

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Jeff Woolard,
Appellant,

v.

Sarpy County Board of Equalization,
Appellee.

Case Nos: 17R 0003 & 18R 0011

Decision and Order Affirming
County Board of Equalization

Background

1. The Subject Property is a raised ranch, single family home, with a legal description of: Lot 611 Park View Heights Replat III.
2. The Sarpy County Assessor (the County Assessor) assessed the Subject Property at \$150,052 for tax year 2017 and \$162,041 for tax year 2018.
3. Jeff Woolard (the Taxpayer) protested this value to the Sarpy County Board of Equalization (the County Board) and requested an assessed value of \$138,496 for tax year 2017 and tax year 2018.
4. The County Board determined that the taxable value of the Subject Property was \$150,052 for tax year 2017 and \$162,041 for tax year 2018.
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 September 27, 2018, at the Commission Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Jeff Woolard was present at the hearing.
8. Jackie Morehead (the Deputy County Assessor) and Shane Grow (the County Appraiser) were 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

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).

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 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 asserts a 24% increase in valuation over the past five years is excessive and doesn’t reflect the current value of the Subject Property.
17. The Taxpayer offered five allegedly comparable sales of properties in Ralston, Nebraska. No property record cards were offered to show that these are truly comparable to the Subject Property.
18. The Taxpayer offered a 2012 quote for new windows of \$24,000 and a 2014 quote for a new air conditioning system of \$5,000. He feels the need to perform these updates would negatively affect the value of his home should he ever decide to sell.
19. The Taxpayer also commented that half of his income is from Social Security and the increase of health care costs make higher property taxes difficult. Although the Commission understands and respects these concerns, the issue to be decided in this proceeding is whether the property is correctly valued.
20. The County Appraiser stated there were 406 residential parcels in the state sales file.⁹ Eight raised ranch homes sold in 2017 and nine raised ranch homes sold in 2018. These

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.).

⁹ The State sales file is a data base consisting of qualified sales for each county to use when determining values.

sales were used in aiding in the valuation of the Subject Property. The County offered thirteen comparable properties to show comparability, equalization and which properties were used at the Board of Equalization hearing.

21. When analyzing the County's comparable properties, the indicated price per square foot of each of these properties shows the values to be within acceptable mass appraisal standards.
22. 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.
23. 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 2017, is affirmed.
2. The taxable value of the Subject Property is:

2017	Land	\$ 22,000
	<u>Improvements</u>	<u>\$128,052</u>
	Total	\$150,052
2018	Land	\$ 22,000
	<u>Improvements</u>	<u>\$140,041</u>
	Total	\$162,041

3. This Decision and Order, if no further action is taken, shall be certified to the Sarpy County Treasurer and the Sarpy 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 2017.
7. This Decision and Order is effective on October 3, 2018.

Signed and Sealed: October 3, 2018

James D. Kuhn, Commissioner