

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

ALLY VECCHIO  
APPELLANT,

V.

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

CASE NO: 23R 1378

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 0522731350.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$583,500 for tax year 2023.
3. Ally Vecchio (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 \$583,500 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 5, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Ally Vecchio was present at the hearing for the Taxpayer.
8. Kurt Skradis 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>
11. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>3</sup>
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.<sup>4</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.<sup>5</sup>
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.<sup>6</sup> The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.<sup>7</sup>
14. The order, decision, determination or action appealed from shall

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

<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 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> *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)).

<sup>4</sup> *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).

<sup>5</sup> *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.

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

<sup>7</sup> *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.

be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.<sup>8</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup>
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.<sup>12</sup> The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.<sup>13</sup> 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.<sup>14</sup> The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>15</sup>

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<sup>8</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>9</sup> *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).

<sup>10</sup> 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).

<sup>11</sup> *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)).

<sup>12</sup> Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

<sup>13</sup> *Id.*

<sup>14</sup> Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

<sup>15</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

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

17. The Taxpayer brought this appeal of the County Board's decision specifically asserting the Subject Property was not appropriately valued and was not equalized with other parcels. The Taxpayer has three main arguments: First, the Taxpayer argues the County Board disregarded comparable sales presented by the Taxpayer to the County Board at the protest hearing. Second, the Taxpayer asserts that the comparables used by the County Assessor do not compare to the Subject Property as the Subject Property is a two-story home while many of the sales listed in the Property Record File (PRF) for the Subject Property are ranch-style homes. Third, the taxpayer asserts that the value of the Subject Property is not equalized with other homes in the neighborhood.
18. The threshold question of whether the Taxpayer has rebutted the initial presumption with competent evidence "may often be informed by considering whether the taxpayer has presented evidence that would call into question whether the valuation adopted by the Board is reasonable."<sup>16</sup> "That is, evidence tending to show that the valuation is questionable can serve toward rebutting the presumption that the Board faithfully performed its duties."<sup>17</sup>
19. In the present case, the County Assessor stated at the hearing he believes the Subject Property is valued at market value but acknowledged the Taxpayer may have an equalization issue based on the values of other properties presented by the Taxpayer. This is sufficient to rebut the initial presumption. Thus, the only remaining question before the Commission is whether the Taxpayer has met the second burden of proof by clear and convincing evidence.
20. First, the Taxpayer asserts that the subdivision sales data on

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<sup>16</sup> *Betty L. Green Living Trust v. Morrill Cty. Bd. of Equal.*, 299 Neb. 933, 943, 911 N.W.2d 551, 558–59 (2018).

<sup>17</sup> *Id.*, 299 Neb. at 943, 911 N.W.2d at 559.

the County Assessor's website included only one 2022 sale of a two-story home in the neighborhood. That property, located at 17707 Spencer Street in Omaha, Nebraska, sold for \$842,748 and included a basketball court. The Taxpayer asserts 17707 Spencer Street is not comparable to the Subject Property for valuation purposes.

21. The Taxpayer did not present the PRF for the 17707 Spencer Street property. Accordingly, the Commission cannot see the basis for the determination of assessed value for that property or compare its characteristics to the characteristics of the Subject Property.<sup>18</sup>
22. Additionally, the Taxpayer asserts a 2022 sale of a two-story home in the neighborhood was not included in the subdivision sales data on the County Assessor's website.
23. The County Assessor conceded there were not many sales to compare. However, the PRFs provided by the Taxpayer demonstrate the 2023 valuations of the Subject Property and the Taxpayer's comparables were calculated under the cost approach, not the comparable sales approach. The cost approach is a valid method of valuation for tax purposes.<sup>19</sup> Because the cost approach is a valid valuation method, and because there is no PRF for the 17707 Spencer Street property for the Commission to compare against the PRF for the Subject Property, the Taxpayer's argument about comparable sales is entitled to little weight.
24. The question here is not which valuation method the County Assessor used, but whether the "[T]axpayer's property is assessed at a value in excess of its actual value, or in excess of

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<sup>18</sup> For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on January 3, 2025, includes the following:

**NOTE:** *Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

<sup>19</sup> Neb. Rev. Stat. § 77-112 (Reissue 2018).

that value at which others are taxed[.]”<sup>20</sup> If the Taxpayer clearly and convincingly shows this is the case, “the [T]axpayer has a right to relief.”<sup>21</sup>

25. The Taxpayer’s first comparable is a property located at 3313 N 178<sup>th</sup> Street in Omaha, Nebraska. The 3313 N 178<sup>th</sup> Street property is a two-story home sold in 2022 for a purchase price of \$579,441. This is the sale the Taxpayer showed had not been included in the County’s subdivision sales data. The 3313 N 178<sup>th</sup> Street property was a 3,143 square-foot home built in 2022, valued at \$580,000 in tax year 2023 with a quality rating of “Good” and a condition rating of “Very Good.”
26. The Taxpayer asserted the 3313 N 178<sup>th</sup> Street property was priced at about \$184 per square foot,<sup>22</sup> which is “\$20 less” per square foot than the 2023 valuation for the Subject Property. The Subject Property, a 2,796 square-foot home built in 2020, was valued at \$583,500 for tax year 2023 with a quality rating of “Good,” a condition rating of “Very Good,” and a price-per-square-foot value of \$208.69.
27. In comparing the Non-Commercial Cost Detail in the PRFs for the 3313 N 178th Street property and the Subject Property, it is clear the difference in valuations is primarily the result of “add-on” adjustments for different features. The cost-approach valuation in the PRF for the 3313 N 178<sup>th</sup> Street property begins with a base value of \$140.35 per square foot. The base value for the Subject Property is \$139.57 per square foot. Both properties’ values are adjusted for their respective features. In particular, the Subject Property has a larger attached garage and larger patio. There are other differences, but these features effectively account for the difference between the total add-on values (and consequently, the overall valuations) of the Subject Property and

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<sup>20</sup> *Lancaster Cty. Bd. of Equalization v. Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (citing *AT&T Information Sys. v. State Bd. of Equal.*, 237 Neb. 591, 467 N.W.2d 55 (1991); then citing *Zabawa v. Douglas Cty Bd. of Equal.*, 17 Neb. App. 221, 757 N.W.2d 522 (2008)).

<sup>21</sup> *Id.*

<sup>22</sup> It is unclear whether the Taxpayer based the price per square foot on the 2022 sale price or 2023 taxable value. However, the price per square foot is approximately \$184 in both cases.

the 3313 N 178<sup>th</sup> Street property.

28. The Taxpayer's other comparable is a property located at 3305 N 178<sup>th</sup> Street in Omaha, Nebraska. That property is a 3,008-square-foot home built in 2017 which was valued at \$586,500 for tax year 2023. The 3305 N 178<sup>th</sup> Street property and had a quality rating of "Good" and a condition rating of "Good." The 2023 price-per-square-foot value of the 3305 N 178<sup>th</sup> Street property is \$194.98.
29. The Assessor's cost approach analysis for the 3305 N 178<sup>th</sup> Street property begins with a base value of \$ 142.34 per square foot and, like the Subject Property and 3313 N 178<sup>th</sup> Street, is adjusted for various features. These add-on adjustments include adjustments for the exterior stone finish and a mostly finished basement.
30. The Taxpayer asserts that because the price per square foot of the Subject Property is higher than the two comparables, the Subject Property is not equalized. However, this only accounts for the *overall* price-per-square-foot-value of each property. In examining the PRFs, it is clear the valuation differences are accounted for in the adjustments made for the properties' respective "add-on" features. Further, the Subject Property had the lowest base value per square foot of the three properties and is in better condition than the 3305 N 178<sup>th</sup> Street property. Nothing presented at the hearing shows the Subject Property was valued higher than its actual value or that it was valued excessively compared to other properties.
31. The Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
32. However, 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	\$ 62,900
<u>Improvements</u>	<u>\$520,600</u>
Total	\$583,500

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.
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 February 6, 2026.

Signed and Sealed: February 6, 2026



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James D. Kuhn, Commissioner