

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

ERIC KLEIN
APPELLANT,

CASE NO: 25R 0065

v.

CASS COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Cass County, parcel number 130102474.
2. The Cass County Assessor (the County Assessor) assessed the Subject Property at \$423,245 for tax year 2025.
3. Eric Klein (the Taxpayer) protested this value to the Cass County Board of Equalization (the County Board) and requested an assessed value of \$360,290 for tax year 2025.
4. The County Board determined that the taxable value of the Subject Property was \$423,245 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 March 3, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Eric Klein was present at the hearing for the Taxpayer.
8. Sasha Frye (Assessor) and Dana Long (Appraiser) 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

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

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 *Botdorf 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 a rural residential homesite with 9.22 acres in Cass County. The home is a one-and-a-half-story, single-family property built in 2002 with above grade area of 2,157 square feet (SF). There is basement area with 1,765 SF of which 1,275 SF is fully finished. The property has ten plumbing fixtures, an overall quality rating of average plus (3.50), and a condition rating of average (3.0).
18. The Taxpayer stated that the Subject Property value was arbitrary and unreasonable due to the percentage increase in value in one year, and access issues to the property.
19. The Taxpayer alleged that the maintenance of a Nebraska Department of Transportation (NDOT) easement, which is the only source of entrance to the Subject Property parcel, is a detriment to the property value. The Taxpayer stated that neither Cass County nor the NDOT will maintain the easement. The easement lies completely outside the Subject Property parcel boundaries.
20. The Taxpayer stated that he purchased approximately \$3,000 worth of rock in 2024 to maintain the road in the easement and used his own equipment to lay the rock and maintain the road.
21. The Taxpayer did not provide evidence to quantify the effects of the condition of the easement or its maintenance on the Subject Property's value.
22. The assessed value for real property may be different from year to year according to the circumstances.¹⁶ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.
23. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹⁷

¹⁶ *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 (Reissue 2018).

¹⁷ Neb. Rev. Stat § 77-1301 (Cum. Supp. 2024)

24. All taxable real property, with the exception of agricultural land and horticultural land, shall be valued at actual value for purposes of taxation.¹⁸
25. Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value may be determined by 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. Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used.¹⁹
26. The Assessor stated that an assessment-to-sales ratio analysis was conducted to the Subject Property neighborhood to determine the 2025 value.
27. "A primary tool for measuring the ratio of assessment to actual value is the assessment-to-sales ratio. This ratio is calculated by dividing a parcel of property's assessed value by the sales price of that parcel of property."²⁰
28. "[U]sing this ratio and using the median as the indicator of central tendency for a class or subclass of property, the median assessment-to-sales ratio would need to fall between 92 and 100 percent to be within the acceptable range."²¹
29. Such studies may also be used by assessing officials in establishing assessed valuations.²²

¹⁸ Neb. Rev. Stat. § 77-201(1)-(3) (Cum. Supp. 2024).

¹⁹ Neb. Rev. Stat. § 77-112 (Reissue 2018).

²⁰ *County of Douglas v. Nebraska Tax Equal. & Rev. Comm'n*, 296 Neb. 501, 509, 894 N.W.2d 308, 314 (2017) (citing 442 Neb. Admin. Code, ch. 9, § 002.02 (2011)).

²¹ *Id.*

²² Neb. Rev. Stat. § 77-1327(3) (Reissue 2018).

30. 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.
31. 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 2025 is affirmed.
2. The taxable value of the Subject Property for tax year 2025 is:

Land	\$ 92,300
<u>Improvements</u>	<u>\$330,945</u>
Total	\$423,245

3. This Decision and Order, if no further action is taken, shall be certified to the Cass County Treasurer and the Cass 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 March 9, 2026.

Signed and Sealed: March 9, 2026.



Jackie S. Russell, Commissioner