

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

JOHN GALT DEVELOPMENT,  
LLC  
APPELLANT,

V.

LANCASTER COUNTY  
BOARD OF EQUALIZATION,  
APPELLEE.

CASE NO: 24C 0266

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

**I. BACKGROUND**

1. The Subject Property is an improved commercial parcel in Lancaster County, parcel number 11-15-111-005-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$177,900 for tax year 2024.
3. John Galt Development, LLC (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 \$177,900 for tax year 2024.
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 16, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Mark Becher was present at the hearing for the Taxpayer.
8. Jeff Johnson (Appraiser) 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>

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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).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
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 commercial auto sales and service facility, built in 1955 with 2,952 square feet, investment class rating of 1, and income model rating of average minus (3).
17. The Taxpayer stated that the Subject Property valuation was arbitrary or unreasonable due to the condition of the property.
18. The Taxpayer stated that the property was damaged by fire in approximately 2019 or 2020, and the property suffered a recent fire that totaled the structure in October 2024.
19. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>9</sup>
20. Properties that are altered after January 1 of the current year assessment will be assessed for changes on January 1 of the following year.
21. The Appraiser stated that the property was inspected in March 2023 and the property data was updated to reflect the conditions prior to January 1, 2024.

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<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).

<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).

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

22. The Taxpayer provided pictures of the damage to the Subject Property from October of 2024, after the January 1, 2024, assessment date at issue in this appeal. The Taxpayer did not present any evidence to show that the condition or model ratings for January 1, 2024, were arbitrary or unreasonable.
23. The Appraiser attested that all properties with the same investment class and income model ratings are valued using the same income approach valuation model, developed accorded to professionally accepted mass appraisal methods by analyzing typical income and typical expense data for like properties.
24. The Appraiser provided a list of comparable sales and property record files of comparable properties to show uniformity in their valuations using the same income model.
25. 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.
26. 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 2024 is affirmed.
2. The taxable value of the Subject Property for tax year 2024 is:

Land	\$ 94,900
<u>Improvements</u>	<u>\$ 83,000</u>
Total	\$177,900

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 2024.
7. This Decision and Order is effective on January 23, 2025.

Signed and Sealed: January 23, 2025



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Jackie S. Russell, Commissioner