

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

ROSE M NELSON
APPELLANT,

V.

MORRILL COUNTY BOARD
OF EQUALIZATION, GARY
OLTMANN
APPELLEE.

CASE NO: 24R 0602

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Morrill County, parcel number 100009128.
2. The Morrill County Assessor (the County Assessor) assessed the Subject Property at \$98,590 for tax year 2024.
3. Gary Oltmann (the Taxpayer) protested this value to the Morrill County Board of Equalization (the County Board) and requested an assessed value of \$78,505 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$76,300 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 3, 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. Gary Oltmann was present for the Taxpayer.

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

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 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, ____ 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.

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.

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
17. 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, ____ 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.*

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

18. The Subject Property is a 1982 mobile home with 1,088 square feet (SF) over crawl space, nine plumbing fixtures, an overall quality rating of low, and condition rating of average. The parcel also houses a 1970 railcar caboose with 250 SF, three plumbing fixtures, quality rating of low, and condition rating of average. In addition, there is a 2004 equipment storage building with 1,440 SF and two tool sheds with a combined 312 SF.
19. The Property Record File (PRF) for the Subject Property submitted to the Commission by Ms. Nelson states that both residential structures are one-story styled construction.
20. Ms. Nelson argued that the County Board arbitrarily and unreasonably reduced the Subject Property value without basis creating disequalization within the Subject Property neighborhood.
21. Mr. Oltmann argued that the Subject Property houses a mobile home and railcar caboose and opined that the values should be decreasing instead of increasing as the property ages.
22. Mr. Fellhoelter argued that the comparable properties shown by Ms. Nelson are classified as mobile home construction while the Subject Property is classified as a one-story construction for comparison purposes.
23. Ms. Nelson stated that the Assessor's Office does not value property using the Computer Assisted Mass Appraisal (CAMA) system, but rather will value a property according to their developed model and transfer the corresponding information and value into the CAMA system to match.
24. Ms. Nelson provided information 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.

25. Supportive materials from Ms. Nelson included an equalization study, Property Record Files (PRFs) of the comparable parcels discussed at hearing, and the 2024 Reports and Opinions of the Property Tax Administrator.
26. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹⁶
27. All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.¹⁷
28. Under § 77-112, actual value of real property for purposes of taxation may be determined using professionally accepted mass appraisal methods, including, but not limited to, (1) the sales comparison approach, taking into account factors such as location, zoning, and current functional use; (2) the income approach; and (3) the cost approach. This statute does not require use of all the specified factors, but requires use of applicable statutory factors, individually or in combination, to determine actual value of real estate for tax purposes.¹⁸
29. “[U]nder §§ 77-103.01, 77-112, and 77-1363, assessors are not limited to a single method of determining the actual value of property for tax purposes. Rather, assessors are charged with a duty to consider a wide range of relevant factors in order to arrive at a proper assessment which does not exceed actual value.¹⁹
30. “Uniform and accurate valuation of property requires correct, complete, and up-to-date property data.”²⁰

¹⁶ Neb. Rev. Stat § 77-1301 (Cum. Supp. 2022)

¹⁷ Neb. Rev. Stat. § 77-201(1)-(3) (Cum. Supp. 2022).

¹⁸ *Cain v. Custer Cty. Bd. of Equal.*, 298 Neb. 834, 845, 906 N.W.2d 285, 295 (2018).

¹⁹ *Id.*, 298 Neb. at 853, 906 N.W.2d at 299.

²⁰ International Association of Assessing Officers, *Standard on Mass Appraisal of Real Property* § 3.1 (July 2017).

31. In order to determine actual or fair market value, an accurate description of the following characteristics is critical: quality of construction, style, age, size, amenities, functional utility, and condition.²¹
32. The Commission finds that an inaccurate property style description of the Subject Property leads to misrepresentation of the Subject Property's actual value. For this reason, the Commission finds that the Appellant 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.
33. The Appellant 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	\$11,045
<u>Improvements</u>	<u>\$65,255</u>
Total	\$76,300

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.

²¹ International Association of Assessing Officers, *Property Assessment Valuation* 204-05 (3rd ed. 2010).

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