

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

ROSE M NELSON  
APPELLANT,

CASE NO: 24A 0605

V.

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

MORRILL COUNTY BOARD  
OF EQUALIZATION,  
BRITTANY & GRADY  
NORMAN  
APPELLEES.

*Nunc Pro Tunc*

This Decision and Order *Nunc Pro Tunc* is being issued to correct an error in a previous order.

**I. BACKGROUND**

1. The Subject Property is an improved agricultural parcel in Morrill County, parcel number 200120371.
2. The Morrill County Assessor (the County Assessor) assessed the Subject Property at \$442,315 for tax year 2024.
3. Brittany and Grady Norman (the Taxpayers) protested this value to the Morrill County Board of Equalization (the County Board) and requested an assessed value of \$391,000 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$391,000 for tax year 2024.
5. The County Assessor appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on October 2, 2025, at Fairfield Inn and Suites by Marriott, 902 Winter Creek Drive,

- Scottsbluff, NE 69361, before Commissioner Jackie S. Russell.
7. Robert Brenner, Attorney, and Rose M. Nelson, County Assessor, were present for the Appellant.
  8. Kirk Fellhoelter, County Attorney, was present for the County Board.
  9. Grady and Brittany Norman were present for the Taxpayers.

## II. APPLICABLE LAW

10. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
11. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
12. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>3</sup>
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 justify its action.<sup>4</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.<sup>5</sup>
14. The second burden of proof requires that from that point forward, the reasonableness of the valuation fixed by the board

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

<sup>2</sup> See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cnty. 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 Cnty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).

<sup>3</sup> *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)).

<sup>4</sup> *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).

<sup>5</sup> *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.

of equalization becomes one of fact based upon all the evidence presented.<sup>6</sup> The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.<sup>7</sup>

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.<sup>8</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>9</sup>
16. The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.<sup>10</sup> The County Board need not put on any evidence to support its valuation of the property at issue unless the Taxpayer establishes that the County Board's valuation was unreasonable or arbitrary.<sup>11</sup>
17. 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.<sup>12</sup> The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.<sup>13</sup> The Commission may take notice of judicially cognizable facts, may take notice of general, technical, or scientific facts within

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<sup>6</sup> *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

<sup>7</sup> *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.

<sup>8</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>9</sup> *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).

<sup>10</sup> 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).

<sup>11</sup> *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)).

<sup>12</sup> Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

<sup>13</sup> *Id.*

its specialized knowledge, and may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.<sup>14</sup> The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>15</sup>

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

18. The Subject Property is a one-story, single-family home built in 2014 with above grade area of 2,226 square feet (SF) and basement area of 1,722 SF. There are 12 plumbing fixtures, a built-in garage with 504 SF, and a carport added in 2020 with 720 SF. The overall quality and condition ratings are average.
19. Ms. Nelson argued that the County Board arbitrarily and unreasonably reduced the Subject Property value to a fee simple appraised value dated 12/14/2021 (Gutwein Appraisal), creating disequalization within the Subject Property neighborhood.
20. Ms. Nelson stated that during the protest hearing, adjustments to the land use of the Subject Property from rural residential to agricultural grassland led to a newly recommended value of \$413,945 as indicated on Exhibit 3 page 6 presented to the Commission for review.
21. Ms. Nelson argued that the market conditions for the Subject Property neighborhood have changed since the Gutwein Appraisal was completed rendering the Gutwein Appraisal irrelevant to the 2024 value.
22. The Reports and Opinions of the Property Tax Administrator for Morrill County since 2021, indicate that the market has increased in the Subject Property's area, however, there was not evidence of a specific sale or sales comparable to the Subject Property provided to the Commission for review of a sales comparison approach to value for the Subject Property for 2024.

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<sup>14</sup> Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

<sup>15</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

23. Ms. Nelson provided documentation showing the effects of the methodology used to value the Subject Property as of January 1, 2024. The methodology discussed included an agricultural land increase based on an assessment-to-sales ratio analysis with no change in improvement value from the previous year.
24. The Taxpayers provided a complete copy of the Gutwein Appraisal for the Commission to review.
25. When an independent appraiser using professionally approved methods of mass appraisal certifies that an appraisal was performed according to professional standards, the appraisal is considered competent evidence under Nebraska law.<sup>16</sup>
26. The Commission must look to value as of January 1, 2024.<sup>17</sup>
27. The Commission recognizes that the Gutwein Appraisal opinion of value has an effective date of 12/14/2021 and may not be relevant to the market conditions for 2024.
28. The Commission's review of the provided Property Record File for the Subject Property and the Gutwein Appraisal indicated a discrepancy in the square footage of the property, the built-in garage SF, and the carport SF. The Gutwein Appraisal indicates there are 2,246 SF above grade, 1,574 SF basement area, and 1,392 SF of garage space between the built-in garage and the carport. The Gutwein Appraisal indicates in the Supplemental Addendum that an interior and exterior inspection was performed on 03/01/2021 and an exterior measurement was taken of the main dwelling and garage. This information is subsequent to an inspection by the Assessor's office on 1/13/2020 where there was an "adjustment to the garage exterior wall" as indicated on the PRF. The PRF indicates there are 2,226 SF above grade, 1,722 SF basement area, and a combined 1,224 SF for the garage and carport.

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<sup>16</sup> *Cain v. Custer Cty. Bd. of Equal.*, 298 Neb. 834, 850, 906 N.W.2d 285, 298 (2018).

<sup>17</sup> Neb. Rev. Stat § 77-1301 (Cum. Supp. 2022)

29. The Commission finds the Gutwein Appraisal to be the most indicative of the correct sizes for the above grade area, basement area, built-in garage, and carport.
30. Due to discrepancies in component data for the Subject Property, the Commission finds the Gutwein Appraisal to be the most reliable indication of value for the Subject Property and affirms the County Board's actions.
31. The Appellant has not produced sufficient competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions. The Appellant 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 2024 is affirmed.
2. The taxable value of the Subject Property for tax year 2024 is:

Land	\$ 29,050
<u>Improvements</u>	<u>\$361,950</u>
Total	\$391,000
3. This Decision and Order, if no further action is taken, shall be certified to the Morrill County Treasurer and the Morrill County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
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 2024.

7. This Decision and Order *Nunc Pro Tunc* is effective on January 16, 2026.

Signed and Sealed: February 18, 2026.



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Jackie S. Russell, Commissioner