

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

Carol J. Clark,  
Appellant,

v.

Lancaster County Board of Equalization,  
Appellee.

Case No: 13C 490

Decision and Order Reversing the Decision  
of the Lancaster County Board of  
Equalization

1. The Commission held a Single Commissioner hearing in this appeal on August 24, 2016, at the Tax Equalization and Review Commission Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.
2. Carol J. Clark, the Taxpayer, was present at the hearing.
3. Bob Stanley, an employee of the Lancaster County Assessor, was present for the Lancaster County Board of Equalization (the County Board).

Background

4. The Lancaster County Assessor assessed the Subject Property at \$196,500 for tax year 2013.
5. The Taxpayer protested this value to the County Board and requested an assessed value of \$102,930 for tax year 2013.
6. The County Board determined that the taxable value of the Subject Property was \$170,100 for tax year 2013.

Issues & Analysis

7. The Commission's review of the determination of the County Board of Equalization is de novo. "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."
8. When considering an appeal a presumption exists 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." 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. 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. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.”

9. 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.
10. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.
11. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.
12. The Commission’s Decision and Order shall include findings of fact and conclusions of law.
13. At the hearing, Bob Stanley stated that sales in the same neighborhood of the Subject Property supported the conclusion that the taxable value for the real property described in this appeal was \$107,800 for tax year 2013. The Taxpayer agreed with that conclusion.
14. The Taxpayer has produced competent evidence that rebuts the presumption of correctness in favor of the County Board.
15. The Taxpayer has adduced sufficient, clear and convincing evidence that the determination of the County Board is unreasonable or arbitrary and the decision of the County Board should be vacated.

### **ORDER**

#### **IT IS THEREFORE ORDERED THAT:**

1. The Decision of the Lancaster County Board of Equalization determining the taxable value of the Subject Property for tax year 2013 is Vacated and Reversed.
2. The taxable value of the Subject Property for tax year 2013 is \$107,800.
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 (2014 Cum. Supp.).
4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. This Order applies only to the taxable value of the Subject Property for the 2013 tax year.
6. Each Party is to bear its own costs in this proceeding.
7. This Decision and Order is effective on August 25, 2016.

**SIGNED AND SEALED** August 25, 2016

**Seal**

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Robert W. Hotz, Commissioner