BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

ROGER & ELDENNA SCHWISOW REVOCABLE TRUST APPELLANT, v. LANCASTER COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NOS: 25R 0787, 25R 0788, 25R 0789, 25R 0790, 25R 0791, 25R 0792, 25R 0793, 25R 0794, 25R 0795, 25R 0796, 25R 0797, 25R 0811 DECISION AND ORDER REVERSING THE DECISIONS OF THE LANCASTER COUNTY BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Properties consists of vacant residential land parcels in Lancaster County.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Properties for tax year 2025 as follows:

Case No.	PID	Description	Assessed Value
25R 0787	18-29-416-001-000	Northbank Preserve 10th Add Lot 1	$60,000
25R 0788	18-29-416-004-000	Northbank Preserve 10th Add Lot 4	$60,000
25R 0789	18-29-416-005-000	Northbank Preserve 10th Add Lot 5	$60,000
25R 0790	18-29-416-006-000	Northbank Preserve 10th Add Lot 6	$60,000
25R 0791	18-29-416-007-000	Northbank Preserve 10th Add Lot 7	$60,000
25R 0792	18-29-416-008-000	Northbank Preserve 10th Add Lot 8	$60,000
25R 0793	18-29-416-009-000	Northbank Preserve 10th Add Lot 9	$60,000
25R 0794	18-29-416-010-000	Northbank Preserve 10th Add Lot 10	$60,000

25R 0795	18-29-416-011-000	Northbank Preserve 10th Add Lot 11	$60,000
25R 0796	18-29-416-012-000	Northbank Preserve 10th Add Lot 12	$60,000
25R 0797	18-29-416-013-000	Northbank Preserve 10th Add Lot 13	$60,000
25R 0811	18-29-413-001-000	Northbank Preserve 7th Add Blk 5 Lot 1	$75,000

3. Roger & Eldenna Schwisow Revocable Trust (the Taxpayer) protested these values to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Properties for tax year 2025 were as follows:

Case No.	PID	Description	Taxable Value
25R 0787	18-29-416-001-000	Northbank Preserve 10th Add Lot 1	$60,000
25R 0788	18-29-416-004-000	Northbank Preserve 10th Add Lot 4	$60,000
25R 0789	18-29-416-005-000	Northbank Preserve 10th Add Lot 5	$60,000
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25R 0811	18-29-413-001-000	Northbank Preserve 7th Add Blk 5 Lot 1	$75,000

5. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on September 22, 2026, at the Tax Equalization and Review Commission Hearing Room, 500 S. 16th Street, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Roger H. Schwisow was present at the hearing for the Taxpayer.
8. Colin Emmons (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 Properties consist of 12 vacant parcels for the development of townhome properties in Lincoln, NE.
18. Each parcel can house two townhome properties and would be equivalent to the price of two townhome lots marketed for sale.
19. The Taxpayer argued that the Subject Properties' assessed values were arbitrary and unreasonable based on the marketed price of a townhome lot and the sale of Northbank Preserve 7th Add Lot 5 Blk 1, with settlement date of 5/15/2026 for an adjusted sales price of $70,000.
20. The marketed prices of the townhome lots range from $41,500 to $44,000.
21. The Appraiser stated that the purchase price of the 5/15/2026 sale was not used in setting the 2025 valuations since it took place after January 1, 2025.
22. While the Commission gives consideration to the purchase price submitted, and the marketed sales prices of the remaining available lots, the Commission must look to the value of the Subject Properties as of January 1 of each tax year.[16]
23. The Taxpayer stated that a Form 191 for a special valuation method for setting vacant or unimproved lot value was not submitted for tax year 2025.
24. Therefore, all real property, other than agricultural land and horticultural land, is valued at 100% of its actual value. [17]
25. 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]

[16] Neb. Rev. Stat §77-1301(Cum. Supp. 2022)
[17] Title 350 Neb. Admin. Code, ch.10 § 003.01A (10/2014).
[18] Neb. Rev. Stat. § 77-112 (Reissue 2018).
[19] *Id.*

26. The Appraiser stated that the methodology used for setting the 2025 land values for each parcel was based on a revaluation conducted of the Subject Properties' neighborhood using professionally accepted mass appraisal land valuation methods of abstraction and allocation.
27. The Appraiser provided the sales used in the analysis for the Commission to review.
28. The Appraiser's analysis indicated a new valuation for the 2025 tax year for townhome lots to be $55,000.
29. The Commission finds that the methodology provided by the Appraiser constitutes the best evidence of value for the Subject Properties for tax year 2025.[20]
30. Competent evidence has been produced that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
31. Clear and convincing evidence has been adduced that the determinations of the County Board are arbitrary or unreasonable and the decisions of the County Board should be vacated.

IV. ORDER

IT IS ORDERED THAT:

1. The decisions of the County Board of Equalization determining the taxable value of the Subject Properties for tax year 2025 are vacated and reversed.
2. The taxable value of the Subject Properties for tax year 2025 is as follows:

[20] Taxable value, as determined by the County Board, was based upon the evidence at the time of the Protest proceeding. At the appeal hearing before the Commission, both parties were permitted to submit evidence that may not have been considered by the County Board of Equalization at the protest proceeding.

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25R 0788	18-29-416-004-000	Northbank Preserve 10th Add Lot 4	$55,000
25R 0789	18-29-416-005-000	Northbank Preserve 10th Add Lot 5	$55,000
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25R 0811	18-29-413-001-000	Northbank Preserve 7th Add Blk 5 Lot 1	$55,000

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 October 28, 2026.

SIGNED AND SEALED: October 28, 2026.

SEAL



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Jackie S. Russell, Commissioner