

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

ALICIA E POLLMAN
APPELLANT,

CASE NO: 23R 1332

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 21-11-107-014-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$258,600 for tax year 2023.
3. Alicia E Pollman (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 \$258,600 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 March 25, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie Russell.
7. Alicia Pollman was present at the hearing for the Taxpayer.
8. Lyman Taylor (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 raised ranch style, single-family home built in 2002 with 1,380 square feet (SF) above grade, 662 SF basement with 550 SF full finish, 3 bathrooms, 660 SF attached built-in garage, quality rating of average (3), and a condition/desirability/utility (CDU) rating of typical (4). The property was purchased in 2019 for \$197,950.
17. The Taxpayer attested that with the amount of deferred maintenance needed to the Subject Property, the valuation is out of line with comparable properties in the area. The discussed deferred maintenance was also known to the Taxpayer at the time of their purchase.
18. No Property Record Files (PRF), nor valuations, were provided of the comparable properties that were discussed by the Taxpayer.
19. The Taxpayer would like to replace the original windows to the property, the fencing that has issues, and the HVAC system that also periodically has issues. The estimated cost to cure these items was submitted by the Taxpayer to be \$11,910, \$8,701.89, and \$12-15,000 respectively.
20. The Taxpayer also stated that the flooring and paint were needing replaced throughout the 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).

21. The Appraiser stated that the County would have contacted the Taxpayer at the time of appeal, but there was no phone number provided on the Property Valuation Protest Form.
22. The Appraiser stated that the property CDU rating is typical (4) for the Subject Property and while some of the deferred maintenance components listed by the Taxpayer may have some bearing on that rating, according to their current procedures, it is not enough to adjust the CDU further.
23. The Appraiser stated fencing is not a component of contributory value.
24. The Appraiser detailed that the Subject Property neighborhood was part of a revaluation conducted for 2023 and provided a Comparable Sales Report to support the subject property valuation with comparable sold properties.
25. The Appraiser provided PRFs of the comparable sales used within their analysis for the Subject Property and attested that Raised Ranches are a less prominent style of construction and are therefore included with Bi-level and Split Foyer construction properties for analysis.
26. 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.
27. 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.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$ 62,000
<u>Improvements</u>	<u>\$196,600</u>
Total	\$258,600

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 May 14, 2024.

Signed and Sealed: May 14, 2024



Jackie S. Russell, Commissioner