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

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| ANTHONY WHITMAN<br>APPELLANT,<br><br>V.<br><br>LINCOLN COUNTY BOARD OF EQUALIZATION,<br>APPELLEE. | CASE NO: 24R 0277<br><br><br>DECISION AND ORDER AFFIRMING THE DECISION OF THE LINCOLN COUNTY BOARD OF EQUALIZATION |

## I. BACKGROUND

1. The Subject Property is an improved residential parcel in Lincoln County, parcel number 0015200.00.
2. The Lincoln County Assessor (the County Assessor) assessed the Subject Property at $86,948 for tax year 2024.
3. Anthony Whitman (the Taxpayer) protested this value to the Lincoln County Board of Equalization (the County Board) and requested an assessed value of $69,710 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was $86,948 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 25, 2026, at Best Western Plus North Platte Inn & Suites, 3201 S Jeffers St., North Platte, NE 69101, before Commissioner Jackie S. Russell.
7. Anthony Whitman was present at the hearing for the Taxpayer.
8. Tyler Volkmer (County Attorney) and Henry Kirk Vogt (Appraiser) 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.[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

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[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]

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[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 Subject Property is a one-story, single-family home built in 1950 with 935 square feet (SF) above grade, no basement, and one bath. There is a detached garage with 864 SF built in 2011. The quality rating (grade) is 5 and the condition rating is above normal (A NML) according to the Property Record File (PRF).
18. The Taxpayer argued that the Subject Property's valuation was arbitrary and unreasonable due to the condition of the neighborhood and the properties chosen for comparables by the County Assessor's office.
19. The Taxpayer provided the Commission with a hand-written document which showed a condensed map of the area with Jackson Ave, Dolson Ave, Madison, and 9th Street listed. There are sections labeled to show the proximity of the Subject Property to a junk yard, low-income housing, abandoned Railroad property overrun by weeds, and a construction site with dirt piles.
20. The same document also includes a list of three properties. The list includes the property's respective values for tax year 2024 and their bedroom counts. One property also lists an additional detail of "large 4 car garage."
21. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (style, size, finish, condition, etc.), and location.[16]
22. "A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject's unknown value."[17]
23. The Taxpayer did not present the PRF for each of the properties presented as comparables. Accordingly, the Commission cannot

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[16] *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).
[17] Appraisal Institute, *Appraising Residential Properties* 334 (4th ed. 2007)

see the basis for the determination of assessed value for the properties presented by the Taxpayer. The Commission cannot compare all their physical characteristics to the characteristics of the Subject Property. Therefore, the Commission is unable to determine the contribution of the different characteristics of the properties presented by the Taxpayer to the Subject Property.[18]

24. The information provided by the Taxpayer does not show the basis of the assessments of the land component of the properties presented that would allow the Commission to determine if their assessed values were uniform and proportionate.
25. The Taxpayer did not present information to demonstrate the qualitative impact of the presented neighborhood conditions on the Subject Property's valuation.
26. The Commission must look to the value of the Subject Property as of January 1 of each tax year.[19]
27. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value.[20]
28. A determination of actual value may be made by using professionally accepted mass appraisal methods.[21] The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.[22]
29. The Appraiser stated there was a revaluation conducted to the Subject Property neighborhood for tax year 2024. This included a 10% increase to the Computer Assisted Mass Appraisal physical characteristic cost tables based on market sales in Lincoln County. The increases (or decreases) to each property in

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[18] For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on April 20, 2025, includes the following:

> **NOTE**: *Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page* ***is not*** *a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

[19] Neb. Rev. Stat §77-1301(Cum. Supp. 2022)

[20] Title 350 Neb. Admin. Code, ch.10 § 003.01A (10/2014).

[21] Neb. Rev. Stat. § 77-112 (Reissue 2018).

[22] *Id.*

the market study area were dependent upon the property data components and comparable sales within the study period.

30. The Appraiser provided supportive documentation to detail the cost approach to value for the Subject Property, comparable sales to the Subject Property, and equalized comparable properties in the same neighborhood as the Subject Property, following professionally accepted mass appraisal methods.
31. The Taxpayer has not produced sufficient competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
32. 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:

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| Land | $ 9,412 |
| Improvements | $77,536 |
| Total | $86,948 |

3. This Decision and Order, if no further action is taken, shall be certified to the Lincoln County Treasurer and the Lincoln 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 August 20, 2026.

**SIGNED AND SEALED: August 20, 2026.**

***SEAL***

Jackie S. Russell, Commissioner