

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

OELLING DEVELOPMENT  
COMPANY  
APPELLANT,

CASE NOS: 23R 1181, 23R  
1182, 23R 1183, 23R 1184, 23R  
1185, 23R 1186

V.

LANCASTER COUNTY  
BOARD OF EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Properties consists of six vacant lots located in three separately platted residential subdivisions in Lancaster County, parcel numbers and legal descriptions as follows:

<b>Case No.</b>	<b>PID</b>	<b>Description</b>	<b>Size</b>
<b>23R 1181</b>	03-02-307-006-000	MV3 Outlot C	1.91 AC
<b>23R 1182</b>	03-02-309-008-000	MV4 Outlot C	5.58 AC
<b>23R 1183</b>	03-02-305-005-000	MV3 Outlot B	2.96 AC
<b>23R 1184</b>	03-02-301-006-000	MV2 Outlot B	2.25 AC
<b>23R 1185</b>	03-02-306-006-000	MV3 Outlot A	4.85 AC
<b>23R 1186</b>	03-02-311-006-000	MV4 Outlot D	2.96 AC

2. The Lancaster County Assessor (the County Assessor) assessed the Subject Properties for tax year 2023 as follows:

<b>Case No.</b>	<b>PID</b>	<b>Description</b>	<b>Assessed Value</b>
<b>23R 1181</b>	03-02-307-006-000	MV3 Outlot C	\$22,900
<b>23R 1182</b>	03-02-309-008-000	MV4 Outlot C	\$67,000
<b>23R 1183</b>	03-02-305-005-000	MV3 Outlot B	\$35,500
<b>23R 1184</b>	03-02-301-006-000	MV2 Outlot B	\$27,000
<b>23R 1185</b>	03-02-306-006-000	MV3 Outlot A	\$58,200
<b>23R 1186</b>	03-02-311-006-000	MV4 Outlot D	\$35,500

3. Oelling Development Company (the Taxpayer) protested these values to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Properties for tax year 2023 were as follows:

Case No.	PID	Description	Taxable Value
23R 1181	03-02-307-006-000	MV3 Outlot C	\$22,900
23R 1182	03-02-309-008-000	MV4 Outlot C	\$67,000
23R 1183	03-02-305-005-000	MV3 Outlot B	\$35,500
23R 1184	03-02-301-006-000	MV2 Outlot B	\$27,000
23R 1185	03-02-306-006-000	MV3 Outlot A	\$58,200
23R 1186	03-02-311-006-000	MV4 Outlot D	\$35,500

5. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on November 6, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Ron Oelling, Christie Garner, and Lyle Loth were present at the hearing for the Taxpayer.
8. Sue Bartek (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>

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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

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>
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>

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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).

<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).

**III. FINDINGS OF FACT & CONCLUSIONS OF LAW**

16. The Subject Properties are vacant outlots, within the Meadow View (MV) 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Additions containing varying sizes of total area acres described as follows:

<b>Case No.</b>	<b>PID</b>	<b>Description</b>	<b>Size</b>
23R 1181	03-02-307-006-000	MV3 Outlot C	1.91 AC
23R 1182	03-02-309-008-000	MV4 Outlot C	5.58 AC
23R 1183	03-02-305-005-000	MV3 Outlot B	2.96 AC
23R 1184	03-02-301-006-000	MV2 Outlot B	2.25 AC
23R 1185	03-02-306-006-000	MV3 Outlot A	4.85 AC
23R 1186	03-02-311-006-000	MV4 Outlot D	2.96 AC

17. The Taxpayers stated that the Subject Properties are all affected by a conditional use permit within the city of Lincoln’s Comprehensive Plan, further described in the plan as the Tier III PlanForward 2050 planned area. This area is a part of the city’s three-mile build through and restricts the density of residential development until an allowable time by the City Engineer.

18. The Taxpayer submitted an email from City Planner II, George Wesselhoft, that states the current platted additions where the Subject Properties are located have reached their density limits and will not be allowed further development until the city grows and is annexed in those areas. According to the PlanForward 2050 Comprehensive Plan, this is projected to take up to 50 years. The Taxpayers stated they knew the location of the outlots were part of the PlanForward 2050 plan when the additions were platted. According to the final plats submitted by the Appraiser, Meadow View 2<sup>nd</sup> Addition was platted in 2015. Meadow View 3<sup>rd</sup> Addition was platted in 2016, and Meadow View 4<sup>th</sup> Addition was platted in 2022.

19. The Taxpayer stated that the current use of all outlots is as green space with prairie grass cover and attested that a similar outlot they own in Meadow View (MV) 2<sup>nd</sup> Addition described as

Outlot A, was valued at \$0 for 2023. The property record file for MV2 Outlot A was not provided to the Commission for review of the 2023 value.

20. The Appraiser attested that due to the current outlot description labels on the submitted final plats for Meadow View 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Additions, there is anticipated planned future development for each. The Appraiser also pointed out that the description of MV2 Outlot A is labeled as “Drainage and Green Space” which indicates there is no anticipation for future use and development on that parcel. Therefore, it receives zero value.
21. The Appraiser stated that the Subject Property outlots are all valued according to the same model of \$12,000 per acre based on the Comprehensive Plan tier description. All properties within Tiers II and III are considered in the lowest value of land to be developed as shown in the provided “Methodology for land in ‘transitory’ uses” document explaining the valuation methodology.
22. The Appraiser attested that once a plat is submitted showing there is no future development use to a specific area, the practice is to value the land at zero.
23. The Taxpayers stated they have not submitted a final plat to the Register of Deeds office indicating a different use description for the discussed outlots.
24. 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.
25. 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 Properties for tax year 2023 is affirmed.
2. The total taxable value of each Subject Property for tax year 2023 is:

<b>Case No.</b>	<b>PID</b>	<b>Description</b>	<b>Taxable Value</b>
<b>23R 1181</b>	03-02-307-006-000	MV3 Outlot C	\$22,900
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<b>23R 1186</b>	03-02-311-006-000	MV4 Outlot D	\$35,500

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 years 2023.
7. This Decision and Order is effective on November 25, 2024.

Signed and Sealed: November 25, 2024



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Jackie S. Russell, Commissioner