

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

EVAN RICHTER
APPELLANT,

CASE NO: 25R 0745

v.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

DECISION AND ORDER
AFFIRMING 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 2544987450.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$378,000 for tax year 2025.
3. Evan Richter (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 \$378,000 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 March 18, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Evan Richter was present at the hearing for the Taxpayer.
8. Cindy Stovie (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 alleging the 2025 valuation of the Subject Property is too high compared to other ranch style homes within one mile of the Subject Property, resulting in disequalization.
18. The Subject Property is in the “Wycliffe Replat” subdivision. The Taxpayer asserts the Subject Property’s 2025 value should be equalized with homes in the “Fountain Hills” subdivision, which is adjacent to Wycliffe Replat to the southwest.
19. The Taxpayer provided the property record files (PRFs) for the Subject Property and three properties the Taxpayer alleges are comparable to the Subject Property (the Taxpayer’s Comparables).
20. The Subject Property is a three-bedroom, three-bathroom, single-story ranch style, single-family residence located at 15565 Harney Cir. in Omaha, Nebraska. The Subject Property is a 1,781-square-foot home built in 1978. For tax year 2025, the Subject Property had a quality rating of average and a condition rating of average. It has a 1,642-square-foot basement with 1,285 square feet of finished space. The basement is an 8-foot block basement. The construction type is frame hardboard.
21. The Taxpayer’s first comparable (Taxpayer’s Comparable 1) is a three-bedroom, three-bathroom, single-story ranch style, single-family residence located at 315 N 153 Cir. in Omaha, Nebraska. Taxpayer’s Comparable 1 was built in 1978. It has a quality rating of average and a condition rating of average for tax year 2025. Taxpayer’s Comparable 1 is a 1,190-square-foot residence, with a 1,190-square-foot basement with 877 square feet of finished space. The basement is an 8-foot block basement. The construction type is frame hardboard.
22. The Taxpayer’s next comparable is a three-bedroom, three-bathroom, single-story ranch style, single-family residence located at 15680 Jackson Drive in Omaha, Nebraska (Taxpayer’s

- Comparable 2) built in 1983. Taxpayer's Comparable 2 has a 2025 quality rating of good, and condition rating of fair. The home is 1,866 square feet, with a 1,787-square-foot basement with 1,684 square feet finished. The basement is a 9-foot block basement.
23. The Taxpayer's third comparable is a three-bedroom, three-bathroom, single-story ranch style, single-family residence located at 15680 Fountain Hills Drive in Omaha, Nebraska (Taxpayer's Comparable 3). Taxpayer's Comparable 3 was built in 1980 and is 1,783 square feet with a 1,696-square-foot basement with 1,600 square feet finished space. That basement is an 8-foot block basement. The 2025 quality rating was good, and the condition rating was average.
 24. First, Taxpayer's Comparable 1 is significantly smaller than the Subject Property and Taxpayer's Comparables 2 and 3.
 25. "Comparing assessed values of other properties with the subject property to determine actual value has the same inherent weakness as comparing sales of other properties with the subject property."¹⁶ "The properties must be truly comparable."¹⁷
 26. Taxpayer's Comparable 1 is not sufficiently comparable to the Subject Property for the Commission to draw any conclusions about equalization.
 27. The Taxpayer also provided four spreadsheets at the hearing which he compiled. Two of the spreadsheets show the average assessed value per square foot of different style homes in both subdivisions. A third spreadsheet shows the average sale prices per square foot of properties sold in the two subdivisions. Tables of the respective data summarized are attached to the spreadsheets.
 28. "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

¹⁶ *DeBruce Grain, Inc. v. Otoe County Bd. of Equalization*, 7 Neb. App. 688, 697, 584 N.W.2d 837, 843 (1998).

¹⁷ *Id.*

size of the total adjustments and the reliability of the data and methods used to support the adjustments.”¹⁸

29. Similarly, simply averaging the assessed values or prices per square foot in the two subdivisions also fails to recognize the relative comparability of the individual transactions.
30. The Taxpayer presented a fourth spreadsheet with his own “cost approach analysis.”
31. In the Taxpayer’s cost approach analysis, he compares the improvement values for the Subject Property, as calculated by the County Assessor, to two hypothetical values calculated by the Taxpayer with one or two changes in the calculations.
32. The Taxpayer argues that the neighborhood adjustment multipliers used by the County Assessor for the two subdivisions are materially different, such that the Subject Property’s value is artificially raised by comparison to Taxpayer’s Comparables 2 and 3.
33. The Wycliffe Replat subdivision has a neighborhood adjustment of 1.3862 (including the Subject Property and Taxpayer’s Comparable 1) while the Fountain Hills subdivision (including Taxpayer’s Comparables 2 and 3) has a neighborhood adjustment of 0.9219. These multipliers are applied in assessments by calculating the “replacement cost new, less depreciation,” (RCNLD) then multiplying that value by the multiplier.
34. The Taxpayer effectively argues that Taxpayer’s Comparables 2 and 3 in the Fountain Hills subdivision, as shown in their respective PRFs, are of similar age, size, and style to the Subject Property. They have significantly higher base costs per square foot than the subject property, but ultimately receive a reduction in value as a result of applying the 0.9219 neighborhood adjustment to the calculated RCNLD. Conversely, the Subject Property’s value increases when the 1.3862 neighborhood adjustment is applied to its RCNLD. The taxpayer argues the

¹⁸ Appraisal Institute, *The Appraisal of Real Estate* 389 (14th ed. 2013).

Subject Property should receive the same neighborhood adjustment as the Fountain Hills subdivision.

35. The Taxpayer compares the Subject Property's assessed value of \$378,000¹⁹ to two lower values, calculated by the Taxpayer, using the Fountain Hills neighborhood adjustment rather than that used for the Wycliffe Replat. The land value is the same in each calculation.
36. The first calculation is identical to the assessed value, except that the Taxpayer substitutes the lower Fountain Hills adjustment, resulting in a final value of \$261,437.92.
37. The Taxpayer's second calculation was reached by also replacing the Subject Property's base cost per square foot from its PRF of \$119.91 to a rounded median base cost per square foot of Taxpayer's Comparables 2 and 3 found in those PRFs of \$157.00, then multiplying that by the Fountain Hills neighborhood adjustment. Even with the higher base cost per square foot, the Taxpayer asserts, the Subject Property's final value of \$306,265.09 in the Taxpayer's second calculation is lower than the County Board's value when using the lower Fountain Hills neighborhood adjustment.
38. The Taxpayer did not adjust for the impact of the different subdivisions on the costs of the "add ons" to the base cost of the Subject Property.
39. The Taxpayer asserts that because the Subject Property was built in a similar time, with similar style, similar size, and similar location to Taxpayer's Comparables 2 and 3, the Subject Property should receive the same neighborhood adjustment. Again, the Wycliffe Replat and Fountain Hills subdivisions are adjacent to one another.
40. However, other than proximity, the Taxpayer presented no information to show the difference in the neighborhood adjustments applied to the Wycliffe Replat and Fountain Hills

¹⁹ There are minor discrepancies between the County Assessor's calculations and the Taxpayer's, possibly as the result of rounding errors.

subdivisions are incorrect. Even though the two subdivisions are very close together, the condition and quality ratings are relative to the respective subdivisions. Thus, an “average” condition or quality rating in Fountain Hills may be materially different than the same rating in the Wycliffe Replat. The Taxpayer presented no information to show what these differences, if any, are, nor did he quantify or describe these differences.

41. Comparable properties share similar use (residential, commercial industrial, or agricultural), physical characteristics (size, shape, and topography), and location.²⁰
42. The Appraiser stated at the hearing that the Fountain Hills subdivision is significantly different from the Wycliffe Replat. The Appraiser further stated Fountain Hills is a “step up” from the Wycliffe Replat. This is reflected in the higher base costs per square feet in the PRFs from Taxpayer’s Comparables 2 and 3, in Fountain Hills over the Subject Property and Taxpayer’s Comparable 1 in the Wycliffe Replat.
43. For these reasons, the Commission finds the Taxpayer’s analysis is not competent evidence and gives it little weight.
44. 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.
45. 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.

²⁰ International Association of Assessing Officers, *Property Assessment Valuation* 169-79 (3rd ed. 2010).

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	\$ 30,000
<u>Improvements</u>	<u>\$348,000</u>
Total	\$378,000

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 June 5, 2026.

SIGNED AND SEALED: June 5, 2026.

SEAL



James D. Kuhn, Commissioner