

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

BURR FAMILY REVOCABLE  
TRUST  
APPELLANT,

v.

LANCASTER COUNTY  
BOARD OF EQUALIZATION,  
APPELLEE.

CASE NO: 25R 0944

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 09-13-202-001-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$536,900 for tax year 2025.
3. Burr 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 \$536,900 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 May 19, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Michelle and Jeff Burr were present at the hearing for the Taxpayer.

8. Colin Emmons (Appraiser) and Lexi Lucey 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.<sup>1</sup>
10. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
11. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.<sup>3</sup>
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.<sup>4</sup> 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.<sup>5</sup>
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.<sup>6</sup> The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2024).

<sup>2</sup> 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).

<sup>3</sup> *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)).

<sup>4</sup> *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).

<sup>5</sup> *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.

<sup>6</sup> *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

of the board.<sup>7</sup>

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.<sup>8</sup> Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>9</sup>
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.<sup>10</sup> 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.<sup>11</sup>
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.<sup>12</sup> The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.<sup>13</sup> 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.<sup>14</sup> The Commission's

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<sup>7</sup> *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.

<sup>8</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>9</sup> *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).

<sup>10</sup> 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).

<sup>11</sup> *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)).

<sup>12</sup> Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

<sup>13</sup> *Id.*

<sup>14</sup> Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).

Decision and Order shall include findings of fact and conclusions of law.<sup>15</sup>

### III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is a one-story, single-family home built in 1959 with 2,457 square feet (SF) above grade, and basement area of 1,169 SF, of which 600 SF is fully finished. There are ten plumbing fixtures, two fireplaces, and an attached garage with 1,489 SF. In 2011 a remodel of the property was completed. The overall quality rating is 4.0 (good) and the condition/desirability/utility (CDU) rating is 5 (average plus).
18. The Taxpayer stated that the Subject Property backs up to a lot that was originally a golf course but is now a vacant lot to be used for future commercial development.
19. For this reason, the Taxpayer argued that the increase to the Subject Property's value for 2025 is arbitrary and unreasonable.
20. The Commission must look to the value of the Subject Property as of January 1 of each tax year.<sup>16</sup>
21. All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value.<sup>17</sup>
22. A determination of actual value may be made by using professionally accepted mass appraisal methods.<sup>18</sup> The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.<sup>19</sup>
23. 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.<sup>20</sup>
24. When comparing physical characteristics of like properties, if the comparable property is inferior in some respect, the sale

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<sup>15</sup> Neb. Rev. Stat. § 77-5018(1) (Cum. Supp. 2024).

<sup>16</sup> Neb. Rev. Stat §77-1301(Cum. Supp. 2022)

<sup>17</sup> Title 350 Neb. Admin. Code, ch.10 § 003.01A (10/2014).

<sup>18</sup> Neb. Rev. Stat. § 77-112 (Reissue 2018).

<sup>19</sup> *Id.*

<sup>20</sup> Neb. Rev. Stat. § 77-1371 (Reissue 2018).

price is adjusted upward, just as if it is superior, it will be adjusted downward.<sup>21</sup>

25. The Taxpayer alleged that two comparable properties located on the same street as the Subject Property had reductions in value for tax year 2025.
26. The Taxpayer provided a spreadsheet of component data from five properties along with the Subject Property. The spreadsheet does not account for all the data components of contributory value according to appraisal standards such as quality and CDU ratings, porches and decks, and remodel information.
27. The Taxpayer did not present the Property Record Files (PRFs) for the properties presented as comparables. Accordingly, the Commission cannot see the basis for the determination of assessed value for the properties presented by the Taxpayer, compare their characteristics to the characteristics of the Subject Property, or determine a basis for their valuation reductions when the PRFs are not presented.<sup>22</sup>
28. 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 the property data components and comparable sales within the study period.
29. The Appraiser stated that the presence of a commercially zoned vacant lot is not discounted within their methodology and the hypothetical condition of the impact of a commercial property erected on that lot cannot be measured.

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<sup>21</sup> *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

<sup>22</sup> 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.*

30. The Taxpayer did not provide evidence to quantify the impact of future commercial development to the vacant lot nor the impact on residential properties surrounding the area.
31. The Appraiser provided a Comparable Sales Report to support the Subject Property's valuation with recently sold properties along with their PRFs. These documents detailed the components of comparability and adjustments to their sale prices based on professionally accepted mass appraisal methods.
32. 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.
33. 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	\$ 85,500
<u>Improvements</u>	<u>\$451,400</u>
Total	\$536,900

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 June 8, 2026.

**SIGNED AND SEALED: June 8, 2026.**

*SEAL*



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Jackie S. Russell, Commissioner