

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

MEGAN K JOHNSON
APPELLANT,

CASE NO: 23R 1404

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 17-24-122-002-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$771,700 for tax year 2023.
3. Megan K Johnson (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 \$771,700 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 September 9, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Megan Johnson was present at the hearing for the Taxpayer.
8. Tim Johns (Appraiser) and Lexi Lucey were 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 one-story, single-family residential property built in 2018 with 2,004 square feet (SF) above grade, basement area of 2,290 SF with 1,750 SF full finish, 18 plumbing fixtures, one fireplace, attached garage with 1,135 SF, quality rating of good (4), and a condition/desirability/utility (CDU) rating of typical (4). The Subject property also has waterfront view of Waterford Lake.
17. The Taxpayer stated the Subject property valuation was arbitrary and unreasonable compared to the surrounding homes which saw lower increases for 2023 and had recently sold.
18. The Taxpayer submitted documents for five sold properties near the Subject property for comparison. It is inconclusive whether the documents are detailing 2023 or 2024 values, and the documents do not detail the property data for each address.
19. The Taxpayer did not provide the Property Record Files (PRF) for any of the properties presented. Without all the details contained in the PRF, the Commission is unable to determine whether the properties discussed are comparable to the Subject property.⁹

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).

⁹ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on August 7, 2024, includes the following:

20. “Comparable sales are recent sales of properties that are similar to the property being assessed in significant physical, functional, and location characteristics and in their contribution to value.”¹⁰
21. Comparable properties share similar use (residential, commercial industrial, or agricultural), physical characteristics (size, shape, and topography), and location. See, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).
22. “A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject’s unknown value.” Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007). If the comparable property is inferior in some respect, the sale price is adjusted upward, just as if it is superior, it will be adjusted downward.¹¹
23. The Appraiser stated there was a revaluation conducted to the Subject Property neighborhood for 2023. As such, the result will be varying degrees of percentage increases (or decreases) to each property in the market study area dependent upon the property components and comparable sales within their study period.
24. The Appraiser provided a Comparable Sales Report to support the Subject Property valuation with recently sold properties along with their PRFs, detailing their components of comparability and adjustments to the sale prices based on professionally accepted mass appraisal methods.

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.

¹⁰ Neb. Rev. Stat. § 77-1371 (Reissue 2018).

¹¹ *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

25. The Appraiser also provided a document detailing the values and property data of the one-story properties within the Subject Property neighborhood.
26. The Commission utilized the Subject neighborhood's one-story properties document provided by the Appraiser to cross reference the comparable properties submitted by the Taxpayer for comparison by parcel identification number.
27. While not all data was able to be analyzed, using professionally accepted mass appraisal methods, superior and inferior adjustments for size, basement finish, fixture count, and garage size were all apparent. The comparable at 10230 Starlight Bay is also considered a lower quality in the assessment data which would be cause for an adjustment as well.
28. The Appraiser stated that the comparable sales used in the Comparable Sales Report are properties found by the Computer Automated Mass Appraisal software to be most comparable to the Subject Property and require the least number of adjustments as shown by the comparability row score. None of the properties provided by the Taxpayer appear on the report indicating the possibility they are less comparable to the Subject Property and require more adjustment than those comparable properties provided by the Appraiser.
29. It should also be addressed that since the Assessor's office is responsible for using market sales within the time period of October 1, 2020, thru September 30, 2022, in setting the 2023 valuations,¹² it is unclear from the Taxpayer's documents if the sales fall within that range of acceptability in the absence of a full sales date.
30. 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.
31. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or

¹² 350 Neb. Admin. Code, ch. 17, § 003.05A (7/5/2017).

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	\$165,600
<u>Improvements</u>	<u>\$606,100</u>
Total	\$771,700

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 September 19, 2024.

Signed and Sealed: September 19, 2024



Jackie S. Russell, Commissioner