

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

ROSE M NELSON
APPELLANT,

CASE NO: 24R 0596

V.

DECISION AND ORDER
REVERSING THE DECISION
OF THE MORRILL COUNTY
BOARD OF EQUALIZATION

MORRILL COUNTY BOARD
OF EQUALIZATION, CONNIE
CHRISTENSEN
APPELLEE.

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Morrill County, parcel number 100006102.
2. The Morrill County Assessor (the County Assessor) assessed the Subject Property at \$177,160 for tax year 2024.
3. Connie Christensen (the Taxpayer) protested this value to the Morrill County Board of Equalization (the County Board) and requested an assessed value of \$120,500 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$122,740 for tax year 2024.
5. The County Assessor appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on October 2, 2025, at Fairfield Inn and Suites by Marriott, 902 Winter Creek Drive, Scottsbluff, NE 69361, before Commissioner Jackie S. Russell.
7. Robert Brenner, Attorney, and Rose M. Nelson, County Assessor, were present at the hearing for the Appellant.
8. Kirk Fellhoelter, County Attorney, was present for the County Board.

9. The Taxpayer did not appear at the hearing.

II. APPLICABLE LAW

10. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹
11. The Commission's review of a determination of the County Board of Equalization is de novo.²
12. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.³
13. 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
14. 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

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2022).

² 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).

³ *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, ___ N.W.3d ___ (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, ___ N.W.3d at ___ (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, ___ N.W.3d at ___.

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

unreasonable rests upon the taxpayer on appeal from the action of the board.⁷

15. 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
16. 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

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

⁷ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

⁸ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁹ *Pinnacle Enters.*, 320 Neb. at 309, ___ N.W.3d at ___; *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.*

evaluation of the evidence presented to it.¹⁴ The Commission's Decision and Order shall include findings of fact and conclusions of law.¹⁵

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is a one-story, single-family home built in 1923 with above grade area of 1,608 square feet (SF) over 750 SF crawl space and 858 SF basement area. There are nine plumbing fixtures and a detached garage with 768 SF. The quality and condition ratings are average.
18. Ms. Nelson argued that the County Board arbitrarily and unreasonably reduced the Subject Property value below a newly recommended value creating disequalization within the Subject Property neighborhood.
19. Ms. Nelson stated that an inspection of the Subject Property was performed at the time of the protest hearing. Based on that inspection, the Subject Property condition, HVAC system, crawl space and basement square footages were updated, and the plumbing fixture count was reduced. These data updates to the assessment model produced a new opinion of value for the Subject Property of \$175,270 which was presented to the County Board.
20. Ms. Nelson provided documentation as to the methodology used to value the Subject Property as of January 1, 2024. The methodology discussed included a land and improvement revaluation of the Subject Property neighborhood using professionally accepted mass appraisal methods to update corresponding land model tables, cost model tables, and depreciation model tables.
21. Ms. Nelson then applied new data component information to the 2024 models to develop the new opinion of value of \$175,270.

¹⁴ Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

¹⁵ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

22. Additionally, Ms. Nelson presented supportive information such as an equalization study and sales from the Subject Property neighborhood, Property Record Files (PRFs) of the parcels discussed at hearing, and the 2024 Reports and Opinions of the Property Tax Administrator.
23. The County Attorney did not have information to present on the behalf of the County Board, however, “[T]he County Board need not put on any evidence to support its valuation of the property at issue unless the [appellant] establishes the Board's valuation was unreasonable or arbitrary.”¹⁶
24. Competent evidence can be “evidence tending to show that the valuation”¹⁷ adopted by a county board of equalization is questionable. In this case, the County Assessor provided evidence to support her valuation. The proposed value by the Appellee lowering the Subject Property appears to be arbitrarily established and for this reason, the County Board is reversed.
25. The Appellant 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.
26. The Appellant has 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 vacated.

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 vacated and reversed.

¹⁶ *Wheatland Indus. v. Perkins Cty. Bd. of Equal.*, 304 Neb. 638, 647, 935 N.W.2d 764, 771 (2019). See also *Pinnacle Enters., Inc.*, 320 Neb. at 311, ___ N.W.3d at ___.

¹⁷ *Betty L. Green Living Tr. v. Morrill Cty. Bd. of Equalization*, 299 Neb. 933, 911 N.W.2d 551 (2018)

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

Land	\$ 9,240
<u>Improvements</u>	<u>\$166,030</u>
Total	\$175,270

3. This Decision and Order, if no further action is taken, shall be certified to the Morrill County Treasurer and the Morrill 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 January 16, 2026.

Signed and Sealed: January 16, 2026



Jackie S. Russell, Commissioner