BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

ADAM OMER APPELLANT, V. LANCASTER COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 24R 0965 DECISION AND ORDER AFFIRMING THE DECISION OF THE LANCASTER COUNTY BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Lancaster County, parcel number 17-08-428-019-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at $217,800 for tax year 2024.
3. Adam Omer (the Taxpayer) protested this value to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was $217,800 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 January 28, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Adam Omer was present at the hearing for the Taxpayer.
8. Bret Smith (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.[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]

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[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.

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.[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]

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[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 *Bottorf 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 stated the Subject Property is a Habitat for Humanity home that he helped build and has sweat equity in. The Taxpayer stated these homes are for low-income families.
18. The Taxpayer stated he had to pay for the building materials but was given a discount on the purchase price for the sweat equity he put into the build. The Taxpayer asserted he is paying $117,000 for the Subject Property.
19. The Appraiser stated the deed for the Subject Property shows a purchase price of $193,000 however the County does not consider this a "Good" sale. The Appraiser provided comparable properties that are all Habitat for Humanity homes. The Appraiser stated the assessed value of the Subject Property has to be at market value.
20. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value.[16] "Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade."[17] "Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach using the guidelines in section 77-1371, (2) income approach, and (3) cost approach."[18]
21. "In all appeals, excepting those arising under section 77-1606, if the appellant presents no evidence to show that the order, decision, determination, or action appealed from is incorrect, the commission shall deny the appeal."[19]
22. "If a taxpayer's property is assessed at a value in excess of its actual value, or in excess of that value at which others are

[16] 350 Neb. Admin. Code, ch. 10 § 003.01A (10/26/2014).
[17] Neb. Rev. Stat. § 77-112 (Reissue 2018).
[18] *Id.*
[19] Neb. Rev. Stat. § 77-5016(9).

taxed, then the taxpayer has a right to relief."[20] However, the burden is on the taxpayer to show by clear and convincing evidence that the valuation placed upon the taxpayer's property when compared with valuation placed on other similar property is grossly excessive.[21] This burden requires evidence of the assessed and market value for both the Subject Property and a comparable property.

23. 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.
24. 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	$ 40,000
Improvements	$177,800
Total	$217,800

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

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[20] *Lancaster Cty. Bd. of Equalization v. Moser*, 312 Neb. 757, 980 N.W.2d 611 (2022) (citing *AT&T Information Sys. v. State Bd. of Equal.*, 237 Neb. 591, 467 N.W.2d 55 (1991); then citing *Zabawa v. Douglas Cty Bd. of Equal.*, 17 Neb. App. 221, 757 N.W.2d 522 (2008)).
[21] *Wheatland Indus.*, 304 Neb. at 644-45, 935 N.W.2d at 769-70 (citing *Betty L. Green Living Trust v. Morrill Cty. Bd. of Equal.*, 299 Neb. 933, 941-42, 911 N.W.2d 551, 558 (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 February 13, 2026.

Signed and Sealed: February 13, 2026.

James D. Kuhn, Commissioner