

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

PAUL AHRENS
APPELLANT,

CASE NO: 23R 1354

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 with a single-family dwelling in Lancaster County, parcel number 02-14-300-004-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$403,000 for tax year 2023.
3. Paul Ahrens (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 \$403,000 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 January 10, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Paul Ahrens was present at the hearing for the Taxpayer.
8. Tim Sealock (the 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 Taxpayer asserts the comparable properties used by the Assessor in the Comparable Sales Report (CSR) are "invalid using their own rules". The Taxpayer contacted Tim Johns, an appraiser with the County Assessor's office, asking about the comparability scores on the CSR. Mr. Johns stated the lower the comparability score, the more comparable the sale is to the Subject Property. Mr. Johns stated a comparability score under 100 would be acceptable. The Taxpayer stated the comparability scores of the two comparables used by the Appraiser are 310 and 416, therefore making them invalid to use as comparables for the Subject Property. The email from Mr. Johns, in part, says "some parcels... will have 4 or 5 comparable sales but in those instances, the comparability scores for all comparable sales would need to be under 100 (our minimum acceptance)". An email from Brian Grimm (field chief deputy) stated "the 100/m is the same in all market areas".
17. The Appraiser stated Mr. Johns appraises properties in the city limits of Lincoln and would have access to many more sold properties than he does as the rural property appraiser. The Appraiser stated rural properties will regularly have a CSR score of well over 100 as there are much fewer sales of comparable properties in the rural community.

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).

18. The Taxpayer stated the sale of the Subject Property on April 4, 2021, was not an arm's length transaction because he believes there may have been collusion between the seller and the home inspector to gain a higher sales price. The Taxpayer asserted errors in the inspection report failed to mention items such as water smelling like rotten eggs, leaks in the roof, mold in the basement and warped siding to mention a few the Taxpayer remembered. Legal actions against the home inspector were talked about however the home inspector passed away before any legal actions were taken.
19. The Appraiser stated a home inspection report has no bearing on whether a sale is a "good or bad sale". The Appraiser asserted most items stated by the Taxpayer as missed by the home inspector could have been seen by the Taxpayer prior to the purchase.
20. The Taxpayer provided two comparable properties, one at 1500 SW 56th (1500) and one at 12300 Hickman Road (12300). The Taxpayer stated the Subject Property and the two comparables had similar assessments for a number of years, however an upward adjustment to the CDU of the Subject Property now has them at much different assessments. No complete Property Record File (PRF) was provided by either party for the Commission to see the notes as to why the CDU increased. The Appraiser stated no inspection was granted and no call back was done by the Taxpayer.
21. The Taxpayer provided spreadsheets with reasoning for three possible different requested values. The first spreadsheet used the average percentage of market value of other properties using Zillow estimates. Zillow valuations are not an acceptable method of mass appraisal for valuations and the Commission gave them no weight. The second spreadsheet was the equalized assessed value using the assessed value per square foot. The Commission gave no weight to this spreadsheet as it does not take into account any of the components of each property that affect

value. Simply taking an assessed value of different properties and coming up with an average value is not an acceptable mass appraisal method. The third spreadsheet purported to mirror the same assessed value calculations used by the county and applied to the Taxpayers two comparables, however, the calculations were mirrored from a different subject property and different comparable properties. The Commission has no evidence these calculations would be exactly the same for the Subject Property.

22. The Appraiser stated the 1500 comparable was in a state of disrepair as of April 22, 2021, as per the notes on the PRF. The Appraiser stated the CDU of the 1500 property was a 2- (fair minus) which is nearly unlivable and does not believe it is comparable to the Subject Property. The Appraiser stated the 12300 comparable is also not a good comparable because it has much less square footage than the Subject Property, nearly 900 square feet less, is 10 years newer, and has a higher price per square foot than the Subject Property.
23. 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.
24. 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	\$114,600
<u>Improvements</u>	<u>\$288,400</u>
Total	\$403,000

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 March 15, 2024.

Signed and Sealed: March 15, 2024



James D. Kuhn, Commissioner