

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

PAULA ZABAWA
APPELLANT,

CASE NO: 25R 0247

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 0932490000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$648,800 for tax year 2025.
3. Paula Zabawa (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 \$566,522 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 May 18, 2026, at the Otoe Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Michael Zabawa was present at the hearing for the Taxpayer.
8. James G. Morris 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

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 283-84, 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 284, 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, 647, 935, N.W.2d 764, 771 (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 a one-story, single-family home built in 1963 with 2,871 square feet (SF) above grade and basement area of 1,733 SF with 800 SF full finish. There are three full baths, two additional water fixtures in the home, one fireplace, and an attached garage with 528 SF. The overall quality rating is good and the condition rating is average.
18. The Taxpayer brought this appeal, alleging a failure of the County Board to equalize assessments between the Subject Property and a neighboring parcel located at 676 Dillon Drive in Omaha, Nebraska (676 Dillon).
19. The County Assessor's original 2025 assessed value for the Subject Property was \$648,800. The Taxpayer protested this assessment to the County Board, arguing that the Subject Property was assessed higher than 676 Dillon on a per square foot basis as calculated by the Taxpayer. The County Assessor's 2025 assessed value for 676 Dillon was \$668,900.
20. The County Board reduced the Subject Property's assessment to \$566,522 based on the Taxpayer's calculations.
21. The Taxpayer asserts on appeal that the County Board lowered the 2025 assessment of 676 Dillon after the Taxpayer's protest. The Taxpayer argues the lower assessment of 676 Dillon means the per square foot value of the Subject Property, as calculated by the Taxpayer, is again higher than 676 Dillon, causing disequalization. The Taxpayer asserts the County Board was required to "reconcile" the protests by again lowering the Subject Property's assessed value based on its decision for 676 Dillon. The Taxpayer's calculations and the County Board's decision are discussed in depth below.
22. As an initial matter, the Taxpayer has not shown evidence the 2025 assessed value of 676 Dillon was lowered.
23. At the hearing before the Commission, the Taxpayer submitted a written narrative detailing the Taxpayer's protest before the County Board and arguments on appeal. The Taxpayer also

- presented the property record files (PRFs) for both the Subject Property and 676 Dillon.
24. The PRF for 676 Dillon presented by the Taxpayer includes no reference to any decision by the County Board in 2025.
 25. Except for the Taxpayer's own assertions, there is no documentation or information to show the County Board lowered the 2025 assessment for 676 Dillon.
 26. As such, the Taxpayer has not presented competent evidence to show the County Board failed to equalize the assessments. However, the inquiry does not end here.
 27. At the hearing before the Commission, the Taxpayer presented documents from the protest proceeding. One such document is a spreadsheet dated June 29, 2025, containing the Taxpayer's calculations of assessed value per square foot used to compare the 2025 valuations of the Subject Property, 676 Dillon, and a third property located at 654 Dillon Drive before the County Board.
 28. No PRF or other documentation was submitted for 654 Dillon Drive. Without the details contained in the PRF, the Commission is unable to determine whether 654 Dillon Drive is comparable to the Subject Property.¹⁶ Therefore, the information related to 654 Dillon Drive in the Taxpayer's spreadsheet is not competent evidence of either the Subject Property's value or whether that value is equalized with other properties.
 29. The Taxpayer's calculations in the spreadsheet include the column described as "Valuation 2023" for each of the listed properties. Although the spreadsheet indicates 2023 valuations, it is clear from the two PRFs presented that the "Valuation

¹⁶ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on February 18, 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.*

- 2023” numbers for both the Subject Property and 676 Dillon equal the total 2025 assessed values for each property.
30. The Taxpayer next stated the “total” square feet of both the Subject Property and 676 Dillon, aggregating the above-ground and total basement square footage for each property. The Taxpayer listed the Subject Property at 4,604¹⁷ total square feet and 676 Dillon at a total of 5,436 square feet.¹⁸ The Taxpayer did not separate the value of the underlying land or account for the differences in above-ground or basement areas or finished versus unfinished basement areas.
 31. The Taxpayer then divided the assessed values by the square footage totals to arrive at the “Assessed Value Per Total” square foot. The Taxpayer’s calculation of the “Assessed Value Per Total” square foot was \$123.10¹⁹ for 676 Dillon and \$140.90²⁰ for the Subject Property.
 32. The Taxpayer then requested a new “assessed value per total” square foot for the Subject Property of \$123.10, or a total of \$566,522, to be “equalized” with the Taxpayer’s calculation for 676 Dillon.
 33. The Taxpayer called this analysis the “total building area method for equalization” before the Commission.
 34. According to the Taxpayer’s written narrative, the County Board agreed with the Taxpayer’s “total building area method for equalization” in the protest proceeding.
 35. The County Board determined that the value for the Subject Property should be \$566,522 for tax year 2025 and allocated \$70,500 of the lowered assessment to the Subject Property’s land and \$496,022 to the improvements.

¹⁷ The Subject Property’s PRF shows the home is 2,871 square feet with a total basement area of 1,733 square feet. $2,871 + 1,733 = 4,604$.

¹⁸ The PRF for 676 Dillon shows the home is 2,718 square feet with a total basement area of 2,718 square feet. $2,718 + 2,718 = 5,436$.

¹⁹ Calculated by the Taxpayer as $(\$668,900 \text{ total assessed value}) / (5,436 \text{ “total” square feet}) = \123.10 assessed value per square foot (rounded to the nearest ten cents).

²⁰ Calculated by the Taxpayer as $(\$648,800 \text{ total assessed value}) / (4,604 \text{ “total” square feet}) = \140.90 assessed value per square foot (rounded to the nearest ten cents).

36. The County Board's land valuation of \$70,500 is the same value placed on the land for 676 Dillon by the County Assessor for 2025, even though the Subject Property's lot size is 1,202 square feet larger than that of 676 Dillon.
37. This information presented by the Taxpayer is competent evidence to rebut the presumption that the County Board faithfully performed its official duties in making an assessment and acted upon sufficient competent evidence to justify its action.²¹
38. First, the Taxpayer's "total building area method of equalization" of dividing the total assessed value of properties by the aggregate square footage of improvements while disregarding the land values and differences between improvements is not an acceptable method of determining value for equalization.
39. In order to determine a proportionate valuation, a comparison of the ratio of assessed value to market value for both the Subject Property and comparable property is required.²²
40. "Equalization is the process of ensuring that all taxable property is placed on the assessment rolls at a uniform percentage of its actual value."²³ "The purpose of equalization of assessments is to bring the assessment of different parts of a taxing district to the same relative standard, so that no one of the parts may be compelled to pay a disproportionate part of the tax."²⁴
41. The Taxpayer has, therefore, demonstrated that the County Board inappropriately assessed the Subject Property by following the Taxpayer's "total building area method of equalization" in its decision.

²¹ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6 (quoting *Cain*, 315 Neb. at 818, 1 N.W.3d at 521).

²² *Cabela's Inc. v. Cheyenne Cty. Bd. of Equal.*, 8 Neb. App. 582, 597 N.W.2d 623 (1999).

²³ *Krings v. Garfield Cty. Bd. of Equal.*, 286 Neb. 352, 357-58, 835 N.W.2d 750, 754 (2013); *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 577, 471 N.W.2d 734, 742 (1991).

²⁴ *Krings*, 286 Neb. at 357-58, 835 N.W.2d at 754; *MAPCO Ammonia Pipeline*, 238 Neb. at 577, 471 N.W.2d at 742.

42. For the same reasons, the Taxpayer's information presented at the hearing clearly and convincingly demonstrates that the decision of the County Board is arbitrary or unreasonable.²⁵
43. "A decision is arbitrary when it is made in disregard of the facts or circumstances and without some basis which would lead a reasonable person to the same conclusion."²⁶
44. "The term 'unreasonable' can be applied to an administrative decision only if the evidence presented leaves no room for differences of opinion among reasonable minds."²⁷
45. The Taxpayer's "total building area method for equalization," disregards the facts surrounding the value of the properties' underlying land, the differences between above-ground and basement spaces, and the differences between finished and unfinished spaces.
46. Thus, the only question remaining is the actual value of the Subject Property for tax year 2025.
47. The Taxpayer's "total building area method for equalization" is also not identified in statute and no evidence of its professional acceptance as an accepted mass appraisal method has been produced. Therefore, the Commission finds the Taxpayer's method does not constitute competent evidence and gives it little weight.
48. The Taxpayer presented no evidence of the Subject Property's actual value for tax year 2025 except for the County Assessor's original assessment in the PRF.
49. The County Assessor followed the cost approach in valuing the Subject Property.
50. "The cost approach is applicable to virtually all improved parcels and, if used properly, can produce accurate valuations."²⁸

²⁵ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6; *Omaha Country Club*, 11 Neb. App. 171, 645 N.W.2d 821.

²⁶ *Bethesda Found. v. Buffalo Cty. Bd. of Equal.*, 263 Neb. 454, 462, 640 N.W.2d 398, 405 (2002).

²⁷ *Pittman v. Sarpy Cty. Bd. of Equal.*, 258 Neb. 390, 401-02, 603 N.W.2d 447, 455-56 (1999).

²⁸ International Association of Assessing Officers, *Standard on Mass Appraisal of Real Property* § 4.2 (July 2017).

51. The Commission can find no error in the County Assessor's cost approach analysis for the Subject Property in 2025.
52. The Taxpayer further argues on appeal that the County Board failed to apply a 20% discount to the Subject Property's assessed value. The Taxpayer asserts that the County Board and the Taxpayer "agree" the Subject Property is "prone to significant water intrusion due to poor street drainage" on a street to the west of the Subject Property and that the County Board has granted such a discount in prior years' protests.
53. It should be noted that it is well settled in Nebraska that neither a prior year's assessment nor a decree setting a prior year's assessment are admissible to prove value in a subsequent year because the assessed value for real property may be different from year to year according to the circumstances.²⁹
54. The Taxpayer presented some photos of standing water in 2019 from the street to the west of the Subject Property, the 2019 storm drain and the subsequent reconstructed storm drain installed by the City of Lincoln, as well as an academic paper related to flooding in Boulder County, Colorado.
55. None of the Taxpayer's evidence related to alleged drainage issues demonstrates any impact on the Subject Property's 2025 value. First, research related to Boulder County, Colorado is not competent evidence of value in Douglas County, Nebraska. Second, the Taxpayer stated at the hearing that no such issue has occurred since 2019. Moreover, nothing prevents the Taxpayer from filing a damaged property report pursuant to Neb. Rev. Stat. § 77-1308 should the issue arise in the future.
56. Thus, the Taxpayer's information, assertions, and documents relating to alleged drainage issues are irrelevant to the 2025 valuation.

²⁹ See *Cain*, 315 Neb. at 820-22, 1 N.W.3d at 522-23; *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); *Omaha Paxton Hotel Co. v. Board of Equalization*, 167 Neb. 231, 232-33, 92 N.W.2d 537, 538 (1958); *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944); *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002). See also Neb. Rev. Stat. § 77-1502 (Cum. Supp. 2024).

57. Finally, the Taxpayer still asserts on appeal 676 Dillon is comparable to the Subject Property.
58. However, the Commission need not decide whether the two properties are comparable in 2025 for either equalization or valuation purposes because no finding on that issue changes the outcome here.³⁰
59. As stated previously, the Taxpayer presented no evidence of the Subject Property's actual value in 2025 other than the County Assessor's original assessment in the PRF. The Taxpayer has likewise presented no evidence of the actual value of 676 Dillon except the County Assessor's original 2025 assessment for that property. Thus, there is no reason to believe the two properties are assessed at different percentages of actual value in 2025.
60. Further, even assuming (without deciding) the Subject Property and 676 Dillon were comparable in 2025, the assessed values assigned by the County Assessor are very close. Again, the County Assessor's values were \$648,800 for the Subject Property and \$668,900 for 676 Dillon. The difference of \$20,100 is largely attributable to the larger basement of 676 Dillon.³¹
61. Because the only competent evidence of the Subject Property's actual value is the 2025 assessment performed by the County Assessor, the Commission finds that the actual value of the Subject Property is \$648,800 in tax year 2025.
62. 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.
63. 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 and reversed.

³⁰ The Commission follows the rule that "An appellate [tribunal] is not obligated to engage in analysis that is not necessary to adjudicate the case and controversy before it." *Acklie v Nebraska Dept. of Rev.*, 313 Neb. 28, 982 N.W.2d 228 (2022) (syllabus by the court).

³¹ Again, the Subject Property' PRF shows a total basement area of 1,733 square feet and the PRF for 676 Dillon shows a total basement area of 2,718 square feet.

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 vacated and reversed.
2. The taxable value of the Subject Property for tax year 2025 is:

Land	\$ 76,100
<u>Improvements</u>	<u>\$572,700</u>
Total	\$648,800

3. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas 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 May 28, 2026.

SIGNED AND SEALED: May 28, 2026.

SEAL



Jackie S. Russell, Commissioner