

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

BRIAN J. BAKER  
APPELLANT,

CASE NO: 24R 0587

V.

SALINE COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Saline County, parcel number 760146715.
2. The Saline County Assessor (the County Assessor) assessed the Subject Property at \$409,345 for tax year 2024.
3. Brian J. Baker (the Taxpayer) protested this value to the Saline County Board of Equalization (the County Board) and requested an assessed value of \$347,055 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$396,380 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 18, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Brian Baker was present at the hearing for the Taxpayer.
8. David Solheim, Daryl Clark, and Brandi Kelly (The Assessor) 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 one-story, single-family home built in 2016 with above grade area of 1,652 square feet (SF) and walkout basement area of 1,836 SF with 1,322 SF partitioned finish. There are 14 plumbing fixtures and an attached garage with 960 SF. The overall quality rating is 4.0 (good), and the condition rating is 3.0 (average). The home sits on a 27,200 SF lot.
17. The Taxpayer stated that properties with land over one acre within the Subject Property's subdivision are discounted compared to properties under one acre, creating dis-equalization and an arbitrary or unreasonable value for the Subject Property.
18. The Assessor stated that land values are determined by using a sales comparison approach to create a land model applied to properties less than one acre and a different model applied to properties over one acre in size.
19. The Assessor stated there are four properties in the Subject Property's subdivision. Two properties are over one acre and two properties are under one acre.
20. The Assessor provided a Property Record File (PRF) for the property adjacent to the Subject Property (parcel 760146714) which has a lot size equivalent to the Subject Property at 27,200 SF. The land value is the same as the Subject Property and

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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).

supports uniformity in the application of the model for properties less than one acre within the Subject Property's subdivision.

21. The Assessor provided recent sales data and their PRFs under tab 9 of the submitted evidence. The results show that land sales are higher than the current land valuation. A review of the land value methodology is scheduled for 2025.
22. The Taxpayer did not provide evidence to prove that properties with land under one acre were treated disproportionately from like-sized properties. Properties with land over one acre are valued with a different land model which is acceptable mass appraisal methodology.
23. The Taxpayer stated that the Subject Property basement has less finished area than indicated by the County Assessor, creating an arbitrary or unreasonable value.
24. The Taxpayer stated that the unfinished areas of the basement were equivalent to three rooms with estimated size totaling 264 SF. The rooms included a 4x12 SF utility room, a 10x12 SF storage room, and an 8x12 SF storage room.
25. The Taxpayer opined that since ductwork and electrical components are not finished throughout the basement, it should not be classified as finished.
26. The Taxpayer allowed the Assessor to conduct a walk-thru of the basement area. Pictures of the interior were provided by both parties. The Taxpayer provided close up photos of the unfinished ceiling with exposed electrical and ductwork, with a suspended ceiling grid. The Assessor provided photographs showing more of the basement overall areas that also show floor coverings, wall coverings, a partial suspended ceiling and personal furnishings indicating the area is being used for living space.
27. The Assessor stated that because the floor component and wall component are fully finished, and there is a fully constructed ceiling grid with partial coverage of tiles, the policy of the office is to consider the space fully finished as shown by Marshall &

Swift Residential Cost Manual guidelines on page 10 of the 2023 manual. The Commission agrees.

28. The Assessor stated that a measurement of the unfinished areas was not taken during the walk thru, but rather 80% of the basement was being assessed as fully finished based on a submitted "General Review Questionnaire" document signed by Kerry Baker on April 15, 2017. The Taxpayer stated that Ms. Baker is his wife.
29. The Assessor stated that after reviewing the basement, the amount of full finish was adjusted from 1,468 SF to 1,322 SF to remove the amount of basement area attributable to the storm shelter under the front porch. 1,322 SF is 72% of the basement area.<sup>9</sup>
30. The estimated square footage of unfinished area as indicated by the Taxpayer during questioning totals 14% of the overall basement area.<sup>10</sup> The Commission finds that 72% of the basement area assessed with full finish is acceptable.
31. 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.
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.

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<sup>9</sup> Calculation  $1,322 \text{ SF} / 1,836 \text{ SF} = 72\%$

<sup>10</sup> Calculation  $264 \text{ SF} / 1,836 \text{ SF} = 14\%$

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

Land	\$ 25,165
<u>Improvements</u>	<u>\$371,215</u>
Total	\$396,380

3. This Decision and Order, if no further action is taken, shall be certified to the Saline County Treasurer and the Saline 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 August 18, 2025.

Signed and Sealed: August 18, 2025



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Jackie S. Russell, Commissioner