

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

MICHAEL F. WIDMAN TRUST
APPELLANT,

CASE NO: 25R 0712

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 1627463171.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$1,321,900 for tax year 2025.
3. Michael F Widman Trust (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 \$1,321,900 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 2, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Michael Widman was present at the hearing for the Taxpayer.
8. Michael Lunkwitz (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

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 Taxpayer brought this appeal challenging the County Board's valuation of the Subject Property in tax year 2025.
18. At the hearing, the Taxpayer presented an appraisal of the Subject Property performed by Michelle Stephens of Discover Appraisal Services with an effective date of January 1, 2026 (Stephens Appraisal).
19. "When an independent appraiser using professionally approved methods of mass appraisal certifies that an appraisal was performed according to professional standards, the appraisal is considered competent evidence under Nebraska law."¹⁶
20. In the Stephens Appraisal, Ms. Stephens utilized a sales comparison approach using sales in the same date range as those which may be used for the 2026 assessed value and determined the Subject Property's value to be \$680,000 based on three area sales.
21. Ms. Stephens certified that the Stephens Appraisal conforms to the Uniform Standards of Appraisal Practice.
22. Thus, the Taxpayer has produced competent evidence that the County Board did not faithfully perform its duties or act on sufficient competent evidence to justify its actions in valuing the Subject Property.
23. Now, "the reasonableness of the valuation fixed by the county board becomes a question of fact based on all the evidence presented[.]"¹⁷
24. The Appraiser appeared on behalf of the County Board and presented the Subject Property's property record file (PRF).

¹⁶ *Lincoln Cty. Bd. of Equalization v. W. Tabor Ranch Apartments, LLC*, 314 Neb. 582, 595, 991 N.W.2d 889 (2023) (citing *JQH La Vista Conf. Ctr. v. Sarpy Cty. Bd. of Equal.*, 285 Neb. 120, 825 N.W.2d 447 (2013)); then citing *Cain v. Custer Cty. Bd. of Equalization*, 298 Neb. 834, 906 N.W.2d 285 (2018) (citing *JQH La Vista Conf. Ctr. v. Sarpy Cty. Bd. of Equal.*, 285 Neb. 120, 825 N.W.2d 447 (2013)).

¹⁷ *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6 (citing *Cain v. Custer Cty.*, 315 Neb. at 818, 1 N.W.3d at 521).

25. The Appraiser stated at the hearing that the comparable properties utilized in the Stephens Appraisal are not from a comparable area to the Subject Property.
26. The Taxpayer agreed with the Appraiser.
27. Specifically, the Appraiser noted the Subject Property is in the “Linden Estates” development and the comparables used in the Stephens Appraisal are in the adjacent “Linden Park” subdivision.
28. The Appraiser stated Linden Park is a much different market area and that homes in Linden Estates (the Subject Property’s area) sell for much more.
29. In the Stephens Appraisal, Ms. Stephens addressed the Subject Property’s location in Linden Estates, noting that the Subject Property was rated as “very good” quality, but the extensive needs for repair and lack of similar “ornate features and characteristics” that other Linden Estates homes have renders the Subject Property “subpar for the area.”
30. Ms. Stephens included numerous photographs in the Stephens Appraisal showing poor work quality and areas in need of repair within the Subject Property.
31. Ms. Stephens also noted that, though the Subject Property is newer, its effective age was similar to Linden Park homes.
32. Ms. Stephens also noted in the Stephens Appraisal that she found no comparable property in Linden Estates which “adequately represents a similar effective age and condition.”
33. “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.”¹⁸
34. Finally, Ms. Stephens noted in the Stephens Appraisal that the Subject Property is atypical for the neighborhood because its basement has a lap pool which takes up most of the basement.
35. “A major premise of the sales comparison approach is that an opinion of the market value of a property can be supported by

¹⁸ Neb. Rev. Stat. § 77-1371 (Reissue 2018).

studying the market's reaction to comparable and competitive properties.”¹⁹

36. The Taxpayer stated at the hearing that the pool is not functioning or in use, and that it is covered with plywood. Ms. Stephen noted that the pool's systems are not functioning and that the heater was shut down due to a carbon monoxide leak.
37. The Commission finds this is a significant functional obsolescence affecting the Subject Property's value.
38. 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.
39. 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.

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:

Total	\$680,000
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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.

¹⁹ Appraisal Institute, *The Appraisal of Real Estate* 351 (15th ed. 2020).

6. This Decision and Order shall only be applicable to tax year 2025.
7. This Decision and Order is effective on June 12, 2026.

SIGNED AND SEALED: June 12, 2026.

SEAL



James D. Kuhn, Commissioner