

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

PAMELA J. O'DEY
APPELLANT,

CASE NO: 24R 0628

V.

ADAMS COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Adams County, property ID number 010003350.
2. The Adams County Assessor (the County Assessor) assessed the Subject Property at \$557,091 for tax year 2024.
3. Pamela J. O'Dey (the Taxpayer) protested this value to the Adams County Board of Equalization (the County Board) and requested an assessed value of \$435,000 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$495,000 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 September 18, 2025, at Law Enforcement Center, 111 Public Safety Drive, Community Building 2nd Floor, Grand Island, NE, before Commissioner James D. Kuhn.
7. Pamela O'Dey was present at the hearing for the Taxpayer.
8. David J. Kinkennon, Danielle Wahl, and Jackie Kassebaum 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 1.¹
10. The Commission's review of a determination of the County Board of Equalization is de novo.²
11. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.³
12. 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.⁶ The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.⁷
14. The order, decision, determination or action appealed from shall

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

² See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cty. 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, 27 N.W.3d 1, 6 (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, 27 N.W.3d at 6 (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, 27 N.W.3d at 6.

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

⁷ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

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

15. 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
16. 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, 27 N.W.3d at 6; *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 *Bottof 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

17. The Taxpayer brought this appeal asserting the valuation increased too much in tax year 2024, and that a comparable property recently sold for less than the Subject Property's assessed value.
18. At the hearing before the Commission, the Taxpayer presented two printed photos of the Subject Property and some information to support her appeal. The Taxpayer makes various assertions about the cost of living, food prices, and inflation from 2023 to 2024. No information presented by the Taxpayer demonstrates this information is relevant to the value of the Subject Property in tax year 2024.
19. The Taxpayer also presented two notices of valuation change from the Adams County Assessor. The first is from tax year 2024 showing a 42% increase in the assessment. The second is from tax year 2022 showing an approximately 6.5% increase.
20. The assessed value for real property may be different from year to year according to the circumstances.¹⁶ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹⁷
21. The Taxpayer also presented printed photos of a property located at 3320 Smokey Hill Road in Hastings, Nebraska (3320 Smokey Hill). The Taxpayer stated 3320 Smokey Hill is a quarter of a mile away from the Subject Property and that it is "nearly identical" to the Subject Property.
22. The Taxpayer also alleged 3320 Smokey Hill sold in March 2024 at a price of \$435,000, and that sale included an additional empty lot.
23. In support of her statements relating to 3320 Smokey Hill, the Taxpayer provided a printout from a home sale listing website

¹⁶ *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

¹⁷ *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

- showing some sale and fact information about 3320 Smokey Hill.
24. The Taxpayer also presented similar information for another neighboring parcel located at 3110 Smokey Hill Road.
 25. The Taxpayer did not provide the property record files (PRFs) PRF for the properties presented for comparison or the Subject Property. Without the details contained in the PRFs, the Commission is unable to determine whether the properties discussed are comparable to the Subject Property.¹⁸
 26. The Assessor provided PRFs for the Subject Property, 3320 Smokey Hill, and five additional comparable properties, plus a spreadsheet summarizing the assessed values to the improvements for all seven parcels. However, those PRFs appear to be for tax year 2025. As stated above, the assessed value for real property may be different from year to year according to the circumstances.¹⁹ For the same reasons, a subsequent year's assessment is not relevant to the assessment at issue.
 27. The information provided by the Taxpayer is insufficient to make valid comparisons between properties as they existed in tax year 2024.
 28. 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.
 29. 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.

¹⁸ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on August 8, 2025, includes the following:

***NOTE:** Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

¹⁹ *Affiliated Foods Coop.*, 229 Neb. at 614, 428 N.W.2d at 206.

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	\$ 37,000
<u>Improvements</u>	<u>\$458,000</u>
Total	\$495,000

3. This Decision and Order, if no further action is taken, shall be certified to the Adams County Treasurer and the Adams County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.
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 May 27, 2025.

SIGNED AND SEALED: May 27, 2026.

SEAL



James D. Kuhn, Commissioner