

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

JEFFREY D. SAYRE  
APPELLANT,

CASE NO: 23R 1593

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 16-03-215-003-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$437,100 for tax year 2023.
3. Jeffrey D. Sayre (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 \$437,100 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 May 16, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie Russell.
7. Jeffrey D. Sayre was present at the hearing for the Taxpayer.
8. Tim Sealock (Appraiser) and Priscilla Hruby 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.<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 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."<sup>3</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. 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."<sup>4</sup>
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.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

<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> *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

<sup>4</sup> *Id.* at 283-84.

<sup>5</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>6</sup> *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.<sup>7</sup>
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

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

16. The Subject Property is a one-story, single-family residential home, with 1,852 square feet (SF) above grade, an 1,852 SF walk-out basement with 1,450 SF full finish, 12 plumbing fixtures, a quality rating of good (4), and a condition/utility/desirability rating of typical (4).
17. The Taxpayer believes that the Subject Property, in comparison to two presented comparable properties from the Subject Property's street, is not equalized given the change in percentage increases that has caused the Subject Property to be valued higher than the comparable properties by a range totaling \$4,900 at its greatest point. The Subject Property does not have the most square footage above grade and only has one bedroom.
18. The Taxpayer attested that the Subject Property has had a lower valuation than the comparable properties since 2018.
19. The Appraiser rebutted that the percentage increases to the Subject Property and the comparable properties, have fluctuated through the years due to different sales influencing the assessment models for each year.  
The Appraiser stated that this neighborhood was revalued for the 2023 tax year. As such, the result will be varying degrees of percentage increases (or decreases) to each property in the

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<sup>7</sup> *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).

<sup>8</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

market study area dependent upon the property components and comparable sales within their study period.

20. The Appraiser agreed that the presented comparable properties are similar to the Subject Property but attested that the difference in valuation is minute and contributory value differences are the reason for the small value distinction between properties. The appraisal model is set up to apply coefficients to the contributory cost value of property component data listed on the Property Record File based on the market sales for the indicated statutory sales range of October 1, 2020, through September 30, 2022. The coefficient adjustments are provided in the Lancaster County 2023 Residential Valuation Methodology packet submitted by the Appraiser.
21. The Taxpayer opined that one bedroom should be a detriment to the property valuation as it shrinks the potential buyer pool. The Taxpayer did not present evidence which would allow the Commission to quantify what effect, if any, this would have upon the value.
22. The Appraiser stated that the assessment models do not currently adjust for single bedroom properties since there is not enough market support for such an adjustment at this time. It is a factor that is monitored.
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	\$ 83,000
<u>Improvements</u>	<u>\$354,100</u>
Total	\$437,100

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 May 22, 2024.

Signed and Sealed: May 22, 2024



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Jackie S. Russell, Commissioner