BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

BREW CREW CABIN, LLC APPELLANT, v. LINCOLN COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 25R 0050 DECISION AND ORDER AFFIRMING THE DECISION OF THE LINCOLN COUNTY BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is a residential improvement on leased land in Lincoln County, parcel number 0087360.00.
2. The Lincoln County Assessor (the County Assessor) assessed the Subject Property at $541,178 for tax year 2025.
3. Brew Crew Cabin, LLC (the Taxpayer) protested this value to the Lincoln County Board of Equalization (the County Board) and requested an assessed value of $386,556 for tax year 2025.
4. The County Board determined that the taxable value of the Subject Property was $520,950 for tax year 2025.
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 June 25, 2026, at Best Western Plus North Platte Inn & Suites, 3201 S Jeffers St., North Platte, NE 69101, before Commissioner Jackie S. Russell.
7. Tim Brouillette and Kathy Wenz were present at the hearing for the Taxpayer.
8. Tyler Volkmer (County Attorney), Ashley Gurciullo and Charity Farley (Appraisers) 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]

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

[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) (Cum. Supp. 2024).

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is an improvement on leased land at Lake Maloney in Lincoln County.
18. The Taxpayer did not take issue with the structure's improvement value for tax year 2025.
19. The Taxpayer argued that the leasehold interest value of the land, which is included in the improvement value on the Property Record File (PRF), is arbitrary and unreasonable.
20. The Taxpayer argued that the consideration of the rental agreement with Nebraska Public Power District, who owns the land, should determine the leasehold interest value.
21. The Taxpayer provided a copy of the Lake Maloney Residential Lease Agreement for the Subject Property. The agreement shows a rental fee of $500 per year for the term of the lease through March 31, 2041, unless written notice is given in advance of a change in the annual rate, along with limitations and restrictions of leasing the property.
22. Improvements on leased public lands shall be assessed, together with the *value* of the lease, to the owner of the improvements as real property. [16]
23. The leasehold value for the Subject Property for tax year 2025 as set by the County Board is $438,480 of the $520,950 total improvement value.
24. The Commission must look to the value of the Subject Property as of January 1 of each tax year.[17]
25. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value. [18]
26. A determination of actual value may be made by using professionally accepted mass appraisal methods.[19] The methods

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[16] Neb. Rev. Stat. § 77-1374 (Reissue 2018).
[17] Neb. Rev. Stat §77-1301(Cum. Supp. 2022)
[18] Title 350 Neb. Admin. Code, ch.10 § 003.01A (10/2014).
[19] Neb. Rev. Stat. § 77-112 (Reissue 2018).

expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.[20]

27. The Appraiser stated that the Subject Property is valued on a cost approach basis for the structural improvements, and a sales comparison basis for the leasehold value.
28. The Appraiser stated that an abstraction method is used to find the leasehold value from a market sales study.
29. Abstraction is a method of land valuation in the absence of vacant land sales, whereby improvement values obtained from the cost model are subtracted from sales prices of improved parcels to yield residual land value estimates.[21]
30. The Appraiser provided a binder of information to support the cost model value of the improvement, the value of the leasehold interest, supportive sales from the Subject Property neighborhood of Maloney Lake, and uniformity in the assessment actions for the 2025 tax year using professionally accepted mass appraisal techniques.
31. The Commission finds that lease agreements acting alone do not constitute actual value.
32. The sales presented by the County Assessor show that the value to owner of the improvements, who is the holder of a lease agreement as the lessee, is significantly higher than the annual rental fee due under the lease agreement to the lessor.
33. The Taxpayer has not produced sufficient competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
34. 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.

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[20] *Id.*

[21] International Association of Assessing Officers, *Standard on Mass Appraisal of Real Property* (July 2017).

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

Total	$520,950

3. This Decision and Order, if no further action is taken, shall be certified to the Lincoln County Treasurer and the Lincoln 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 20, 2026.

SIGNED AND SEALED: August 20, 2026.

SEAL

Jackie S. Russell, Commissioner