

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

NELSON FAMILY
REVOCABLE TRUST
APPELLANT,

v.

LANCASTER COUNTY
BOARD OF EQUALIZATION,
APPELLEE.

CASE NO: 25R 0817

DECISION AND ORDER
AFFIRMING THE DECISION
OF THE LANCASTER
COUNTY BOARD OF
EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Lancaster County, parcel number 09-01-127-014-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$538,700 for tax year 2025.
3. Nelson Family 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 \$538,700 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 31, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Michael and Christie Nelson were present at the hearing for the Taxpayer.
8. Bret Smith (Appraiser) and Brayden Richardson 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

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 Subject Property is a one-and-a-half story, single-family home built in 1951 with above grade area of 2,226 square feet (SF), and basement area of 1,357 SF of which 950 SF is minimally finished. There are 14 plumbing fixtures, two fireplaces, and an attached garage with 506 SF. The overall quality rating is good (4.0) and the condition, desirability, and utility rating (CDU) is average (4.0).
18. The Taxpayer stated that the Subject Property's valuation was arbitrary and unreasonable based on the percentage amount of increase to the Subject Property value in comparison to other properties.
19. The assessed value for real property may be different from year to year according to the circumstances.¹⁶ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹⁷ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.¹⁸
20. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value.¹⁹
21. 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
22. The Taxpayer provided a "Home Real Estate Market Value Analysis" for the Commission to analyze with what appears to be a sales comparison approach to value. These types of analyses are typically not required to adhere to Uniform Standards of

¹⁶ *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).

¹⁷ *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).

¹⁸ *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

¹⁹ Title 350 Neb. Admin. Code ch 10, § 003.01A (10/2014).

²⁰ Neb. Rev. Stat. § 77-112 (Reissue 2018).

²¹ *Id.*

Professional Appraisal Practice (USPAP) and the analysis presented does not state that USPAP was followed. Certain adjustments included in the comparison are not properly applied, such as the lot size adjustment to sale #3, nor the basement square foot adjustment for Sale #1. The adjustments were also not discussed to determine how they were derived and for these reasons, the Commission gives the analysis little weight.

23. “In the sales comparison approach, appraisers develop opinions of value by analyzing closed sales, pending sales, active listings, and cancelled or expired listings of properties that are similar to the property being appraised.”²²
24. “A major premise of the sales comparison approach is that an opinion of the market value of a property can be supported by studying the market’s reaction to comparable and competitive properties.”²³
25. 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.²⁴
26. “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.”²⁵
27. 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.²⁶
28. The Taxpayer provided several properties for comparison to the Subject Property in their provided analyses; however, the

²² Appraisal Institute, *The Appraisal of Real Estate* 351 (15th ed. 2020).

²³ Appraisal Institute, *The Appraisal of Real Estate* 351 (15th ed. 2020).

²⁴ Neb. Rev. Stat. § 77-1371 (Reissue 2018).

²⁵ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

²⁶ *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

Taxpayer did not provide the Property Record Files (PRFs) for any of the properties discussed. Without the details contained in the PRFs, the Commission is unable to determine whether the properties discussed are comparable to the Subject Property.²⁷

29. One notable difference in the properties presented by the Taxpayer to the Subject Property is the quality rating as shown on the Taxpayer's document with "Table 1" titled "The Five 1-1/2 Story Houses With All 3 Comps Within Woodsshire Had An Average Valuation of \$475,779..." Quality is a component of contributory value which in this analysis of the Subject Property is superior to all of the comparable properties on Table 1, and would require an increase to the value of the comparable properties according to the sales comparison approach as previously discussed.
30. The Appraiser stated that the components of the Subject Property were verified by the Taxpayer and deemed to be correct, but no physical inspection of the Subject Property has been performed by the Assessor's Office.
31. The Taxpayer did not provide evidence to show that the current quality rating of the Subject Property as "good" (4.0) is arbitrary or unreasonable.
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 practices to support the Subject Property valuation. Contributory component adjustment details can be found in the "Lancaster County 2025

²⁷ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on February 25, 2026, includes the following:

NOTE: Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.

- Residential Valuation Methodology” on the Addendum page.
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:

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	\$ 85,000
<u>Improvements</u>	<u>\$453,700</u>
Total	\$538,700

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 May 5, 2026.

SIGNED AND SEALED: May 5, 2026.

SEAL



Jackie S. Russell, Commissioner