

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

INCA LLC  
APPELLANT,

CASE NO: 25R 1326

v.

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

DECISION AND ORDER  
REVERSING THE DECISION  
OF THE DOUGLAS COUNTY  
BOARD OF EQUALIZATION

**I. BACKGROUND**

1. The Subject Property consists of an improved residential parcel in Douglas County, parcel number 1944250000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$120,900 for tax year 2025.
3. INCA LLC (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 \$120,900 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 March 4, 2026, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Allan M. Ziebarth was present at the hearing for the Taxpayer.
8. James G. Morris (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.<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 *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).

<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 two-and-a-half story, single-family home built in 1910 with above grade area of 1,833 square feet (SF), unfinished basement area of 870 SF, one full bath, and a detached garage with 324 SF. The overall quality rating is average, and the condition rating is worn out.
18. The Taxpayer alleged that the 2025 valuation of the Subject Property is arbitrary and unreasonable due to the condition of the property.
19. The Taxpayer provided seven pictures showing areas of the interior and exterior of the Subject Property to depict the condition as of January 1, 2025.
20. The Appraiser stated that a “worn out” property condition description is used on properties that are no longer in livable condition with several components in need of repair or replacement.
21. The Taxpayer has not presented information to demonstrate that the condition rating of worn out for the Subject Property for tax year 2025 was arbitrary or unreasonable.
22. The Appraiser stated there was a revaluation conducted to the Subject Property’s neighborhood for tax year 2025. As such, any 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.
23. The Appraiser verified the Subject Property data within the Property Record File (PRF) with the Taxpayer at hearing to ensure correctness.
24. The Taxpayer stated that the property does not currently have an HVAC system as all components were removed prior to January 1, 2025 from the property.
25. The Taxpayer stated there were no appliances on site on or after January 1, 2025, and argued that the appliance allowance in the

detail value<sup>16</sup> is arbitrary and unreasonable.

26. The Appraiser provided a packet of information for the Subject Property including the PRF. The information details the Subject Property's components of contributory value, the subsequent cost approach to value, sales from the Subject Property's neighborhood, and the impact of the market sales data on the property's valuation using professionally accepted mass appraisal practices.
27. The Commission finds that due to the lack of the HVAC system and any appliances on site, the detail value of those components should be removed from the Subject Property's value for tax year 2025.
28. The HVAC depreciated attributable value is found to be \$1,328.<sup>17</sup>
29. The Appliance Allowance depreciated attributable value is found to be \$1,482.<sup>18</sup>
30. Sufficient competent evidence has been produced that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its action.
31. Clear and convincing evidence has been adduced that the determination of the County Board are arbitrary or unreasonable and the decision of the County Board should be vacated.

#### **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.

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<sup>16</sup> Property Record File for the Subject Property p. 8.

<sup>17</sup> PRF page 8 of 10. HVAC Adj = \$3,446 minus 74.11% depreciation (\$2,554) multiplied by NBHD Adj 1.4892 = \$1,328 depreciated HVAC value.

<sup>18</sup> PRF page 8 of 10. Appliance Allowance = \$3,842 minus 74.11% depreciation (\$2,847) multiplied by NBHD Adj 1.4892 = \$1,482 depreciated Appliance Allowance value.

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

Land	\$ 15,600
<u>Improvements</u>	<u>\$102,490</u>
Total	\$118,090

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 March 17, 2026.

Signed and Sealed: March 17, 2026.



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Jackie S. Russell, Commissioner