BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

CHARLES D O'CONNOR APPELLANT, v. LANCASTER COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 25R 0943 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 12-34-224-004-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at $553,200 for tax year 2025.
3. Charles D O'Connor (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 $553,200 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 August 5, 2026, at the Tax Equalization and Review Commission Hearing Room, 500 S. 16th Street, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Charles O'Conner was present at the hearing for the Taxpayer.
8. Tim Johns (Appraiser) and Lexi LaBeau 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]

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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 Property is a one-story, single-family home built in 2005 with 1,516 square feet (SF) above grade. There are 1,516 SF in the walkout basement of which 1,300 SF is fully finished. There are 13 plumbing fixtures, one fireplace, and an attached garage with 624 SF. The overall quality rating is good (4.0) and the condition/desirability/utility (CDU) rating is average plus (5.0).
18. The Taxpayer stated that the Subject Property's value increase in one year is arbitrary and unreasonable.
19. The Taxpayer opined that the neighboring property at 6720 NW 3rd is comparable to the Subject Property but was not used in analysis by the County.
20. The Taxpayer compiled a "Review of Supportive Analysis…" (Review Document) of the Subject Property and comparable properties for the Commission to review.
21. The Review Document listed four properties. The Taxpayer stated three were chosen and used by the County for comparison to the Subject Property, and 6720 NW 3rd was chosen by the Taxpayer. The Review Document listed the PID, Address, Total SF, Qual/CDU, Bed/Bath, Year Built, Sold/Date, $SF, and the Assessed value for each property.
22. The Review Document does not list all components of contributory value that are used in the appraisal process, such as basement information, garage information, additional structural features like fireplaces or decks, and the Taxpayers did not provide Property Record Files (PRF) for 6720 NW 3rd or 6931 NW 4th for the Commission to verify with the Review Document. Without the details contained in the PRFs, the

Commission is unable to determine whether the properties discussed are comparable to the Subject Property.[16]

23. The County provided PRFs for 6930 NW 3rd and 301 Snowberry Rd as these properties were used in their sales comparison analysis and were shown on the Taxpayer's Review document.
24. The Commission must look to the value of the Subject Property as of January 1 of each tax year.[17]
25. The assessed value for real property may be different from year to year according to the circumstances.[18] For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.[19]
26. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value. [20]
27. A determination of actual value may be made by using professionally accepted mass appraisal methods.[21] The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.[22]
28. 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.[23]
29. When comparing physical characteristics of like properties, if the comparable property is inferior in some respect, the sale

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[16] For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on April 16, 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.*

[17] Neb. Rev. Stat §77-1301(Cum. Supp. 2022)

[18] *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).

[19] *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).

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

[21] Neb. Rev. Stat. § 77-112 (Reissue 2018).

[22] *Id.*

[23] Neb. Rev. Stat. § 77-1371 (Reissue 2018).

price is adjusted upward, just as if it is superior, it will be adjusted downward.[24]

30. The Commission's review of the Review Document shows that the emphasis the Taxpayer placed on 6720 NW 3rd, does not take into consideration that fact that the quality rating of 6720 NW 3rd is listed as "3" and it's CDU rating is listed at "4", while the Subject Property has a higher quality rating of 4.0 and a higher CDU rating of 5.0. Appraisal methods would require the value of 6720 NW 3rd to be adjusted upward by a market supportable amount for both the quality rating and CDU rating as they are shown as inferior to the Subject Property's ratings.
31. The Appraiser verified the data of the Subject Property with the Taxpayer at hearing.
32. The Taxpayer stated that the Subject Property data appeared correct on the PRF, however, the information listed under the Building Comments on page 3 which the Appraiser stated supports the CDU rating of the Subject Property, was not information that was presented to the Taxpayer upon the purchase of the property in 2021. The comments list a number of upgrades to the property such as a new roof, gutters, furnace, water heater, water softener, sliding glass door, and gas fireplace, as well as several components of a kitchen remodel.
33. The Appraiser stated that the information came from an outside source (OS) such as the MLS listing and may not mean that the work was done for the sale of the property, but was information learned by the County at the time of the sale and therefore, reflected the Subject Property as it was at the time of the sale in their data by increasing the CDU rating from average (4.0) to average plus (5.0).
34. The Taxpayer did not provide evidence to show that the Subject Property's quality rating or CDU rating were something other than what the County has described them as.

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[24] International Association of Assessing Officers, *Property Assessment Valuation* 105 (3rd ed. 2010)

35. The Appraiser stated there was a revaluation conducted to the Subject Property's neighborhood for 2025. The increases (or decreases) to each property in the market study area were dependent upon their property data components and comparable sales within the study period.
36. 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 methods to support the Subject Property's valuation.
37. 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.
38. 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	$103,500
Improvements	$449,700
Total	$553,200

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 September 23, 2026.

SIGNED AND SEALED: September 23, 2026.

SEAL 

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Jackie S. Russell, Commissioner