

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

DAVID CLAUSEN
APPELLANT,

CASE NO: 25R 0946

v.

LANCASTER COUNTY
BOARD OF EQUALIZATION,
APPELLEE.

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 17-14-109-010-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$413,600 for tax year 2025.
3. David Clausen (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 \$413,600 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 19, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. David Clausen was present at the hearing for the Taxpayer.
8. Tim Johns (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 *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 two-story, single-family home with above grade area of 2,187 square feet (SF) and basement area of 1,028 SF of which 900 SF is fully finished. There are 15 plumbing fixtures, one fireplace, a built-in garage with 484 SF, a quality rating of average, and a condition rating of typical.
18. The Taxpayer argued that properties of similar style and construction, built by the same contractor, are not equalized within the neighborhood.
19. The Taxpayer provided information about four properties from the same neighborhood as the Subject Property, including pictures of the exteriors, addresses, parcel identification numbers, and the last six years of assessed values of each property for the Commission to consider.
20. The Taxpayer provided a document titled “Property Tax Protest” which summarized their analysis of the comparables included and requested a valuation of \$358,400 based on the average assessed value of the comparable properties.
21. “Simply averaging the results of the adjustment process to develop an averaged value fails to recognize the relative comparability of the individual transactions as indicated by the size of the total adjustments and the reliability of the data and methods used to support the adjustments.”¹⁶
22. The Taxpayer did not present the Property Record Files (PRFs) for the properties discussed.¹⁷ However, components of contributory value for each could be found on the spreadsheet

¹⁶ Appraisal Institute, *The Appraisal of Real Estate* 389 (14th ed. 2013).

¹⁷ The Order for Single Commissioner Hearing and Notice issued to the Taxpayer on February 13, 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.*

- provided by the Appraiser for the Commission to analyze.
23. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (style, size, finish, quality, condition, etc.), and location. While the comparable properties submitted by the Taxpayer share many similar characteristics, based on the Appraiser's spreadsheet there are differences that would require an adjustment to the comparables' values using professionally accepted mass appraisal methods of the sales comparison approach, before they could be further analyzed.
 24. "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."¹⁸ If a comparable property is inferior in some respect (to the Subject Property), the sale price is adjusted upward, just as if it is superior, it will be adjusted downward.¹⁹
 25. After the Commission's review of the documents, the comparable properties presented by the Taxpayer would require adjustments to some of the contributory value components. Specifically, total square footage, upper living area, fixture counts, basement area, basement finish, garage size, and land influence. Using the "Addendum" document provided by the Appraiser to adjust for the differences in the comparable properties' components using professionally accepted mass appraisal methods, the Commission finds that equalization exists between the valuations of the properties submitted and the Subject Property.
 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

¹⁸ Appraisal Institute, *Appraising Residential Properties* 334 (4th ed. 2007)

¹⁹ International Association of Assessing Officers, *Property Assessment Valuation* 105 (3d ed. 2010).

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

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. The Appraiser verified there was a walkthrough of the Subject Property completed with the Taxpayer in February 2025. The Taxpayer did not take issue with the component data on file within the Subject Property's PRF.
29. The Appraiser stated there was a revaluation conducted to the Subject Property 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.
30. 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.
31. 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.
32. 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.

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

²² *Id.*

2. The taxable value of the Subject Property for tax year 2025 is:

Land	\$ 70,000
<u>Improvements</u>	<u>\$343,600</u>
Total	\$413,600

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 March 31, 2026.

Signed and Sealed: March 31, 2026



Jackie S. Russell, Commissioner