

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

ROSE M NELSON
APPELLANT,

V.

MORRILL COUNTY BOARD
OF EQUALIZATION, LESLIE
HANDLEY C/O ELAINE
HUGGLER
APPELLEES.

CASE NO: 24R 0604

DECISION AND ORDER
REVERSING 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 100006587.
2. The Morrill County Assessor (the County Assessor) assessed the Subject Property at \$186,365 for tax year 2024.
3. Leslie Handley and Elaine Huggler (the Taxpayers) protested this value to the Morrill County Board of Equalization (the County Board) and requested an assessed value of \$126,690 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$151,236 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. The Taxpayers 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 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. The burden of showing such valuation to be

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2024).

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 ___.

unreasonable rests upon the taxpayer on appeal from the action of the board.”⁶

14. 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.⁷
15. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁸
16. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁹
17. The Commission’s Decision and Order shall include findings of fact and conclusions of law.¹⁰

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

18. The Subject Property has two single-family homes on the parcel. The first home is one-story built in 2004 with above grade area of 1,404 square feet (SF) over crawl space, 11 plumbing fixtures, and a detached garage with 572 SF built in 2017. The quality rating is fair and the condition rating is average. The second home is one-story, built in 1925 with above grade area of 576 SF over crawl space. There are no plumbing fixtures on the Property Record File (PRF) and there is an indication of no heating or cooling. The quality rating is low and the condition rating is badly worn.

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

⁷ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁸ *Omaha Country Club v. Douglas Cnty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

⁹ Cf. *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) 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. Cnty. Bd. of Equal. of York Cnty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

¹⁰ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

19. Ms. Nelson argued that the County Board had insufficient competent evidence to reduce the Subject Property value creating disequalization within the Subject Property neighborhood.
20. Ms. Nelson stated that the County Board acted to reduce the Subject Property stating the reason was due to a pending 2023 Commission decision for the Subject Property.
21. Ms. Nelson stated that an inspection of the Subject Property was performed at the time of the protest hearing. Based on that inspection, the first home's siding was updated and the second home's condition, HVAC, and plumbing fixtures were updated. These updates to the assessment model produced a new opinion of value for the Subject Property of \$173,285 which was presented to the County Board.
22. 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.
23. Ms. Nelson then applied new data component information to the 2024 models to develop the new opinion of value of \$173,285.
24. Additionally, Ms. Nelson presented supportive information such as an equalization study of the neighborhood, Property Record Files (PRFs) of the discussed parcels, and the 2024 Reports and Opinions of the Property Tax Administrator.
25. The County Attorney stated arguments from the Taxpayers were heard by the County Board at the protest hearing. Information supporting the arguments was not presented to the Commission for analysis. “[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.”¹¹

26. Competent evidence can be “evidence tending to show that the valuation” adopted by a county board of equalization is questionable.¹² 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.
27. 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.
28. 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.
2. The taxable value of the Subject Property for tax year 2024 is:

Land	\$ 9,240
<u>Improvements</u>	<u>\$164,045</u>
Total	\$173,285

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).

¹¹ *Wheatland Indus. v. Perkins Cty. Bd. of Equal.*, 304 Neb. 638, 647, 935 N.W.2d 764, 771 (2019). See also *Pinnacle Enters.*, 320 Neb. at 311, ____ N.W.3d at ____.

¹² *Betty L. Green Living Tr. v. Morrill Cty. Bd. of Equalization*, 299 Neb. 933, 911 N.W.2d 551 (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