax year 2023 is affirmed.

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[35] Ex 13:1, Ex 14:2, and Ex 15:2

[36] Neb. Rev. Stat. §77-1371(4)(9) and (11) (Reissue 2018)

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

Land	**$ 23,100**
Improvements	**$138,100**
Total	**$161,200**

3. This Decision and Order, if no appeal is timely filed, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
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 for purposes of appeal on August 27, 2026.[37]

SIGNED AND SEALED: August 27, 2026.

SEAL

Steven A. Keetle, Commissioner

Robert W. Hotz, Commissioner

[37] Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. § 77-5019 (Reissue 2018) and other provisions of Nebraska Statutes and Court Rules.