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

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| FALLICK, JOHN S<br>REVOCABLE TRUST<br>APPELLANT,<br><br>v.<br><br>LANCASTER COUNTY<br>BOARD OF EQUALIZATION,<br>APPELLEE. | CASE NO: 25R 0575<br><br>DECISION AND ORDER<br>AFFIRMING THE DECISION<br>OF THE LANCASTER<br>COUNTY BOARD OF<br>EQUALIZATION |

## I. BACKGROUND

1. The Subject Property is an improved residential parcel in Lancaster County, parcel number 23-31-416-004-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at $1,920,000 for tax year 2025.
3. Fallick, John S Revocable Trust (the Taxpayer) protested this value to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was $1,920,000 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 August 10, 2026, at the Tax Equalization and Review Commission Hearing Room, 500 S. 16th Street, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. John Fallick was present at the hearing for the Taxpayer.
8. Tim Johns (Appraiser) 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]

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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 2020 with 3,814 square feet (SF) above grade and basement area with 3,814 SF of which 3,200 SF is fully finished. There are two fireplaces, 25 plumbing fixtures, a roofed porch with 699 SF, and two attached garages totaling 1,963 SF. The overall quality rating is very good (5.0) and the condition/desirability/utility (CDU) rating is typical (4.0). The property is located in the Windhoek subdivision.
18. The Taxpayer argued that the comparable properties used by the Assessor's office are not the best comparable properties for the Subject Property and are therefore, creating an arbitrary and unreasonable value for the Subject Property.
19. The Taxpayer provided a spreadsheet titled "Property tax protest" in which a comparison of Windhoek properties and their price per square foot (PPSF) is analyzed by the Taxpayer to show that the Subject Property's PPSF is greater than all other properties in Windhoek included on the document. The analysis also shows the Subject Property PPSF being higher than the overall average PPSF for the neighborhood.
20. Further, the Taxpayer presented alternative properties to the Commission as comparables for analysis and included a spreadsheet titled "Suggested Comparison properties" showing the 2026 values and their subsequent PPSF, along with their respective 2025 Property Record Files (PRFs).
21. The Commission must look to the value of the Subject Property as of January 1 of each tax year.[16]
22. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value. [17]

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

23. A determination of actual value may be made by using professionally accepted mass appraisal methods.[18] The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.[19]
24. 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.[20]
25. "A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject's unknown value."[21]
26. When comparing physical characteristics of like properties, if the comparable property is inferior in some respect, the sale price is adjusted upward, just as if it is superior, it will be adjusted downward.[22]
27. "Simply averaging the results of the adjustment process to develop an averaged value fails to recognize the relative comparability of the individual transactions as indicated by the size of the total adjustments and the reliability of the data and methods used to support the adjustments."[23]
28. The Commission's review of the documents provided by the Taxpayer showed that there are several differing components of contributory value (physical characteristics) between the Subject Property, the properties chosen by the Taxpayer for use as comparables, and the properties of the Windhoek neighborhood, presented to argue the Subject Property's valuation is not equalized.

[18] Neb. Rev. Stat. § 77-112 (Reissue 2018).
[19] *Id.*
[20] Neb. Rev. Stat. § 77-1371 (Reissue 2018).
[21] Appraisal Institute, *Appraising Residential Properties* 334 (4th ed. 2007)
[22] International Association of Assessing Officers, *Property Assessment Valuation* 105 (3rd ed. 2010)
[23] Appraisal Institute, *The Appraisal of Real Estate* 389 (14th ed. 2013).

29. Components of contributory value can be found on the PRFs under the following sections: dwelling information, residential information, and residential components.[24]
30. According to professionally accepted mass appraisal methods, the differing characteristics would require adjustments in contributory value prior to calculating and comparing the PPSF.
31. The Taxpayer's opinion of value was determined by an analysis of the Subject Property's PPSF versus the provided properties' PPSF without the use of adjustments to account for any differing physical characteristics prior to analysis. The Taxpayer's method is not identified in statute and no evidence of its professional acceptance as an accepted mass appraisal method has been produced. Therefore, the Commission finds it does not constitute competent evidence and gives it little weight.
32. The Appraiser provided a Comparable Sales Report to support the Subject Property valuation with recently sold properties along with their PRFs. These documents detailed the components of comparability and adjustments to the sale prices based on professionally accepted mass appraisal methods to support the Subject Property valuation.
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.

## IV. ORDER

**IT IS ORDERED THAT:**

[24] Page 3 of each of the submitted Lancaster County PRFs

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:

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| Land | $ 249,100 |
| Improvements | $1,670,900 |
| Total | $1,920,000 |

3. This Decision and Order, if no further action is taken, shall be certified to the Lancaster County Treasurer and the Lancaster 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 September 23, 2026.

**SIGNED AND SEALED: September 23, 2026.**

***SEAL***

Jackie S. Russell, Commissioner