

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

BETTY WARREN  
APPELLANT,

CASE NO: 24R 0368

V.

GOSPER COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Gosper County, property ID number 370025245. The Subject Property is also an “improvements on leased land” (IOLL) parcel.
2. The Gosper County Assessor (the County Assessor) assessed the Subject Property at \$1,070,500 for tax year 2024.
3. Betty Warren (the Taxpayer) protested this value to the Gosper County Board of Equalization (the County Board) and requested an assessed value of \$800,000 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$971,200 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 21, 2025, at Best Western Plus North Platte Inn & Suites, 3201 S Jeffers St. , North Platte, NE 69101, before Commissioner James D. Kuhn.
7. Betty Warren was present at the hearing for the Taxpayer.
8. Pam Bogle (Appraiser) and Beverly Louthan 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 the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>3</sup>
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.<sup>4</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.<sup>5</sup>
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.<sup>6</sup> The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.<sup>7</sup>
14. The order, decision, determination or action appealed from shall

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

<sup>2</sup> 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).

<sup>3</sup> *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)).

<sup>4</sup> *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).

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

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

<sup>7</sup> *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.<sup>8</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup>
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.<sup>12</sup> The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.<sup>13</sup> 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.<sup>14</sup> The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>15</sup>

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<sup>8</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>9</sup> *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).

<sup>10</sup> 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).

<sup>11</sup> *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)).

<sup>12</sup> Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

<sup>13</sup> *Id.*

<sup>14</sup> Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

<sup>15</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

### III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is an IOLL property on Johnson Lake in Gosper County. Johnson Lake lies on the county line between Gosper County and Dawson County.
18. The Taxpayer brought this appeal because she disagrees with the method of assessment applied by the County Assessor in 2024. Specifically, the Taxpayer alleged the County Assessor applied a “blanket 30% increase based solely on average sale-to-assessed-value ratios” of lakefront properties in Gosper County. The Taxpayer further asserts this approach “fails to account for the unique characteristics and condition of any individual property.”
19. This reasoning misapprehends the County Assessor’s actions by conflating adjustments made to assessments during the equalization process with adjusting value to an individual property based upon comparable sales information.
20. It is true that in the context of comparable sales analysis, “Simply averaging the results of the adjustment process to develop an averaged value fails to recognize the relative comparability of the individual transactions as indicated by the size of the total adjustments and the reliability of the data and methods used to support the adjustments.”<sup>16</sup>
21. However, the Taxpayer’s documents show this is not what occurred here.
22. “A primary tool for measuring the ratio of assessment to actual value is the assessment-to-sales ratio.”<sup>17</sup> “This ratio is calculated by dividing a parcel of property’s assessed value by the sales price of that parcel of property.”<sup>18</sup>
23. “[U]sing this ratio and using the median as the indicator of central tendency for a class or subclass of property, the median

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<sup>16</sup> Appraisal Institute, *The Appraisal of Real Estate* 389 (14th ed. 2013).

<sup>17</sup> *County of Douglas v. Nebraska Tax Equal. & Rev. Comm’n*, 296 Neb. 501, 509, 894 N.W.2d 308, 314 (2017) (citing 442 Neb. Admin. Code, ch. 9, § 002.02 (2011)).

<sup>18</sup> *Id.*

- assessment-to-sales ratio would need to fall between 92 and 100 percent to be within the acceptable range.”<sup>19</sup>
24. All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.<sup>20</sup>
25. “Our law is also established that, for purposes of taxation, the terms “fair market value” and “actual value” mean exactly the same thing.”<sup>21</sup>
26. Market value is “the amount for which property may be sold by a willing seller who is not compelled to sell it to a buyer who is willing but not compelled to buy it.”<sup>22</sup> In deciding market value, “the situation and condition of the property as it was at that time and all the other facts and circumstances shown by the evidence that affected or had a tendency to establish its value.”<sup>23</sup>
27. Taxable value is the percentage of actual value subject to taxation and has the same meaning as assessed value.<sup>24</sup>
28. The Taxpayer provided the 2024 Notice of Valuation Change (Notice) sent to the Taxpayer by the County Assessor for the Subject Property.
29. The Notice provides that the County Assessor found that the assessed values for lakefront properties in Gosper County were, on average, unacceptably low when compared to the actual values as shown by recent sales data of lakefront properties. Thus, the County Assessor adjusted the overall assessed values to lakefront properties in Gosper County to keep the average assessment-to-sales ratio within the legally acceptable range.
30. The Taxpayer presented no assessment data, sales data, or other information to show the County Assessor’s equalization adjustment was improper.

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<sup>19</sup> *Id.*

<sup>20</sup> Neb. Rev. Stat. § 77-201(1)-(3) (Reissue 2018).

<sup>21</sup> *In re Estate of Craven*, 281 Neb. 122, 127, 794 N.W.2d 406, 410 (2011) (citing *Xerox Corp. v. Karnes*, 217 Neb. 728, 350 N.W.2d 566 (1984)).

<sup>22</sup> *Henn v. American Family Mut. Ins. Co.*, 295 Neb. 859, 866, 894 N.W.2d 179, 184-85 (2017).

<sup>23</sup> *Id.*

<sup>24</sup> Neb. Rev. Stats. §§ 77-131, 201 (Reissue 2018).

31. Additionally, the County Assessor reviewed the Subject Property during the Taxpayer's protest proceedings and recommended a decrease in the Subject Property's quality rating from very good to good, thus lowering the improvements value. The County Board agreed and followed the County Assessor's recommendation in its decision. Thus, the County Assessor's equalization adjustment affects only the Subject Property's land valuation. The Taxpayer also presented no information to show the Subject Property's land value, was incorrect.
32. The Taxpayer further argues that the Subject Property is still overvalued for 2024 as shown by recent sales of other lakefront properties in the area, including Dawson County Properties on Johnson Lake.
33. "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>25</sup>
34. "A major premise of the sales comparison approach is that an opinion of the market value of a property can be supported by studying the market's reaction to *comparable* and competitive properties."<sup>26</sup>
35. Comparable properties share similar use (residential, commercial industrial, or agricultural), physical characteristics (size, shape, and topography), and location.<sup>27</sup>
36. The Taxpayer presented numerous documents related to other properties around Johnson Lake, intending to show comparable sales. The documents presented include multiple-listing-service (MLS) reports, printouts of property assessment summaries from the county assessors' websites in both Gosper County and Dawson County, and printed sales brochures for two local properties. Many of these documents intended to show

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<sup>25</sup> Appraisal Institute, *The Appraisal of Real Estate* 351 (15th ed. 2020).

<sup>26</sup> *Id.* (emphasis added).

<sup>27</sup> International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

comparable sales do not include the sale prices but do include handwritten notes from the Taxpayer with assertions of the sale prices.

37. The Taxpayer did not provide the 2024 property record files (PRFs) for the Subject Property or any of the properties presented for comparison. Without the details contained in the 2024 PRFs, the Commission is unable to determine whether the properties discussed are comparable to the Subject Property.<sup>28</sup>
38. The Taxpayer provided the 2025 PRF for the Subject Property. However, the tax year at issue is 2024.
39. The assessed value for real property may be different from year to year according to the circumstances.<sup>29</sup> For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.<sup>30</sup> For these reasons, the Commission also concludes that subsequent assessments are not relevant to the prior assessment.<sup>31</sup>
40. Thus, Commission gives the 2025 PRF provided by the Taxpayer for the Subject Property little weight.
41. To the extent the Taxpayer's other documents contain information from which the Commission can examine comparability, they demonstrate the properties presented by the Taxpayer are not comparable to the Subject Property.
42. The Appraiser provided the PRF for the Subject Property in 2024. That PRF shows the Subject Property is a one-story,

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<sup>28</sup> For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on June 13, 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.*

<sup>29</sup> *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); Neb. Rev. Stat. § 77-1502 (Reissue 2018).

<sup>30</sup> *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).

<sup>31</sup> See *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

- single-family home with 2,436 square feet and no basement.
43. The Taxpayer’s documents show the properties presented are mostly two-story, one-and-a-half story, or multi-level homes. These are entirely different styles of homes and are not comparable to the Subject Property.
  44. There are two MLS reports for one-story properties, but those have dramatically different features and attributes such as more or less square footage, or basement spaces. Further, the MLS documents presented do not include any quality or condition ratings.
  45. Many of the properties presented are IOLL properties like the Subject Property, while some are “deeded” ground, as noted by the Taxpayer. The Taxpayer made no adjustments for the differences in the applicable IOLL agreements (which were also not provided), or the difference between “deeded” ground and an IOLL for the properties presented.
  46. 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.
  47. 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:

Land (Leasehold)	\$221,600
<u>Improvements</u>	<u>\$749,600</u>
Total	\$971,200

3. This Decision and Order, if no further action is taken, shall be certified to the Gosper County Treasurer and the Gosper 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 June 5, 2026.

**SIGNED AND SEALED: June 5, 2026.**

*SEAL*



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James D. Kuhn, Commissioner