

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

ROBERT BOSCARDIN
APPELLANT,

CASE NO: 24R 0744

V.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

DECISION AND ORDER
REVERSING THE DECISION
OF THE DOUGLAS COUNTY
BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Douglas County, parcel number 0138830014.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$534,700 for tax year 2024.
3. Robert Boscardin (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$534,700 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 August 26, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Robert and Maryann Boscardin were present at the hearing for the Taxpayer.
8. Matt Holly (The 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 at 12:01 a.m.¹
10. The Commission's review of a determination of the County Board of Equalization is de novo.²
11. When considering an appeal, a presumption exists 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."³ "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. 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 unreasonable rests upon the taxpayer on appeal from the action of the board."⁴
12. 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.⁵

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 Cnty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).

³ *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus. v. Nuckolls Cnty. Bd. of Equal.*, 231 Neb. 653, 654-55, 437 N.W.2d 501, 502 (1989)).

⁴ *Id.*, 276 Neb. at 283-84, 753 N.W.2d at 811 (quoting *Ideal Basic Indus.*, 231 Neb. at 654-55, 437 N.W.2d at 502).

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁷
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁸

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Subject Property is a two-story, single-family home with above grade area of 1,734 square feet (SF), walkout basement area of 876 SF with 683 SF full finish. There are three full baths, one half bath, and a built-in garage with 440 SF. The overall quality rating is good, and the condition rating is average. The property sits on 5.03 acres abutting the green space on the west side of Lake Cunningham.
17. The Taxpayer stated that the land value of the Subject Property is not equalized with surrounding properties but is also arbitrary and unreasonable due to location. The Taxpayer stated the property is being assessed with a "lake view" premium while the lower topography of the parcel and nearby trees of the adjacent park make the waterfront non-visible.
18. The Taxpayer provided a Douglas County website printout for 10909 N 96th St. which is adjacent to the Subject Property on the west side. The comparable has a view of the water due to its higher topography, a larger lot at 5.38 acres and a lower land

⁶ *Omaha Country Club v. Douglas Cnty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

⁷ *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); *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).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

value at \$210,900. The Subject Property land is valued at \$238,300 for its 5.03 acres.

19. The Taxpayer stated that the Subject Property has the lowest topography of all parcels surrounding the lake. The Taxpayer stated the Subject Parcel was originally part of the 10909 N 96th St. parcel but later split to be created from the excess size. The Taxpayer opined that the low topography makes the parcel less desirable and causes an obstructed view of the water from the trees surrounding Lake Cunningham. An aerial image was provided for the Commission to review.
20. The Appraiser stated that a “lake view” premium was applied to the Subject Property and for all properties with a view of the water. The premium is calculated as three times the market derived amount for non-lake view properties. There was not a physical inspection of the Subject Property, nor did the Appraiser know if the property had an obstructed view of the water.
21. The Commission finds that the Subject Property does not have a view of Lake Cunningham. That without a view of the lake the lake view multiplier should be removed from the Subject Property.
22. The Appraiser provided a document titled “2023 AG & Rural Res Zones” for the 2024 land values in the Subject Property neighborhood of “AG_RR3” as the land value did not change from 2023 to 2024. The document shows that the first acre or “site” value is \$22,600 and any additional acres are valued at \$14,100.
23. The calculation of the Subject Property land value is consistent with the explanation for “lake view” properties being three times the value of non-lake view properties in the Subject Property neighborhood.⁹

⁹ 5.03 acres = 22,600(1) + (14,100*4.03) = 22,600 + 56,823 = 79,423 x 3 = \$238,269.

24. The land value for the presented comparable property is not consistent with the value method application for lake view properties as three times the value of non-lake view properties.¹⁰
25. The Taxpayer 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.
26. The Commission finds that the best evidence of value is from the Appraiser for the land value associated to the neighborhood without “lake view” and finds that the Taxpayer should not be assessed a “lake view” premium without a view of the lake.
27. The Commission finds the value of the Subject Property land component should be reduced to \$79,423.¹¹
28. The Taxpayer 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 | \$ 79,423 |
| <u>Improvements</u> | <u>\$296,400</u> |
| Total | \$375,823 |

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

¹⁰ 5.38 acres = 22,600(1)+(14,100*4.38) = 22,600 + 61,758 = 84,358 x 3 = \$253,074 .

¹¹ 5.03 acres = 22,600(1) + (14,100-4.03) = 22,600 + 56,823 = \$79,423

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 December 3, 2025.

Signed and Sealed: December 3, 2025



Jackie S. Russell, Commissioner