BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

SCOTT BOURN APPELLANT, v. BOONE COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 25R 0049 DECISION AND ORDER AFFIRMING THE DECISION OF THE BOONE COUNTY BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an unimproved residential parcel in Boone County, parcel number 0006118.00.
2. The Boone County Assessor (the County Assessor) assessed the Subject Property at $4,400 for tax year 2025.
3. Scott Bourn (the Taxpayer) did not receive the notice of valuation change until after the deadline to file a protest before the Boone County Board of Equalization (the County Board).
4. The Taxpayer petitioned the Tax Equalization and Review Commission (the Commission), challenging the assessment.
5. A Single Commissioner hearing was held on July 17, 2026, at Divots Conference Center, 4200 W Norfolk Ave, Norfolk, NE, before Commissioner James D. Kuhn.
6. Scott Bourn was present at the hearing for the Taxpayer.
7. Dan Luken (Appraiser) was present for the County Board.

II. APPLICABLE LAW

8. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.[1]

[1] Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2024).

9. The Commission's review of a determination of the County Board of Equalization is de novo.[2]
10. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.[3]
11. 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]
12. 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]
13. 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

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[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.
[8] Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

action was unreasonable or arbitrary must be made by clear and convincing evidence.[9]

14. However, "When the [Commission] hears a property tax protest under § 77-1507.01 and performs the factfinding functions that a county board of equalization would have if the county had timely provided notice to the taxpayer, the taxpayer's burden of persuasion is by a preponderance of the evidence."[10]
15. "The burden of persuasion imposed on [a petitioning taxpayer] is not met by showing a mere difference of opinion unless it is established by a preponderance or greater weight of the evidence that the valuation placed upon the property when compared with valuations placed on other similar property is grossly excessive and is the result of a systematic exercise of intentional will or failure of plain duty, and not mere errors of judgment."[11]
16. The initial presumption in a petition is that the County Assessor faithfully performed his or her official duties in making an assessment and acted upon sufficient competent evidence.[12] This presumption may also be rebutted by competent evidence.[13]
17. The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.[14] 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.[15]

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[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] See *Cain v. Custer Cty. Bd. of Equalization*, 298 Neb. 834, 846, 906 N.W.2d 285, 297 (2018) (citing *Cain v. Custer Cty. Bd. of Equalization*, 291 Neb. 730, 868 N.W.2d 334 (2015)).
[11] *Id.*, 98 Neb. at 850, 906 N.W.2d at 298.
[12] *Id.*, 98 Neb. at 850-51, 906 N.W.2d at 298.
[13] *Id.*
[14] 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).
[15] *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)).

18. In a petition, the Commission may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based.[16] The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.[17]
19. 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.[18]
20. The Commission's Decision and Order shall include findings of fact and conclusions of law.[19]

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

21. The Subject Property is an 8,000-square-foot vacant lot in a residential area.
22. The Boone County Assessor (Assessor) determined the assessed value of the Subject Property should be $4,400 for tax year 2025.
23. The Taxpayer raised two issues in his challenge to the assessed value of the Subject Property.
24. First, the Taxpayer raised the issue of notice. Specifically, Taxpayer said in his petition that he did not receive the notice of change in the assessed value until July 7, 2025, after the protest window before the County Board has closed.[20] The Taxpayer provided both a copy of the June 27, 2025, postmark on the mailed notice from the Assessor and a printed copy of an email from the United States Postal Service's "Informed Delivery" email dated July 7, 2025, showing the notice was set to arrive in his mail on that date.

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[16] See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).
[17] *Id.*
[18] Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).
[19] Neb. Rev. Stat. § 77-5018(1) (Cum. Supp. 2024).
[20] See Neb. Rev. Stat. § 77-1502(1) (Cum. Supp. 2024) (protests of real property assessments must be filed with the county by June 30 of the tax year at issue).

25. The Taxpayer's remedy for the county's failure to give notice in time to bring his protest to the County Board was to bring a petition to the Commission by December 31, 2025. [21] The Taxpayer did so, timely filing the captioned petition with the Commission on July 28, 2025.
26. Therefore, the only issue before the Commission is whether the Taxpayer showed the assessed value placed upon the Subject Property in tax year 2025 was arbitrary or unreasonable by a preponderance of the evidence presented to the Commission.[22]
27. The Taxpayer argues that the value of the Subject Property is arbitrary or unreasonable and not equalized with the value of a neighboring parcel.
28. The Subject Property is located at 307 W. South Street in Cedar Rapids, Nebraska. The Taxpayer stated that the Subject Property's price per square foot of \$0.55[23] is unfairly high when a neighboring property located less than a block away at 304 S. 3rd Street in Cedar Rapids, Nebraska is valued at \$0.27 per square foot.
29. The Taxpayer stated that 304 S. 3rd Street is 16,000 square feet, twice the size of the Subject Property. He also stated that the value of 304 S. 3rd Street has a "proposed increase" of \$4,400, leading to a value of \$0.27 per square foot.
30. The Taxpayer provided a map printed from the Boone County Assessor's GIS website to show the approximate relative sizes and proximity of the two properties.
31. The Taxpayer did not provide the property record file (PRF) for either of the properties presented. Without the details contained

[21] See Neb. Rev. Stat. § 77-1507.01 ("Any person otherwise having a right to appeal may petition the Tax Equalization and Review Commission in accordance with section 77-5013, on or before December 31 of each year, to determine the actual value or special value of real property for that year if a failure to give notice prevented timely filing of a protest or appeal provided for in sections 77-1501 to 77-1510.").

[22] See *Cain v. Custer Cty. Bd. of Equalization*, 298 Neb. at 850, 906 N.W.2d at 298 (citing *Cain v. Custer Cty. Bd. of Equalization*, 291 Neb. 730, 868 N.W.2d 334 (2015)).

[23] \$4,400 divided by 8,000 square feet = \$0.55 per square foot.

in the PRF, the Commission is unable to determine whether 304 S. 3rd Street is comparable to the Subject Property.[24]

32. Further, even if the properties were comparable, the Commission has no evidence of the assessed value for 304 S. 3rd Street in 2025 other than the Taxpayer's statement that it received a "proposed increase" of $4,400.
33. The Taxpayer presented no evidence to show the Subject Property's 2025 assessed value was not equalized with 304 S. 3rd Street
34. The Taxpayer also presented no further evidence of the Subject Property's actual value for tax year 2025.
35. The Appraiser present at the hearing for the County Board presented the PRFs for the Subject Property in both tax years 2024 and 2025.
36. The assessed value for real property may be different from year to year according to the circumstances.[25] For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.[26]
37. The 2025 PRF contains information about the Subject Property's characteristics and information regarding the qualified sales that occurred in the economic area of the Subject Property for tax year 2025. This information was used to determine the value of residential properties in the area, including the Subject Property in 2025.
38. The Appraiser also stated that there was a vacant lot study performed in the market area of the Subject Property in 2025.

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[24] For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on May 7, 2026, 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.*

[25] *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 (Cum. Supp. 2024).

[26] *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).

39. The Taxpayer has not produced competent evidence that the Assessor failed to faithfully perform his duties or act on sufficient competent evidence to justify his actions.
40. The Taxpayer has not shown that the determination of the Assessor is arbitrary or unreasonable by a preponderance of the evidence.
41. Therefore, the decision of the Assessor should be affirmed.

IV. ORDER

IT IS ORDERED THAT:

1. The decision of the Assessor determining the taxable value of the Subject Property for tax year 2025 is affirmed.
2. The taxable value of the Subject Property for tax year 2025 is:

Total	$4,400

3. This Decision and Order, if no further action is taken, shall be certified to the Boone County Treasurer and the Boone 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 2025.
7. This Decision and Order is effective on August 6, 2026.

SIGNED AND SEALED: August 6, 2026.

SEAL

James D. Kuhn, Commissioner