

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

BLACK HEART  
INVESTMENTS  
APPELLANT,

V.

DODGE COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

CASE NO: 24R 0695

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Dodge County, parcel number 270051583.
2. The Dodge County Assessor (the County Assessor) assessed the Subject Property at \$87,639 for tax year 2024.
3. Black Heart Investments (the Taxpayer) protested this value to the Dodge County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$78,337 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 **Error! Bookmark not defined.**, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Rodger Menn was present at the hearing for the Taxpayer.
8. Mitch Hart (Appraiser) was 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.<sup>1</sup>
10. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
11. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>3</sup>
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.<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>
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.<sup>6</sup> The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.<sup>7</sup>
14. The order, decision, determination or action appealed from shall

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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 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).

<sup>3</sup> *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)).

<sup>4</sup> *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).

<sup>5</sup> *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.

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

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

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.<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>
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.<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 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>

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

<sup>9</sup> *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).

<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 *Botdorf 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.*

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

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

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

1. The Subject Property is a 15,000-square-foot residential parcel located in Pearson's Subdivision in Fremont, Nebraska.
2. The County Board allocated \$46,000 of value to the land and \$32,337 to the improvements for a total assessed value of \$78,337 in tax year 2024.
3. The Taxpayer brought this appeal challenging the allocation of value between land and improvements. The Taxpayer does not dispute the total assessed value. Rather, the Taxpayer asserts more of the value should be allocated to the Subject Property's improvements and less to the land.
4. The Taxpayer presented printouts from the Dodge County Assessor posted to gWorks for several properties the Taxpayer asserts are comparable to the Subject Property.
5. The Taxpayer presented no property record files (PRFs) for the Subject Property or any other property presented. Without the details contained in the PRF, the Commission is unable to determine whether the properties discussed are comparable to the Subject Property.<sup>16</sup>
6. The Taxpayer presented no other assessment documentation or records of any kind for the Subject Property.
7. The Taxpayer discussed the location of the Subject Property, describing it as in a flood zone, and stated the applicable building restrictions and requirements for flood zones affect the Subject Property's value.
8. The Taxpayer did not quantify the effect of the flood zone restrictions on the Subject Property's 2024 taxable value.

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<sup>16</sup> For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on August 21, 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.*

9. The Taxpayer also asserted the Subject Property's land value is not equalized with other area properties, particularly the parcels in the Taxpayer's gWorks printouts.
10. The Appraiser presented a partial PRF for the Subject Property showing the land valuation for tax year 2024.
11. The Appraiser described the tiered system used to value land in the Subject Property's neighborhood. The Subject Property's PRF shows this tiered system was used to value the Subject Property's land in tax year 2024.
12. None of the Taxpayer's gWorks printouts contain any information about the tiered system used by the County Assessor. They only show the total land valuations.
13. The Appraiser stated there were no applicable vacant lot sales and that the whole neighborhood is valued using the same tiered system to value the land.
14. The Appraiser also presented six partial PRFs for other properties which are the subjects of other appeals by the Taxpayer. One of these other properties is in the same subdivision as the Subject Property. All six of the County's comparable properties were assessed using the same tier system used to value the Subject Property in tax year 2024.
15. 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.
16. 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.

#### **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	\$46,000
<u>Improvements</u>	<u>\$32,337</u>
Total	\$78,337

3. This Decision and Order, if no further action is taken, shall be certified to the Dodge County Treasurer and the Dodge 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 18, 2026.

**SIGNED AND SEALED: May 18, 2026.**

*SEAL*



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James D. Kuhn, Commissioner