

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Andrew J. Hickox,
Appellant,

v.

Box Butte County Board of Equalization,
Appellee.

Case No: 16R 0004

Decision and Order Affirming
County Board of Equalization

Background

1. The Subject Property is a rural residential property improved with a 2,322 square foot dwelling, with a legal description of: Pt. NE ¼ NE ¼, 14-25-47 cont 5 acres, Box Butte County, Nebraska.
2. The Box Butte County Assessor (the County Assessor) assessed the Subject Property at \$284,526 for tax year 2016.
3. The Taxpayer protested this value to the Box Butte County Board of Equalization (the County Board) and requested an assessed value of \$188,063 for tax year 2016.
4. The County Board determined that the taxable value of the Subject Property was \$281,881 for tax year 2016.
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 23, 2017, at the Hampton Inn & Suites, Scottsbluff, Nebraska, before Commissioner Nancy J Salmon.
7. Taxpayer Andrew J. Hickox was present at the hearing on behalf of himself.
8. Aaron Bourne, Box Butte Deputy County Attorney, was present for the County Board.

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 the determination of the County Board of Equalization is de novo.²
11. 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

¹ See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009).

² See, Neb. Rev. Stat. §77-5016(8) (2016 Cum. Supp.), *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 (2009).

sufficient competent evidence to justify its action.”³ 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.”⁴

12. 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.⁵
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁷
15. The Commission’s Decision and Order shall include findings of fact and conclusions of law.⁸

Findings of Fact & Conclusions of Law

16. The Taxpayer alleged that the Subject Property was not assessed uniformly and proportionally with other comparable properties in Box Butte County.
17. The Taxpayer expressed concerns that he would be unable to sell the Subject Property for the value assessed by the County. He indicated that he had an appraisal for the Subject Property in the amount of \$185,000. He stated that the appraisal was approximately two years old. He did not provide a copy of the appraisal because he felt it was too old. The Taxpayer provided information on one property which he felt was comparable to the Subject Property and indicated such property was assessed at less than the Subject Property. He did not provide a copy of the Property Record Card for that property.
18. The County Assessor explained that she had done a re-appraisal of all rural residential properties in Box Butte County for 2016. She provided information on several properties that she felt were comparable to the Subject Property. The Assessor also noted that the alleged comparable property discussed by the Taxpayer was older than the Subject Property and had a pole building with no attached garage. The Subject Property was newer, had a carport, and also an attached garage. The Assessor also described several

³ *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

⁴ *Id.*

⁵ Neb. Rev. Stat. §77-5016(9) (2016 Cum. Supp.).

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

⁷ Cf. *Josten-Wilbert Vault Co. v. Board of Equalization for Buffalo County*, 179 Neb. 415, 138 N.W.2d 641 (1965)

(determination of actual value); *Lincoln Tel. and Tel. Co. v. County Bd. Of Equalization of York County*, 209 Neb. 465, 308 N.W.2d 515 (1981)(determination of equalized taxable value).

⁸ Neb. Rev. Stat. §77-5018(1) (2016 Cum. Supp.).

sales of properties which supported the assessment value. The Taxpayer indicated he was unaware of any sales of similar properties in the area.

19. The Taxpayer did not provide sufficient information for the Commission to grant the relief requested.
20. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
21. 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.

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 2016, is Affirmed.
2. The taxable value of the Subject Property for tax year 2016 is:

Land	\$ 15,566
<u>Improvements</u>	<u>\$266,315</u>
Total	\$281,881

3. This Decision and Order, if no further action is taken, shall be certified to the Box Butte County Treasurer and the Box Butte County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2016 Cum. Supp.).
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 2016.
7. This Decision and Order is effective on May 26, 2017.

Signed and Sealed: May 26, 2017

Nancy J. Salmon, Commissioner