

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

LEONARD ORLOWSKI
APPELLANT,

CASE NOS: 24R 0093, 25R
0027

V.

ANTELOPE COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property consists of an improved residential parcel in Antelope County, parcel number 000193600.
2. The Antelope County Assessor (the County Assessor) assessed the Subject Property at \$449,220 for tax year 2024 and \$449,220 for tax year 2025.
3. Leonard Orłowski (the Taxpayer) protested these values to the Antelope County Board of Equalization (the County Board) and requested assessed values of \$262,750 for both tax years 2024 and 2025.
4. The County Board determined that the taxable value of the Subject Property was \$449,220 for tax year 2024 and \$489,140 for tax year 2025.
5. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on October 21, 2025, at Divots Conference Center, 4200 W Norfolk Ave, Norfolk, NE, before Commissioner James D. Kuhn.
7. Leonard and Judith Orłowski were present at the hearing for the Taxpayer.
8. Kelly Mueller-Oltjenbruns (County Assessor) 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

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.

14. 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.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 *Botdorf 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 brought these appeals challenging the increase from 2023 to 2024 and asserting various condition issues show the valuations are too high. In his 2024 appeal, the Taxpayer asserted the County Assessor raised the Subject Property's value in retaliation for the Taxpayer filing for a homestead exemption as a disabled veteran. Only the County Board's valuation decisions are properly before the Commission.¹⁶
18. At the hearing, the Taxpayer stated he and his wife purchased the Subject Property in 2010 and ran it as a bed and breakfast until 2019.
19. The Taxpayer described various condition issues, including a need for new windows and rotting wood around the windows. The Taxpayer provided several photos to show the condition issues. However, the Taxpayer presented no information to quantify the impact of the condition issues on the Subject Property's values in 2024 or 2025.
20. The Taxpayer also stated the bed and breakfast business stalled after neighboring properties began installing wind turbines. The taxpayer said between five and ten such turbines are visible from the Subject Property. Again, the Taxpayer presented no information to quantify the impact of area wind turbines on the Subject Property's value.
21. The Taxpayer asserted he had a survey performed which shows a county road encroaches on the Subject Property. The Taxpayer did not provide the survey or anything to quantify the impact, if any, of the alleged encroachment.
22. Finally, the Taxpayer noted that the County Assessor described the Subject Property as having been built in 1920 in the property record files (PRFs) for the Subject Property. The Taxpayer stated the Subject Property was actually built in 1880.

¹⁶ See Neb. Rev. Stat. §§ 77-1510 (Reissue 2018) and 77-5007 (Reissue 2018).

23. In order to determine actual or fair market value, an accurate description of the following characteristics is critical: quality of construction, style, age, size, amenities, functional utility, and condition.¹⁷
24. The Taxpayer's statement that the Subject Property's age are incorrect in the PRFs is "evidence tending to show that the valuation" adopted by the County Board is questionable.¹⁸
25. However, again, the Taxpayer has not quantified the impact to the Subject Property's taxable value in either tax year at issue.
26. The County Assessor stated at the hearing that her office used the cost approach for the Subject Property and the costing tables only go back to 1920.
27. The County Assessor also noted that she has no data to show the presence of wind turbines is affecting sale prices.
28. Finally, the County Assessor noted that the condition issues raised by the Taxpayer appear typical for a house of that age.
29. The Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
30. However, the Taxpayer has not adduced clear and convincing evidence that the determinations of the County Board are arbitrary or unreasonable and the decisions of the County Board should be affirmed.

IV. ORDER

IT IS ORDERED THAT:

1. The decisions of the County Board of Equalization determining the taxable value of the Subject Property for tax years 2024 and 2025 are affirmed.

¹⁷ International Association of Assessing Officers, *Property Assessment Valuation* 204-05 (3rd ed. 2010).

¹⁸ *Betty L. Green Living Trust v. Morrill Cty. Bd. of Equal.*, 299 Neb. 933, 942-43, 911 N.W.2d 551, 558-59 (2018).

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

Land	\$ 26,390
<u>Improvements</u>	<u>\$422,830</u>
Total	\$449,220

3. The taxable value of the Subject Property for tax year 2025 is:

Land	\$ 26,390
<u>Improvements</u>	<u>\$462,750</u>
Total	\$489,140

4. This Decision and Order, if no further action is taken, shall be certified to the Antelope County Treasurer and the Antelope County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
5. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
6. Each party is to bear its own costs in this proceeding.
7. This Decision and Order shall only be applicable to tax years 2024 and 2025.
8. This Decision and Order is effective on May 20, 2026.

SIGNED AND SEALED: May 20, 2026.

SEAL



James D. Kuhn, Commissioner