BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

WILLIAM A AULTZ APPELLANT, v. OTOE COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 25R 0272 DECISION AND ORDER AFFIRMING THE DECISION OF THE OTOE COUNTY BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Otoe County, parcel number 00102100.
2. The Otoe County Assessor (the County Assessor) assessed the Subject Property at $187,101 for tax year 2025.
3. William A Aultz (the Taxpayer) protested this value to the Otoe County Board of Equalization (the County Board) and requested an assessed value of $160,000 for tax year 2025.
4. The County Board determined that the taxable value of the Subject Property was $187,101 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 October 6, 2026, at the Tax Equalization and Review Commission Hearing Room, 500 S. 16th Street, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. William A. Aultz was present at the hearing for the Taxpayer.
8. Seth Hawkins (County Attorney) and Christina Smallfoot (County Assessor) 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 a one-story, single-family home built in 1977 with 1,248 square feet (SF) above grade over a full basement with no basement finish. There are two full baths and one-half bath, one fireplace, and a garage with 560 SF. The overall condition rating is "BL NML" (below normal), and the grade (quality) rating is "4" (average).
18. The Taxpayer argued that the Subject Property valuation is arbitrary and unreasonable due to yearly increases in value with no substantial updates to the property.
19. The Taxpayer provided five close-up photographs of the exterior of the Subject Property to show deferred maintenance issues.
20. The Assessor stated that a condition rating of "below normal" indicates that a larger number of deferred maintenance issues exist at the property than what are typical for a home built in the same year.
21. The Taxpayer did not provide sufficient evidence to show that the condition rating of "below normal" was arbitrary or unreasonable for the Subject Property.
22. The Commission must look to the value of the Subject Property as of January 1 of each tax year.[16]
23. The assessed value for real property may be different from year to year according to the circumstances.[17] For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.[18]
24. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value. [19]

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

25. A determination of actual value may be made by using professionally accepted mass appraisal methods.[20] The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.[21]
26. Comparable sales are recent sales of properties that are similar to the property being assessed in significant physical, functional, and location characteristics and in their contribution to value.[22]
27. The Assessor stated there was a revaluation conducted to the Subject Property's neighborhood for 2025 using an assessment-to-sales ratio analysis. The study resulted in an assessment increase in both land and improvements (buildings) across Nebraska City.
28. "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."[23]
29. "[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."[24]
30. Such studies may also be used by assessing officials in establishing assessed valuations.[25]
31. 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.
32. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or

[20] Neb. Rev. Stat. § 77-112 (Reissue 2018).
[21] *Id.*
[22] Neb. Rev. Stat. § 77-1371 (Reissue 2018).
[23] *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)).
[24] *County of Douglas v. Nebraska Tax Equal. & Rev. Comm'n*, 296 Neb. 501, 509, 894 N.W.2d 308, 314 (2017).
[25] Neb. Rev. Stat. §77-1327(3) (Reissue 2018).

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	$ 11,738
Improvements	$175,363
Total	$187,101

3. This Decision and Order, if no further action is taken, shall be certified to the Otoe County Treasurer and the Otoe 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 October 27, 2026.

SIGNED AND SEALED: October 27, 2026.

SEAL



Jackie S. Russell, Commissioner