

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

TYLER J SHAW  
APPELLANT,

CASE NO: 23R 1611

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 02-25-307-001-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$478,400 for tax year 2023.
3. Tyler J Shaw (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 \$478,400 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 June 12, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie Russell.
7. Tyler and Katy Shaw were present at the hearing for the Taxpayer.
8. Sue Bartek 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 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 modular home with 1,630 square feet (SF) above grade, basement area of 1,630 SF with 1,200 SF full finish, 12 plumbing fixtures, 144 SF wood deck, 576 SF attached garage, quality rating of average (3) and a condition/desirability/utility (CDU) rating of typical (4).
17. The Taxpayer initially described the Subject property as a "manufactured home" which is a term synonymous with a "mobile home" in real estate, one that describes a structure transferred to a site on a chassis that is typically not removed. Mobile homes have a lower cost construction than a typical stick-built home.
18. Through further discussion, the appropriate description for the property became a "modular home" which is a wood framed structure, prefabricated in a controlled environment, transferred to the building site in pieces, and then joined in construction on site much like an onsite stick built home and typically utilizes the same costing tables for analysis.
19. The Taxpayer stated that discussions with the referee during the protest process led to a decrease in valuation totaling \$448,300, that was then overturned by the coordinator and never presented to the BOE for consideration.

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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).

20. The Appraiser opined that if the terminology of “manufactured home” was used by the Taxpayer during discussions with the referee, it could have potentially led to a new opinion of value.
21. The submitted Referee/Coordinator Report is inconclusive as to the reasoning behind the referee’s presented opinion of value.
22. The Taxpayer opined that the Subject property has issues such as subfloor damage in the laundry room, the need to replace the kitchen sink and to move some cabinetry that do not justify the increase in valuation.
23. The Taxpayer stated that the Subject was purchased May 31, 2023, for \$462,500 and was inappropriately disqualified by the Assessor’s office as an indicator of value.
24. The Appraiser stated that through the sales verification process, the Subject property was believed to have been purchased privately between known parties. The Taxpayer attested that there was no relationship with the seller, and the property was listed on the open market.
25. The Appraiser verified that the Subject property sale will be reclassified as an arm’s length transaction and used in future analysis.
26. Nebraska Law states the effective date of property value is January 1,<sup>9</sup> which concludes that the Subject property purchase price would not influence value for the 2023 year as set by the Assessor’s office.
27. The Taxpayer provided a list of five comparable properties for analysis. Property Record Files (PRF) from tax year 2024 were presented to the Commission for all properties. While it is inconclusive if the property data was the same for the 2023 tax year, it appears that all PRFs have the same quality and CDU as the Subject. Through analysis of the remaining contributory value components, the valuations are appropriately higher or lower than the Subject property based off a contributory cost value analysis using generally accepted mass appraisal

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<sup>9</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

practices. Only 6550 W. Leealan Ln and 5900 Kiowa Rd have recent sale prices.

28. The Appraiser attested to the use of a multiple regression analysis to help determine appropriate variables and coefficients for use in the sale comparison methodology.
29. The Appraiser provided a Comparable Sales Report by which the comparable properties have been adjusted through market analysis to develop a valuation for the Subject property.
30. Additional reports that were submitted by the Taxpayer were considered and found to be inconclusive as indicators supporting value. The data referenced in each is from a statewide analysis representing multiple markets with different influence factors. Further analyses of the like, localized to Lancaster County would need to be considered for its effect on the Subject property.
31. 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.
32. 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	\$129,800
<u>Improvements</u>	<u>\$348,600</u>
Total	\$478,400

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 July 8, 2024.

Signed and Sealed: July 8, 2024



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Jackie S. Russell, Commissioner