BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

ALLAN J. EUREK, APPELLANT, V. LANCASTER COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NOS: 23R 1396, 24R 0845 DECISION AND ORDER REVERSING THE DECISIONS OF THE LANCASTER COUNTY BOARD OF EQUALIZATION

For the Appellant: Allan J. Eurek, Pro Se	**For the Appellee:** Jennifer D. Chrystal-Clark, Deputy Lancaster County Attorney

These appeals were heard before Commissioners Robert W. Hotz and James D. Kuhn. Commissioner Hotz presided.

I. THE SUBJECT PROPERTY

The Subject Property is a residential parcel improved with a 2,420 square foot home at 8931 Whispering Wind Road, Lincoln, Lancaster County, Nebraska. The legal description and Property Record File (PRF) of the Subject Property is found at Exhibit 22.

II. PROCEDURAL HISTORY

The Lancaster County Assessor (the County Assessor) determined the assessed value of the Subject Property was $675,500 for tax year

2023.[1] Allan J. Eurek (the Taxpayer) protested this assessment to the Lancaster County Board of Equalization (the County Board) and requested a taxable value of $600,500.[2] The County Board determined the taxable value of the Subject Property for tax year 2023 was $675,500.[3]

For tax year 2024, the County Assessor determined the assessed value of the Subject Property was $704,300.[4] The Taxpayer protested this assessment to the County Board and requested a taxable value of $650,000.[5] The County Board determined the taxable value of the Subject Property for tax year 2023 was $704,300.[6]

The Taxpayer appealed the decisions of the County Board to the Tax Equalization and Review Commission (the Commission). The Commission held a hearing on December 5, 2024. Prior to the hearing, the parties exchanged exhibits and submitted a pre-hearing conference report, as ordered by the Commission. Exhibits 1 to 34 and 38 to 103 were admitted into evidence. Exhibits 35 to 37 were not admitted into evidence.

III. STANDARD OF REVIEW

The Commission's review of the County Board's determination is de novo.[7] When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.[8] The first

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[1] Exhibit 1.
[2] Exhibit 3:2.
[3] Exhibit 1.
[4] Exhibit 2.
[5] Exhibit 19:2.
[6] Exhibit 2.
[7] See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner County 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 County Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).
[8] *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)).

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.[9] 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.[10]

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.[11] The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.[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.[13] Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.[14]

The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.[15] The County Board need not put on any evidence to support its valuation of the property at issue unless the

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[9] *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).
[10] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.
[11] *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.
[12] *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.
[13] Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).
[14] *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).
[15] 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).

Taxpayer establishes that the County Board's valuation was unreasonable or arbitrary.[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.[17] The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.[18] 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.[19] The Commission's Decision and Order shall include findings of fact and conclusions of law.[20]

IV. RELEVANT LAW

Under Nebraska law,

> Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and a willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property the analysis shall include a full description of the physical characteristics of the real property and an identification of the property rights valued.[21]

Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales

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[16] *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)).
[17] Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).
[18] *Id.*
[19] Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).
[20] Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).
[21] Neb. Rev. Stat. § 77-112 (Reissue 2018).

comparison approach using the guidelines in Neb. Rev. Stat. § 77-1371, (2) income approach, and (3) cost approach.[22] Nebraska courts have held that actual value, market value, and fair market value mean exactly the same thing.[23] Taxable value is the percentage of actual value subject to taxation as directed by Neb. Rev. Stat. § 77-201 and has the same meaning as assessed value.[24] All real property in Nebraska subject to taxation shall be assessed as of January 1.[25] All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.[26]

Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by the Nebraska Constitution.[27] "Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value."[28] The purpose of equalization of assessments is to bring the assessment of different parts of a taxing district to the same relative standard, so that no one of the parts may be compelled to pay a disproportionate part of the tax.[29] Uniformity requires that whatever methods are used to determine actual or taxable value for various classifications of real property that the results be correlated to show uniformity.[30] Taxpayers are entitled to have their property assessed uniformly and proportionately, even though the result may be that it is

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[22] *Id.* (citing Neb. Rev. Stat. § 77-1371).
[23] *Omaha Country Club*, 11 Neb. App. at 180, 645 N.W.2d at 829.
[24] Neb. Rev. Stat. § 77-131 (Reissue 2018).
[25] See Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).
[26] Neb. Rev. Stat. § 77-201(1) (Cum. Supp. 2022).
[27] Neb. Const., art. VIII, § 1.
[28] *Lancaster Cty. Bd. of Equalization v. Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (Syllabus by the Court); see also *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).
[29] *Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (Syllabus by the Court); see also *MAPCO*, 238 Neb. 565, 471 N.W.2d 734 (1991); *Cabela's Inc. v. Cheyenne County Bd. of Equalization*, 8 Neb. App. 582, 597 N.W.2d 623, (1999).
[30] *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 411 N.W.2d 35 (1987).

assessed at less than the actual value.[31] If taxable values are to be equalized it is necessary for a Taxpayer to establish by clear and convincing evidence that the valuation placed on the property when compared with valuations placed on other similar properties is grossly excessive and is the result of systematic exercise of intentional will or failure of plain legal duty, and not mere errors of judgment.[32] There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.[33]

V. FINDINGS OF FACT

A. Appraisal Reports

Several appraisal reports were offered by both parties. Exhibit 35 was an appraisal report prepared by the Moore Appraisal Group, with a value conclusion of $440,000, effective January 1, 2012. The appraiser, Brad Moore, did not testify. The exhibit was objected to and not received in evidence.

Exhibit 36 was an appraisal report prepared by Appraisal Consultants, Inc., with a value conclusion of $467,000, effective April 24, 2019. The appraiser, Brent Protiva, did not testify. The exhibit was objected to and not received in evidence.

Exhibit 3 contained an additional appraisal report prepared by Brent Protiva for Pro Appraisal Services, LLC, with a value conclusion of $475,500, effective January 10, 2021. Brent Protiva did not testify. Exhibit 3 and Exhibit 20, each containing the same appraisal report

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[31] *Equitable Life v. Lincoln County Bd. of Equal.*, 229 Neb. 60, 425 N.W.2d 320 (1988); *Fremont Plaza v. Dodge Cty. Bd. of Equal.*, 225 Neb. 303, 405 N.W.2d 555 (1987).
[32] *Pinnacle Enters.*, 320 Neb. at 309–10, 27 N.W.2d at 6 (quoting *Moser*, 312 Neb. at 767, 980 N.W.2d at 619). See also *Newman v. County of Dawson,* 167 Neb. 666, 670, 94 N.W.2d 47, 49-50 (1959) (Citations omitted).
[33] *Moser*, 312 Neb. at 775, 980 N.W.2d at 624) (quoting *Newman*, 167 Neb. at 672, 94 N.W.2d at 50).

were received in evidence. Exhibit 37, containing the same appraisal report was objected to and not received.

Exhibit 6 contained an appraisal report prepared by Wilson Appraisal Company on August 14, 2024. The appraiser, Troy Topolski, gave a value conclusion of $626,000, retrospective to January 1, 2023. Topolski testified at the hearing. Exhibit 6 was received in evidence.

Exhibit 23 contained an appraisal report prepared by Wilson Appraisal Company on August 14, 2024. The appraiser, Troy Topolski, gave a value conclusion of $634,000, retrospective to January 1, 2024. Exhibit 23 was received in evidence.

B. Testimony of Witnesses

The Taxpayer, Allan Eurek, asserted the Subject Property had been consistently overvalued for several years. He argued the County Assessor did not correctly use mass appraisal modeling, and that there were quality control flaws in the assessment process. Eurek also questioned the appropriateness of the selection of comparable sales utilized by the County Assessor. He agreed with the Topolski appraisal reports and their conclusions of value.

Paula Eurek, a joint-owner of the Subject Property, testified to her belief that the style of the Subject Property had lower desirability than comparable properties and that the Subject Property had significant economic obsolescence due to cable television wiring to all rooms and built-ins for older television sets.

Troy Topolski, a Certified Residential Appraiser, testified that he completed an inspection of the Subject Property before preparing appraisal reports for both 2023 and 2024. The reports were prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP), and his value conclusions were retrospective to the effective dates of January 1, 2023, and January 1, 2024, found at Exhibit 6 and Exhibit 23 respectively. Topolski also testified the Subject Property had been in a stable, slightly increasing but overall

stable market during the relevant period. His value conclusions were $626,000 for 2023 and $634,000 for 2024

Timothy Johns was called to testify by the County Board. Johns held the State Assessor Certificate and was a Senior Appraiser for the Lancaster County Assessor. He had previously been both a Registered and Licensed Residential Appraiser. Johns testified the County Assessor determined the value of the Subject Property by using mass appraisal and multiple regression analysis.

Johns expressed several disagreements with the Topolski appraisals: that a 1.5 story home should not have been used as a comparable; that wet bars were not adequately considered; and that the Quality rating should not have been average-plus but should have been good.

VI. ANALYSIS

The concerns raised by the Taxpayer about the assessment process were not quantified. The Taxpayer provided no evidence indicating how these concerns relating to the assessment process affected value, other than the assertion they resulted in overvaluation. Likewise, the assertions that certain characteristics of the Subject Property had lower desirability were also not quantified to indicate their effect on value. The Taxpayer agreed with the Topolski appraisal reports and their conclusions of value.

The Commission gives no weight to the appraisal reports that were not received in evidence. We also give little weight to the Protiva appraisal report with the effective date of January 10, 2021.[34] That appraisal opinion was given nearly two years prior to the effective date

[34] Exhibit 3 contained an appraisal report prepared by Brent Protiva for Pro Appraisal Services, LLC, with a value conclusion of $475,500, effective January 10, 2021. Brent Protiva did not testify. Exhibit 3 and Exhibit 20, each containing the same appraisal report were received in evidence. Exhibit 37, containing the same appraisal report was objected to and not received.

for tax year 2023, and the appraiser did not testify to explain the bases for the value opinion.

The Commission gives great weight to the Topolski appraisals. The appraisals were completed by a Certified Residential appraiser who testified and was subject to cross examination the hearing. The appraisal reports were prepared in conformity with the Uniform Standards of Professional Appraisal Practice, and the value conclusions were retrospective to the assessment effective dates of January 1, 2023, and January 1, 2024.

Topolski testified that he conducted a complete inspection of the Subject Property. He opined that the market within which the Subject Property was located was relatively stable. He made appropriate adjustments to the comparables chosen, including locations of properties in relation to the golf course in the neighborhood.

When asked why he used a 1.5-story sale as a comparable property in both appraisals[35], Topolski stated that, in his experience, buyers in that market tend to look at both ranch-style properties and 1.5-story properties together. Topolski stated these properties tend to "compete" with each other and did not find any sales evidence to suggest the contrary.

However, even setting aside the 1.5-story comparable used in the appraisals, the Commission finds the remaining comparable properties used in the Topolski appraisals sufficient to support the value conclusions presented in the appraisals of $626,000 for tax year 2023,[36] and $634,000 for tax year 2024.[37]

Given Mr. Topolski's experience with appraisal in this jurisdiction, and his extensive training in appraisal techniques, the

[35] Exhibits 6:6; 23:6-7.
[36] Exhibit 6:7.
[37] Exhibit 23:7.

Commission finds Mr. Topolski's opinions of value to be the most persuasive estimate of the of actual value for the Subject Property.

VII. CONCLUSION

The Commission finds that there is competent evidence to rebut the presumption that the County Board faithfully performed its duties and had sufficient competent evidence to make its determinations. The Commission also finds that there is clear and convincing evidence the County Board's decisions were arbitrary or unreasonable.

For the reasons set forth above, the determinations of the County Board should be vacated and reversed.

VIII. ORDER

IT IS ORDERED THAT:

1. The decisions of the Lancaster County Board of Equalization determining the taxable values of the Subject Property for tax years 2023 and 2024 are vacated and reversed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	**$150,600**
Improvements	**$475,400**
Total	**$626,000**

3. The taxable value of the Subject Property for tax year 2024 is:

Land	**$150,600**
Improvements	**$483,400**
Total	**$634,000**

4. This Decision and Order, if no appeal is timely filed, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
5. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
6. Each party is to bear its own costs in this proceeding.

7. This Decision and Order shall only be applicable to tax years 2023 and 2024.
8. This Decision and Order is effective for purposes of appeal on November 4, 2026.[38]

SIGNED AND SEALED: November 4, 2026.

SEAL



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner

[38] Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. § 77-5019 (Reissue 2018) and other provisions of Nebraska Statutes and Court Rules.