

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

MARY SUE KORUS
APPELLANT,

CASE NO: 24R 0094

V.

DODGE COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is an unimproved recreational parcel in Dodge County, parcel number 270137178.
2. The Dodge County Assessor (the County Assessor) assessed the Subject Property at \$83,260 for tax year 2024.
3. Mary Sue Korus (the Taxpayer) protested this value to the Dodge County Board of Equalization (the County Board) and requested an assessed value of \$4,326 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$83,260 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 June 24, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Mary Sue Korus was present at the hearing for the Taxpayer.
8. Mitch Hart (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 *Bottof 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 this appeal alleging the County Board unreasonably increased the Subject Property's assessed value.
18. The Taxpayer stated that the assessed value in 2021, the year the Taxpayer purchased the Subject Property, was \$12,000.
19. The assessed value for real property may be different from year to year according to the circumstances.¹⁶ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹⁷
20. The Subject Property is 21.63 acres of recreational land and 9.50 acres of river lying along the boundary of Dodge and Washington Counties. The 9.50 acres of river are not taxed.
21. The Taxpayer stated that the Subject Property is divided by the Elkhorn River and landlocked on both sides.
22. The Taxpayer disagrees with the classification of "recreational land" for the Subject Property, saying it is river bottom. The Taxpayer also stated that when the Taxpayer purchased the Subject Property in 2021, it was classified as wasteland and that she would like the Subject Property to again be treated as wasteland.
23. "Wasteland" is a subcategory of agricultural land.¹⁸
24. "Wasteland includes land that cannot be used economically and are not suitable for agricultural or horticultural purposes."¹⁹ "Such land types include but are not limited to, blowouts, riverwash (recent unstabilized alluvial deposits), marshes, badlands, large deep gullies (including streambeds and banks), bluffs, rockland, gravel areas, and salt flats."²⁰

¹⁶ *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

¹⁷ *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

¹⁸ Title 350 Neb. Admin. Code. Ch 14, § 002.54.

¹⁹ *Id.*

²⁰ *Id.*

25. “To qualify for wasteland the land must be lying in or adjacent to and in common ownership or management with land used for agricultural or horticultural purposes.”²¹
26. Additionally, “Other land which may be classified as wasteland are the permanent easement acres associated with the Bureau of Reclamation or irrigation districts, which are defined as open canals or ditches, laterals, drains, and service roads for the canal system.”²² “Assessors need to verify or be aware of the type of deed or easement that may be filed for these areas before making any determination of classification.”²³
27. The Taxpayer presented no information to show the Subject Property qualifies as wasteland under the above-quoted criteria.
28. Further, the property record file (PRF) for the Subject Property presented by the Appraiser shows that the Subject Property has been classified as recreational land since before the Taxpayer’s purchase in 2021.
29. The Taxpayer also stated she owns adjacent land in Washington County, and that Washington County prevents the Taxpayer from selling the Washington County land with the Taxpayer’s adjacent Washington County property or to an adjacent landowner.
30. The Taxpayer asserts this restriction reduces the value of the Subject Property in Dodge County but does not quantify that reduction in value.
31. The Taxpayer also requests that more of the Subject Property’s acreage be allocated to the untaxed river surface due to the ever-changing flow of the river. The Taxpayer also presented photos and satellite photos of the Subject Property purporting to show the changes to of the river over time. However, the Taxpayer did not quantify how much additional acreage should be classified

²¹ *Id.*

²² *Id.*

²³ *Id.*

- as river or the impact of the river's changes on the Subject Property's value.
32. The Taxpayer alleges that a neighbor purchased a comparable property (Spoon Property) for \$2,500 per acre in October of 2023.
 33. The Taxpayer presented a printed page from the Dodge County Assessor's website relating to the Spoon Property. The Spoon Property was valued at \$42,000 in 2024. However, other information about the Spoon Property in the Taxpayer's printout, including the Spoon Property's soil classifications, appears to be as of 2025 rather than 2024.
 34. For the same reasons prior years' assessments are not relevant to the Subject Property's value in 2024, subsequent assessment information about the Spoon Property is also not relevant here.²⁴
 35. As for the October 2023 sale, the Taxpayer's printout indicates that sale is disqualified for comparable sales purposes. There is also insufficient information from that sale to accurately determine how that price was allocated per acre, if at all, between soil types.
 36. The Taxpayer also presented search results from the website "landwatch.com" showing other listings for recently sold recreational properties. The descriptions of these properties are simply the real estate listing descriptions and do not provide a basis for comparison to the Subject Property.
 37. The Taxpayer provided other printed web documents related to flooding and property taxes, Nebraska Farm Bureau price averages, or accessibility of land. None of these printouts relate in any way to the Subject Property.
 38. The Appraiser stated at the hearing that all properties along the Elkhorn River have the same flooding issues.
 39. The Appraiser also described the tiered land value assigned to land along the river in the assessment process as \$4,000 per

²⁴ *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

acre for the first 20 acres, then \$2,000 per acre for the next 20 acres. No value is assigned to the area classified as river.

40. 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.
41. 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:

Total	\$83,260
-------	----------

3. This Decision and Order, if no further action is taken, shall be certified to the Dodge County Treasurer and the Dodge 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 is effective on May 27, 2026.

SIGNED AND SEALED: May 27, 2026.

SEAL



James D. Kuhn, Commissioner