

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

William I. Dreibelbis,  
Appellant,

Case Nos: 16R 0447, 17R 0647 & 18R 0289

v.

Decision and Order Affirming the  
Determination of the Douglas  
County Board of Equalization

Douglas County Board of Equalization,  
Appellee.

**Background**

1. The Subject Property is a residential parcel improved with a 2,313 square foot two and one-half story unfinished residence, with a legal description of: Euclid Place Lot 2 Block 2 50 X 168, Omaha, Douglas County, Nebraska.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$60,500 for tax year 2016.
3. William I. Dreibelbis (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board) and requested an assessed value of \$20,000 for tax year 2016.
4. The County Board determined that the taxable value of the Subject Property was \$45,000 for tax year 2016.
5. The County Assessor assessed the Subject Property at \$54,800 for tax year 2017.
6. The Taxpayer protested this value to the County Board and requested an assessed value of \$20,000 for tax year 2017.
7. The County Board determined that the taxable value of the Subject Property was \$40,200 for tax year 2017.
8. The County Assessor assessed the Subject Property at \$59,800 for tax year 2018.
9. The Taxpayer protested this value to the County Board and requested an assessed value of \$20,000 for tax year 2018.
10. The County Board determined that the taxable value of the Subject Property was \$49,800 for tax year 2018.
11. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
12. A Single Commissioner hearing was held on January 24, 2019, at Omaha State Office Building, 1313 Farnam, Room E (301E), Omaha, Nebraska, before Commissioner Steven Keetle.
13. William I. Dreibelbis was present at the hearing.
14. Larry Thomsen, Senior Appraiser: Residential, of the Douglas County Assessor/Register of Deeds Office (the County Appraiser) was present for the County Board.

## Applicable Law

15. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
16. The Commission's review of the determination of the County Board of Equalization is de novo.<sup>2</sup>
17. 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."<sup>3</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. 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."<sup>4</sup>
18. 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>5</sup>
19. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
20. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.<sup>7</sup>
21. The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

## Findings of Fact & Conclusions of Law

22. The Taxpayer alleged that the value of the Subject Property was \$20,000 for each of the three tax years before the Commission.
23. The Taxpayer stated that the value of the Subject Property should be reduced due to its condition.

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<sup>1</sup> See, Neb. Rev. Stat. §77-1301(1) (Reissue 2018).

<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 (2009).

<sup>3</sup> *Brenner* at 283, 811.

<sup>4</sup> *Id.*

<sup>5</sup> Neb. Rev. Stat. §77-5016(9) (Reissue 2018).

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

<sup>7</sup> Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 138 N.W.2d 641 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cty. Bd. of Equal. of York Cty.*, 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).

<sup>8</sup> Neb. Rev. Stat. §77-5018(1) (Reissue 2018).

24. The County Board presented the Property Record File (PRF) for the Subject Property, as well as information regarding all of the qualified sales that occurred in the economic area of the Subject Property, which were used in determining the value attributed to each of the characteristics of residential properties in that area, including the Subject Property.
25. The PRF for each tax year contains field notes discussing the condition of the property (i.e. poor roof condition, original windows, rotting fascia, etc.) and indicated that for tax years 2016 and 2017 the Subject Property was given a condition rating of poor and for tax year 2018 the condition rating was reduced to worn out.
26. The Taxpayer failed to demonstrate that the county's determination of condition for the Subject Property for tax years 2016, 2017, or 2018, was unreasonable or arbitrary.
27. The Taxpayer alleged that the value of the Subject Property should be reduced because the property had been condemned by the City of Omaha in the past and could not be lived in. The information presented to the Commission indicates that Subject Property was inhabited during the tax years in question and not documentation of the condemnation order was produced.
28. The Taxpayer alleged that the Subject Property would have to be sold "as is" due to some type of waste on the property, but refused to indicate what the waste was or the cost of remediation.
29. The Taxpayer further indicated that the value of the Subject Property should be reduced due to information contained in the records of the register of deeds or court records, but he did elaborate on what those records were and did not provide the records to the Commission for consideration in these appeals.
30. 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.
31. The Taxpayer has not adduced clear and convincing evidence that the determinations of the County Board are arbitrary or unreasonable and the decisions of the County Board should be affirmed.

ORDER

IT IS ORDERED THAT:

1. The Decisions of the County Board of Equalization determining the taxable value of the Subject Property for tax years 2019, 2017, and 2018 are affirmed.
2. The taxable value of the Subject Property for tax year 2016 is:

Land	\$ 7,100
<u>Improvements</u>	<u>\$37,900</u>
Total	\$45,000

3. The taxable value of the Subject Property for tax year 2017 is:

Land	\$13,000
<u>Improvements</u>	<u>\$27,200</u>
Total	\$40,200

4. The taxable value of the Subject Property for tax year 2018 is:

Land	\$13,000
<u>Improvements</u>	<u>\$36,800</u>
Total	\$49,800

5. 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 (Reissue 2018).
6. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
7. Each Party is to bear its own costs in this proceeding.
8. This Decision and Order shall only be applicable to tax years 2016, 2017, and 2018.
9. This Decision and Order is effective on February 12, 2020.

Signed and Sealed: February 12, 2020

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Steven A. Keetle, Commissioner