

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

BMMB VENTURES, LLC
APPELLANT,

CASE NO: 24C 0273

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 commercial parcel in Lancaster County, parcel number 10-25-319-002-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$702,600 for tax year 2024.
3. BMMB Ventures, 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 \$702,600 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 March 13, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Mark Becher was present at the hearing for the Taxpayer.
8. Matt Cartwright (the 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 1.¹
10. The Commission's review of a determination of the County Board of Equalization is de novo.²
11. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.³
12. 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.⁴ 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.⁵
13. 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.⁶ The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.⁷
14. The order, decision, determination or action appealed from shall

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

² 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).

³ *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)).

⁴ *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).

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

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

⁷ *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.

be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.⁸ Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁹

15. The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.¹⁰ 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.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 evaluation of the evidence presented to it.¹⁴ The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁵

⁸ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁹ *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).

¹⁰ 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).

¹¹ *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)).

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

¹³ *Id.*

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

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

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Taxpayer stated he purchased the Subject Property on May 31, 2024. Per the property record file (PRF) provided, the Subject Property was purchased for \$725,000.
18. The Taxpayer stated there is water damage causing mold issues. No estimates of cost to cure the damage were provided. The Taxpayer asserted that the previous owner had enclosed a stairway without building permits.
19. The Taxpayer stated there are issues with the HVAC systems and they need to be replaced. An estimate of \$110,284 was provided by the Taxpayer to install 14 new HVAC units. The Taxpayer estimated it would cost \$300,000 to fix the HVAC, foundation cracks, water drainage and other issues with the Subject Property.
20. The Appraiser stated the recent purchase price paid, which is higher than the current assessment, shows the valuation of the Subject Property to be correct. The Appraiser stated the Subject Property was purchased in its current state of needing repairs.
21. The Appraiser stated the Subject Property has newly remodeled units per sales flyer. The Taxpayer stated only half the units have been remodeled.
22. Notably, the Taxpayer filed the protest with the County Board on June 7, 2024, citing the same reasons for the protest as listed in the Taxpayer's reasons for appeal. On June 14, 2024, the Taxpayer was interviewed by the Appraiser to verify certain details of the Taxpayer's May 2024 purchase of the Subject Property. The Appraiser filled out a questionnaire with Taxpayer's responses. When asked "Do you believe this sale [of the Subject Property] represents fair market value? (*Arm's-length? If not, why not?*)," the Taxpayer responded "Yes, transfer between two real estate investors."
23. Even assuming the Taxpayer had rebutted the initial presumption, it is difficult to say that the County Board's decision is arbitrary or unreasonable in this case. The Taxpayer

protested the January 1, 2024, valuation¹⁶ of \$702,600 to the County Board, arguing this value is too high for several reasons including squatters, condition issues, deferred maintenance, excessive vacancy, and incorrect assessment data. Exactly one week after filing the protest form and laying out all of the reasons for the protest, the Taxpayer told the Appraiser that the May 31, 2024, purchase price of \$725,000 represents fair market value.

24. The Taxpayer must introduce competent evidence of actual value of its property in order to successfully claim that a property is overvalued.
25. The only evidence presented of actual value is the Taxpayer's own statement that the May 31, 2024, purchase price of \$725,000 represents the fair market value.
26. 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.
27. 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.

The taxable value of the Subject Property for tax year 2024 is:

Total	\$702,600
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¹⁶ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

2. 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.
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 2024.
6. This Decision and Order is effective on February 27, 2026.

Signed and Sealed: February 27, 2026.



James D. Kuhn, Commissioner