

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

JERRY L GREINER REAL  
ESTATE TRUST  
APPELLANT,

v.

LANCASTER COUNTY  
BOARD OF EQUALIZATION,  
APPELLEE.

CASE NO: 25R 1065

DECISION AND ORDER  
REVERSING 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 16-18-448-002-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$435,700 for tax year 2025.
3. Jerry L Greiner Real Estate 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 \$420,000 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. Barbara L. Kreifels was present at the hearing for the Taxpayer.
8. Tim Johns (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 of the board.<sup>7</sup>

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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.

<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.

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

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<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 *Botdorf 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).

<sup>15</sup> 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 2002 with 1,534 square feet (SF) above grade, and walkout basement area with 1,534 SF of which 1,000 SF is fully finished. There are thirteen plumbing fixtures, one fireplace, and an attached garage with 483 SF. The overall quality rating is 3 (average) and the condition/desirability/utility (CDU) rating is 4 (typical).
18. The Taxpayer argued that the Subject Property valuation was arbitrary and unreasonable based on the submitted appraisal report completed by Tony Milana (“Milana Appraisal”).
19. The Milana Appraisal was written with an effective date of April 14, 2025, and contains an opinion of value of \$366,500.
20. The Milana Appraisal indicates on the Certifications page that Milana has conformed to Uniform Standards of Professional Appraisal Practice when compiling and completing the Appraisal.
21. “When an independent appraiser using professionally approved methods of mass appraisal certifies that an appraisal was performed according to professional standards, the appraisal is considered competent evidence under Nebraska law.”<sup>16</sup>
22. The Commission finds and determines that the Milana Appraisal constitutes competent evidence concerning the value of the Subject Property and that the presumption in favor of the County Board’s determination is rebutted.
23. The Appraiser argued that the Milana Appraisal adjusts for a “water view” to comparable property number one within the Milana Appraisal which is located directly across the street from the Subject Property but does not “back” to a pond as stated in the Milana Appraisal.

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<sup>16</sup> *Lincoln Cty. Bd. of Equalization v. W. Tabor Ranch Apartments, LLC*, 314 Neb. 582, 595, 991 N.W.2d 889 (2023) (citing *JQH La Vista Conf. Ctr. v. Sarpy Cty. Bd. of Equal.*, 285 Neb. 120, 825 N.W.2d 447 (2013)); then citing *Cain v. Custer Cty. Bd. of Equalization*, 298 Neb. 834, 906 N.W.2d 285 (2018)).

24. The Milana Appraisal explains within the Supplemental Addendum that *“Comp #1 is very similar to subject but backs a pond. This is a rare selling feature in the area and has a positive impact on price. A “view” adjustment was made on a percentage basis.”*
25. The Appraiser provided an aerial map of the Subject Property’s cul-de-sac and surrounding area for the Commission to review.
26. The Milana Appraisal does not explain how the locational position of the Comparable 1 property has a specific view of the pond different from the locational positioning of the Subject Property’s view.
27. The Commission finds that it is arbitrary for the Milana Appraisal to recognize an adjustment to Comparable 1 for a water “view” as the comparable property sits perpendicular to the water, at what appears to be equal distance as the positioning of the Subject Property perpendicular from the same pond but directly across the street from the comparable property.
28. For this reason, the Commission finds the \$22,500 water view adjustment from Comparable 1 as shown on Page 2 of 6 of the Milana Appraisal is arbitrary and would have a valuation impact on the Milana Appraisal opinion of value.
29. The Commission finds that simply removing the water view adjustment from Comparable 1 in the Milana Appraisal would increase the adjusted sales price of Comparable 1 to \$442,470.<sup>17</sup>
30. Within the provided “Appraisal Correlation Report,” it is evident that the action of the County Board to reduce the Subject Property’s value for tax year 2025 was based upon the Milana Appraisal’s adjusted sales price of Comparable 1. The Appraisal Correlation Report reads “Comp one is the most recent sale, and is located on the same street. Recommended value is the adjusted price of Comp 1...at \$420,000.”

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<sup>17</sup> Comp 1 adjusted sales price \$419,970 + 22,500 water view adjustment reversed.

31. The County Board placed emphasis on one sale to set the Subject Property's value, ignoring the remaining evidence provided in the Milana Appraisal to reconcile a sales comparison value approach.
32. However, the Milana Appraisal's reconciliation of comparable sales within the report were skewed by the inclusion of the water view adjustment to Comparable 1. The Supplemental Addendum reads "While comp #1 is in the immediate area, the pond view vs main arterial view has a large impact on value. Comp #2 and Comp #6 are more similar. A value in the middle range using comp #2 as main comp is best supported. Appraised value is \$366,500."
33. It should also be noted that the main arterial view at the rear of the Subject Property is accounted for by the "Location" adjustment within the Milana Appraisal as an inferior component to Comparables 2 through 5.
34. The Commission's review of the Milana Appraisal sales grid beginning on Page 2 of 6 shows that removal of the water view adjustment from Comparable 1 changes the "Net Adj." percentage from 6.7% to 0.2%<sup>18</sup> and the "Gross Adj" percentage from 10.6% to 5.6%,<sup>19</sup> significantly reducing the impact difference in the correlation between all comparables used and the Subject Property.<sup>20</sup>
35. It is the belief of the Commission that the Milana Appraisal utilized Comp 2 as the strongest indicator of value due to the lower Net Adjustment and Gross Adjustment percentages and was a completed sale rather than a listing like Comparable 6.

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<sup>18</sup> Adjustments of: Location (-13,500) + Room Count 4,500 + Gross Living Area 4,440 + Basement & Finished (-970) + Fireplace (-2,000) = (-7,530) Net Adjustment / \$450,000 Sales Price = 0.017 rounded to 0.2%

<sup>19</sup> Gross Adjustments = Location 13,000 + Room County 4,500 + Gross Living Area 4,440 + Basement & Finished 970 + Fireplace 2,000 = \$24,910 Gross Adjustment / \$450,000 Sales Price = 0.055 rounded to 5.5%

<sup>20</sup> Comp 2 Net Adj = 0.2% Gross Adj = 8.6% ; Comp 3 Net Adj = 5.8% Gross Adj = 13.2%; Comp 4 Net Adj = 13.5% Gross Adj = 16.7%; Comp 5 Net Adj = 0.2% Gross Adj = 8.6%; Comp 6 Net Adj = 4.4% Gross Adj = 7.7%.

36. It also cannot be ignored that Comparable 1 is in close proximity to the Subject Property and the Net Adjustment and Gross Adjustment without the use of the water view component adjustment significantly increases the likeness of Comparable 1 to the Subject Property.
37. For these reasons, the County Board's decision to reduce the Subject Property's value for tax year 2025 based upon the Milana Appraisal's arbitrarily adjusted sales price of Comparable 1 was arbitrary or unreasonable.
38. Thus, the only question remaining is the actual value of the Subject Property for tax year 2025.
39. For the same reasons stated above, the Commission finds that the Milana Appraisal does not constitute clear and convincing evidence of value for the Subject Property.
40. "Clear and convincing evidence is evidence which produces *in the trier of fact* a firm belief or conviction about the existence of a fact to be proved."<sup>21</sup>
41. The County Assessor also followed the sales comparison approach in valuing the Subject Property.
42. The Appraiser provided a Comparable Sales Report to support the Subject Property valuation as set by the County Assessor with recently sold properties along with their Property Record Files. 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 2025 valuation.
43. The Appraiser attested to using properties located within the Subject Property's neighborhood for analysis and provided two spreadsheets of like style properties in the neighborhood with the same quality construction as the Subject Property, as well as detailing other components of comparability and their valuations, showing market uniformity.

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<sup>21</sup> *Tj 2010 Corp. v. Dawson Cty. Bd. of Equalization*, 22 Neb. App. 989, 866 N.W.2d 93 (2015) (syllabus by the court) (emphasis added).

44. The Commission can find no error in the County Assessor's valuation analysis for the Subject Property for tax year 2025.
45. 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.
46. 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 and reversed.

**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	\$ 67,700
Improvements	<u>\$368,000</u>
Total	\$435,700

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 11, 2026.

**SIGNED AND SEALED: June 11, 2026.**

***SEAL***



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Jackie S. Russell, Commissioner