

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

RANDI R. GUDE,
APPELLANT,

V.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

CASE NO: 23R 1370

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Douglas County, parcel number 1107790000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$195,700 for tax year 2023.
3. Randi R. Gude (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$195,700 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 February 7, 2024, at the Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. A representative was present at the hearing for the Taxpayer.
8. Matt Holly with the County Assessor's Office (the County 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 the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.³
12. 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
13. 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 of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.⁷
14. The order, decision, determination or action appealed from shall

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

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 Cnty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).

³ *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, ___ N.W.3d ___ (2025). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus. v. Nuckolls Cnty. Bd. of Equal.*, 231 Neb. 653, 654-55, 437 N.W.2d 501, 502 (1989)).

⁴ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___ (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, ___ N.W.3d at ___.

⁶ *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

⁷ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

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

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

⁸ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁹ *Pinnacle Enters.*, 320 Neb. at 309, ____ N.W.3d at ____; *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.*

¹⁴ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

¹⁵ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is a residential parcel improved with a 1,980 square foot raised ranch style property constructed in 1960. The Subject Property has a quality rating of average and a condition rating of fair.
18. The Taxpayer alleged that the value of the Subject Property for 2023 should be \$118,263 or the purchase price of the Subject Property from 2013 increased by 3% per year.
19. The County Board presented the Property Record File (PRF) for the Subject Property. The PRF contains information about the characteristics of the Subject Property and information regarding the qualified sales that occurred in the economic area of the Subject Property. This information was used to determine the value attributed to each of the residential properties in the area, including the Subject Property.
20. “It is true that the purchase price of property may be taken into consideration in determining the actual value thereof for assessment purposes, together with all other relevant elements pertaining to such issue; however, standing alone, it is not conclusive of the actual value of property for assessment purposes.”¹⁶ “Other matters relevant to the actual value thereof must be considered in connection with the sale price to determine actual value.”¹⁷ “Sale price is not synonymous with actual value or fair market value.”¹⁸ “Pursuant to § 77-112, the statutory measure of actual value is not what an individual buyer may be willing to pay for property, but, rather, its market value in the ordinary course of trade.”¹⁹
21. The only sales data from the time of the sale of the Subject Property comes from the PRF which shows that the Subject

¹⁶ *Forney v. Box Butte County Bd. of Equalization*, 7 Neb. App. 417, 424, 582 N.W.2d 631, 637, (1998).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Cabela's, Inc. v. Cheyenne Cnty. Bd. of Equal.*, 8 Neb. App. 582, 593, 597 N.W.2d 623, 632 (1999) (citations omitted).

Property sold in 2012, fifteen months prior to the Taxpayer's 2013 purchase and the purchase price increased by 69% From 2012 to 2013.

22. There was no other market data or other sales information presented to support the determination that 69% annual appreciation for the Subject Property was appropriate.
23. The Taxpayer did not present market data or sales information to support the allegation that the value of the Subject Property should be the 2013 purchase price increased by 3% per year.
24. The County Appraiser stated that the median sales price for raised ranch properties in the Subject Property's market area was \$147 per square foot while the assessed value of the Subject Property was \$98.87 per square foot. The County Appraisers stated that this was due in part to the Subject Property's total square footage, which was larger than typical for the area, as well as its fair condition rating, which was lower than any of the recent sales.
25. The Taxpayer alleged that the value of the Subject Property should be reduced due to its condition.
26. The PRF indicates that the condition rating of the Subject Property is fair.
27. The Taxpayer presented photographs of the inside of the garage door, cracks in the drywall, water spots and the retaining wall on the eastern edge of the Subject Property. The Taxpayer presented an estimate for replacing 160 feet of retaining wall and removal of the existing fence, retaining wall, and other existing debris.
28. The Taxpayer did not present information to show that the County Assessor condition rating of fair for the Subject Property was unreasonable or arbitrary.
29. 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.
30. 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	\$ 13,700
<u>Improvements</u>	<u>\$182,000</u>
Total	\$195,700

3. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas 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 December 22, 2025.

Signed and Sealed: December 22, 2025



Steven A. Keetle, Commissioner