

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

WILLIAM VOGT  
APPELLANT,

V.

DAKOTA COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

CASE NO: 24C 0353

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

**I. BACKGROUND**

1. The Subject Property is an improved commercial property in Dakota County, parcel number 220069336.
2. The Dakota County Assessor (the County Assessor) assessed the Subject Property at \$122,605 for tax year 2024.
3. William Vogt (the Taxpayer) protested this value to the Dakota County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$122,605 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 July 15, 2025, at Divots Conference Center, 4200 W Norfolk Ave, Norfolk, NE, before Commissioner Jackie S. Russell.
7. William and Linda Vogt were present at the hearing for the Taxpayer.
8. Christy Abts (The Assessor) and Melissa Collins were 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 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> *Brenner v. Banner Cnty. 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 Cnty. 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 commercially zoned parcel with an equipment shop built in 1950 totaling 5,968 square feet (SF). The overall quality (rank) is 2.0 (average) and the condition is 3.0 (average) according to the Property Record File (PRF) submitted by The Assessor.
17. The Taxpayer argued that the increase in value from \$77,380 in 2023 to \$122,605 in 2024 was arbitrary or unreasonable for one year.
18. The assessed value for real property may be different from year to year according to the circumstances.<sup>9</sup> For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.<sup>10</sup>
19. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value.<sup>11</sup>
20. Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1)

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<sup>7</sup> *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cnty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cnty. Bd. of Equal. of York Cnty.*, 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> *Affiliated Foods Coop. v. Madison Cny. Bd. of Equal'n*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

<sup>10</sup> *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal'n*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

<sup>11</sup> 350 Neb. Admin. Code, ch. 10 § 003.01A (10/26/2014).

sales comparison approach using the guidelines in section 77-1371, (2) income approach, and (3) cost approach.<sup>12</sup>

21. "In the sales comparison approach, appraisers develop opinions of value by analyzing closed sales, pending sales, active listings, and cancelled or expired listings of properties that are similar to the property being appraised."<sup>13</sup>
22. The Assessor stated that the Subject Property was physically inspected for 2024. Renovations were discovered that were not reflected on the assessment record.
23. The Assessor stated that a revaluation was conducted to the Subject Property neighborhood for 2024. The increases (or decreases) to each property in the market study area were dependent upon the property data components and comparable sales within the study period of October 1, 2020 to September 30, 2023.<sup>14</sup>
24. The Taxpayer stated that the Referee for the County Board recommended a value of \$80,535 in their professional opinion. The Taxpayer stated that the Referee came up with the value during their protest meeting, but the Taxpayer was not aware of how the value was reached. No evidence was provided to the Commission to support the Referee's analysis for their opinion. Therefore the Commission gives it little weight.
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.

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<sup>12</sup> Neb. Rev. Stat. § 77-112 (Reissue 2018).

<sup>13</sup> Appraisal Institute, *The Appraisal of Real Estate* 351 (15th ed. 2020).

<sup>14</sup> 350 Neb. Admin. Code, ch. 17, § 003.05B (7/5/2017).

## 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:

Total	\$122,605
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3. This Decision and Order, if no further action is taken, shall be certified to the Dakota County Treasurer and the Dakota 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 September 5, 2025.

Signed and Sealed: September 5, 2025



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Jackie S. Russell, Commissioner