

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

ROSE M NELSON  
APPELLANT,

V.

MORRILL COUNTY BOARD  
OF EQUALIZATION, TERRY J  
& MICHELE L DEAVER  
APPELLEES.

CASE NO: 24R 0611

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 100010940.
2. The Morrill County Assessor (the County Assessor) assessed the Subject Property at \$411,330 for tax year 2024.
3. Terry J and Michele L Deaver (the Taxpayers) protested this value to the Morrill County Board of Equalization (the County Board) and requested an assessed value of \$324,600 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$337,200 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.<sup>1</sup>
11. The Commission's review of a determination of the County Board of Equalization is *de novo*.<sup>2</sup>
12. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>3</sup>
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.<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>
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.<sup>6</sup> The burden of showing such valuation to be

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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 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> *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)).

<sup>4</sup> *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).

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

<sup>6</sup> *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.<sup>7</sup>

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.<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>
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.<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>
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.<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

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<sup>7</sup> *Pinnacle Enters.*, 320 Neb. at 309, \_\_\_ N.W.3d at \_\_\_. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

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

<sup>9</sup> *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).

<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 *Bottorf 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.*

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>

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

18. The Subject Property is a one-story, single-family home built in 2007 with above grade area of 2,832 square feet (SF) over crawl space. There are nine plumbing fixtures, and an attached garage with 728 SF. The quality rating is good and condition rating is average. The lot is 21,000 SF.
19. Ms. Nelson argued that the County Board arbitrarily and unreasonably reduced the Subject Property valuation creating disequalization within the Subject Property neighborhood
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. A determination of actual value may be made by using professionally accepted mass appraisal methods.<sup>16</sup> The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.<sup>17</sup>
22. Supportive materials from Ms. Nelson included an equalization study, 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 provided the PRFs for two comparable properties used by the Taxpayers at the protest hearing.

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

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

<sup>16</sup> Neb. Rev. Stat. § 77-112 (Reissue 2018).

<sup>17</sup> *Id.*

Comparable 1 is located at 1405 U St in Bridgeport, NE, and Comparable 2 is located at 1409 U St in Bridgeport, NE. The County Attorney stated these properties served as the basis for the County Board's action.

24. The PRF of Comparable 1 indicates that it is a two-story, single-family home built in 2007 with above grade area of 2,666 SF over crawl space of 2,346. There are 11 plumbing fixtures, and an attached garage with 574 SF as well as a detached garage with 320 SF. The overall quality rating is good, and the condition rating is average. The lot is 14,000 SF.
25. The PRF of Comparable 2 indicates that it is a two-story, single-family home built in 2007 with above grade area of 4,504 SF over crawl space of 2,620. There are 12 plumbing fixtures, and a built-in garage with 559 SF as well as a detached garage built in 2018 with 840 SF. The overall quality rating is good, and the condition rating is average. The lot is 14,000 SF.
26. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (style, size, finish, condition, etc.), and location.<sup>18</sup>
27. The Taxpayer's Comparables have differing characteristics from the Subject Property such as style, plumbing fixture count, and garage size that should be addressed in an adjustment to the value to bring the property more like the Subject Property prior additional comparison.
28. "A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject's unknown value."<sup>19</sup>
29. The PRF for both the Subject Property and the Comparables indicate that all parcels received a uniform and proportionate

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<sup>18</sup> *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

<sup>19</sup> Appraisal Institute, *Appraising Residential Properties*, at 334 (4<sup>th</sup> ed. 2007).

change to their land value for 2024 at a total of \$1.40 per square foot. The Comparable property's costing model shown on the "Residential Property Appraisal Card 2024" for each property also show uniformity in the model when considering professionally accepted mass appraisal methods.

30. The most distinct difference between the Subject Property and the Comparable Properties is the style of construction of one-story vs two-story. This difference would have the greatest impact on the value method and would necessitate a positive adjustment to the Comparable Property's values for inferiority to the Subject Property as it is more expensive to construct a ranch style home verses a two-story style.
31. The Commission finds that the County Board erred in the reduction of the Subject Property value with failure to consider comparability and value adjustments in the properties presented.
32. The Commission finds that based on the supportive materials, Ms. Nelson followed appraisal standards in the creation and application of the 2024 revaluation to the Subject Property and its surrounding neighborhood.
33. 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.
34. 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	\$ 25,200
<u>Improvements</u>	<u>\$386,130</u>
Total	\$411,330

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



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Jackie S. Russell, Commissioner