BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

LISA C. LEWIS APPELLANT, v. DOUGLAS COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 25R 0996 DECISION AND ORDER REVERSING 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 2225563116.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at $884,200 for tax year 2025.
3. Lisa C. Lewis (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 $786,700 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 June 2, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Lisa C. Lewis was present at the hearing for the Taxpayer.
8. Michael Lunkwitz (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]

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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 Taxpayer brought this appeal alleging the residence on the Subject Property is overvalued due to increases rising too quickly for one year.
18. The Taxpayer also alleged in the appeal that the Subject Property's value has increased by greater amounts than neighboring properties.
19. The Taxapyer provided the property record files (PRFs) for six neighboring properties to show the valuation and the 2025 increase are too high.
20. The Appraiser provided the PRF for the Subject Property.
21. However, of the six properties presented for comparison, five of them are different style homes than the Subject Property.
22. The Subject Property has a 2,643-square-foot, multi-level, single-family home built in 1978 and with a physical address of at 20680 Rawhide Road in Omaha, Nebraska. The Subject Property's residence was remodeled in 1990 according to the PRF. For 2025, the Subject Property has a quality rating of "good" and a condition rating of "average."
23. The only property submitted by the Taxpayer for comparison with a similar style to the Subject Property was a neighboring tri-level home with a physical address of 20580 Rawhide Road in Elkhorn, Nebraska (20580 Rawhide). 20580 Rawhide is a 2,406-square-foot, single-family residence built in 1976. 20580 Rawhide also has a 2025 a quality rating of "good" and condition rating of "average."
24. The PRFs presented show 20580 Rawhide and the Subject Property are not sufficiently comparable for the Commission to conclude the Subject Property's value is incorrect.
25. First, 20580 Rawhide was never remodeled at any point according to its PRF. The effective ages of 20580 Rawhide (49) and the Subject Property (47) are similar despite the remodel in the Subject Property's history.

26. The PRFs show the two properties have other differences as well, including different fireplaces, the Subject Property has more than double the basement space (both overall and finished), the Subject Property's residence has an attached garage and a detached garage where 20580 Rawhide has a built-in garage, to name a few.
27. Thus, the Taxpayer has not presented competent evidence to rebut the presumption in favor of the County Board with regard to the value of the Subject Property's residence.
28. However, the Commission's inquiry does not end here.
29. In the original appeal form, the Taxpayer noted that the reduction by the County Board was due to a change to the quality of a barn (Barn) on the Subject Property.
30. The Subject Property's PRF presented at the hearing shows the Barn was built in 2005 and has 4,752 square feet of space, 1,760 square feet of which is finished. The Barn also had a 2025 quality rating of "very good."
31. The County Assessor also performed a cost-approach analysis of the Barn and finding its value to be $194,867.
32. The original 2025 assessed value of the Subject Property's improvements was a total of $786,700.
33. The County Board reduced this total improvement assessment to $625,300. This number was apparently based on the recommendation of the referee at the protest proceeding to lower the quality rating of the Barn. However, the County Board did not change the quality rating for the Barn.
34. The County Board's decision instead apparently placed a value of $0 on the Barn, attributing all of the value to the Subject Property's residence and to the land.
35. It is *per se* unreasonable for the County Board to assess $0 for improvements, particularly when the improvements appear to be of very good quality and hold significant value.
36. Thus, the Commission finds and determines there is competent evidence that the County Board failed to faithfully perform its

duties and to act on sufficient competent evidence to justify its actions.

37. The Commission also finds the County Board's $0 valuation for the Subject Property's Barn in 2025 to be arbitrary or unreasonable.
38. The only remaining question for the Commission is the Barn's taxable value in 2025.
39. The only competent evidence before the Commission of the Barn's 2025 value is the Subject Property's PRF provided by the Appraiser showing a cost approach value determination of $194,867.
40. Adding this amount to the County Board's value for the Subject Property's residence would increase the Subject Property's total value to a level higher than the original assessment.
41. "The Commission may consider and find a taxable value in excess of the highest taxable value for which notice was given by the County Assessor, the County Board of Equalization, or the Property Tax Administrator if notice of a higher taxable value and the intent to offer proof in its support is given by a party."[16]
42. No party provided such notice prior to the hearing. Therefore, the Commission is limited to the value originally determined by the County Assessor.
43. The Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
44. The Taxpayer has 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 vacated.

[16] Title 442 Neb. Admin. Code ch 5, § 016.02A (06/2021).

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

Land	$161,400
Improvements	$722,800
Total	$884,800

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 August 6, 2026.

SIGNED AND SEALED: August 6, 2026.

SEAL

James D. Kuhn, Commissioner