

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

OMROTSE TRUST
APPELLANT,

V.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

CASE NO: 23SV 1686

DECISION AND ORDER
AFFIRMING THE DECISION
OF THE DOUGLAS COUNTY
BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an unimproved residential parcel in Douglas County, parcel number 0116730010.
2. Eric Stormo, as Trustee of the Omrotse Trust (the Taxpayer), requested special valuation for the Subject Property in tax year 2023.
3. The special valuation was denied and the Taxpayer protested the denial to the Douglas County Board of Equalization (the County Board).
4. The County Board dismissed the protest.
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 December 8, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Eric Stormo and Mary Stormo were present at the hearing for the Taxpayer.
8. Tim Tran 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 1.¹
10. Agricultural or horticultural land which has an actual value as defined in Neb. Rev. Stat. § 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses shall be assessed as provided in Neb. Rev. Stat. § 77-201(3) if the land meets all statutory qualifications.² Alternatively, “Special valuation may be applicable to agricultural or horticultural land included within the corporate boundaries of a city or village if:
 - (a) The land is subject to a conservation or preservation easement as provided in the Conservation and Preservation Easements Act and the governing body of the city or village approves the agreement creating the easement;
 - (b) The land is subject to air installation compatible use zone regulations; or
 - (c) The land is within a flood plain.”³
11. The Commission’s review of a determination of the County Board of Equalization is de novo.⁴
12. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.⁵
13. 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

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

² Neb. Rev. Stat. § 77-1344(1) (Cum. Supp. 2022).

³ Neb. Rev. Stat. § 77-1344(2) (Cum. Supp. 2022).

⁴ 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).

⁵ *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, ____ N.W.3d ____ (2025). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus. v. Nuckolls Cnty. Bd. of Equal.*, 231 Neb. 653, 654-55, 437 N.W.2d 501, 502 (1989)).

justify its action.⁶ 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.⁷

14. 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.⁸ The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.⁹
15. 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.¹⁰ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.¹¹
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.¹² The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.¹³ 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

⁶ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___ (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).

⁷ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___.

⁸ *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

⁹ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

¹⁰ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

¹¹ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___; *Omaha Country Club v. Douglas County Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

¹² Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

¹³ *Id.*

evaluation of the evidence presented to it.¹⁴ The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁵

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Taxpayer argues that the County's denial of his special valuation request violates the interstate commerce clause under the U.S. Constitution and the Americans with Disabilities Act.
18. The Commission has no authority to adjudicate the Taxpayer's claims surrounding the interstate commerce clause, the Americans with Disabilities Act, or any other federal law. The sole issue before the Commission is whether the Taxpayer has met his burdens of proof as the Appellant in this case.
19. The Taxpayer argues on appeal that the County Board improperly dismissed his protest and that the Subject Property should qualify for special valuation as agricultural or horticultural property or "greenbelt" property.
20. As the Subject Property has been within the city limits of Omaha, Nebraska at all times relevant, the only way it may qualify for special valuation is by meeting the criteria in Neb. Rev. Stat. § 77-1344(2) (Cum. Supp. 2022).
21. The first qualification for special valuation under that statute is that the land be agricultural or horticultural land.¹⁶
22. Agricultural or horticultural land, as used in Neb. Rev. Stat. § 77-1344(2) (Cum. Supp. 2022), means "a parcel of land, excluding land associated with a building or enclosed structure located on the parcel, which is primarily used for agricultural or horticultural purposes."¹⁷
23. Here, the Taxpayer stated at the hearing that he did not use the Subject Property for any agricultural or horticultural purpose in

¹⁴ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

¹⁵ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹⁶ Neb. Rev. Stat. § 77-1344(2) (Cum. Supp. 2022).

¹⁷ *Fountain II LLC v. Douglas Cty. Bd. of Equalization*, 315 Neb. 633, 642, 999 N.W.2d 135, 142–43 (2024) (quoting Neb. Rev. Stat. § 77-1359(1) (Reissue 2018)).

any part of the year 2023.

24. The Taxpayer presented information printed out from the United States Department of Agriculture website showing he received a modest subsidy in the years 2018 through 2021. The printed document makes no reference to the Subject Property. Further, the Taxpayer did not explain how, if at all, the subsidies are related to the Subject Property, nor did he put forward any evidence that any such subsidies applied to the Subject Property.
25. As such the Commission finds the information from the USDA website is not competent evidence of agricultural or horticultural use and gives it little weight.
26. Even if the Subject Property were used as agricultural or horticultural land in tax year 2023, the Subject Property must also be (a) subject to a conservation or preservation easement under the Conservation and Preservation Easements Act with approval from the City of Omaha for the easement agreement; (b) be subject to air installation compatible use zone regulations; or (c) be within a flood plain to qualify for special valuation.¹⁸
27. The Taxpayer provided no evidence suggesting the Subject Property was subject to a conservation easement approved by the City of Omaha, was subject to air installation compatible use zone regulations, or was within a flood plain as of January 1, 2023.
28. For the reasons stated above, 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.
29. For the reasons stated above, 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.

¹⁸ Neb. Rev. Stat. § 77-1344(2) (Cum. Supp. 2022).

IV. ORDER

IT IS ORDERED THAT:

1. The decision of the County Board of Equalization dismissing the protest for the denial of special valuation of the Subject Property for tax year 2023 is affirmed.
2. 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.
3. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
4. Each party is to bear its own costs in this proceeding.
5. This Decision and Order shall only be applicable to tax year 2023.
6. This Decision and Order is effective on January 6, 2026.

Signed and Sealed: January 6, 2026.



James D. Kuhn, Commissioner