

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

JENS ERIK H. WESTHOFF
APPELLANT,

CASE NO: 25R 0834

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 1612740233.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$256,200 for tax year 2025.
3. Jens Erik H. Westhoff (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 \$216,700 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 February 2, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Erik Westhoff was present at the hearing for the Taxpayer.
8. Lisa Humlicek (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 Subject Property is overvalued based on its location in a floodplain and storm damage, and that the Subject Property's value is not equalized with similar parcels.
18. The Taxpayer also asserts these and other factors caused the County Board to change the valuation in prior years.
19. "[T]he value of property under a prior assessment is not admissible to prove the value of real estate under a subsequent assessment."¹⁶
20. No documents or other evidence presented dealing with of prior years' assessments will be considered or discussed further.
21. The Taxpayer presented printouts from the Douglas County Assessor's website for the Subject Property and several other homes the Taxpayer asserts are comparable to the Subject Property and a table comparing the assessments of the Subject Property to the other properties presented.
22. The Taxpayer presented the property record file (PRF) for the Subject Property but did not provide the PRFs for any of the properties presented for comparison purposes. Without the details contained in the PRFs, the Commission is unable to determine whether the properties discussed are comparable to the Subject Property.¹⁷
23. Further, the information contained in the County Assessor website printouts presented by the Taxpayer shows the

¹⁶ *Cain v. Custer Cty. Bd. of Equalization*, 315 Neb. 809, 821-22 1 N.W.3d 512, 522-23 (2024) (citing *Affiliated Foods Co-op v. County of Madison*, 229 Neb. 605, 428 N.W.2d 201 (1988); then citing *DeVore v. Board of Equalization*, 144 Neb. 351, 13 N.W.2d 451 (1944)).

¹⁷ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on December 31, 2025, 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.*

- properties presented are not comparable to the Subject Property.
24. Comparable properties share similar use (residential, commercial industrial, or agricultural), physical characteristics (size, shape, and topography), and location.¹⁸
 25. The Subject Property is a two-story home. All but one of the properties presented by the Taxpayer are different styles, including raised ranch, one-story single family, or one-story duplex homes. One property is two stories, but, as stated above, the Commission cannot determine comparability without the information contained in the PRF.
 26. The Taxpayer also provided photographs of two documents which appear to be styled as checks. The Taxpayer asserted these were offers to purchase the Subject Property after some storm damage in July 2024. Nothing before the Commission shows these were legitimate offers of purchase and there are no details to show they were arms-length, fair market value offers of purchase.¹⁹ More importantly, the Taxpayer's documents indicate these "offers" never materialized into a sale.
 27. Finally, the Taxpayer argued at the hearing that the location of the Subject Property in a floodplain, the 2024 storm damage (which had not been repaired by January 1, 2025), and the high crime rate of the area all lower the Subject Property's value. The Taxpayer presented overlays of satellite photos of the Omaha area showing relative neighborhood safety ratings and home prices, photos of the subject property showing condition issues and storm damage, and photos of what the Taxpayer said was criminal activity in front of the Subject Property.
 28. However, the Taxpayer did not quantify the impact of these factors on the Subject Property's value.
 29. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on

¹⁸ International Association of Assessing Officers, *Property Assessment Valuation* 169-79 (3rd ed. 2010).

¹⁹ See *Dowd v. Board of Equalization*, 240 Neb. 437, 447, 482 N.W.2d 583, 589 (1992) (quoting *Potts v. Board of Equalization*, 213 Neb. 37, 47-48, 328 N.W.2d 175, 181 (1982)).

sufficient competent evidence to justify its actions.

30. 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	\$ 21,800
<u>Improvements</u>	<u>\$194,900</u>
Total	\$216,700

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 May 18, 2026.

SIGNED AND SEALED: May 18, 2026.

SEAL



James D. Kuhn, Commissioner