

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Stacy W. Cochran,
Appellant,

v.

Chase County Board of Equalization,
Appellee.

Case No: 18A 0160

Decision and Order Affirming
County Board of Equalization

Background

1. The Subject Property is 160 acres of agricultural land, with a legal description of: NW1/4 13-8-41 (160 A) (Joint Tenants, WROS) 001 VF.
2. The Chase County Assessor (the Assessor) assessed the Subject Property at \$561,548 for tax year 2018.
3. Stacy W. Cochran (the Taxpayer) protested this value to the Chase County Board of Equalization (the County Board) and requested an assessed value of \$108,330 for tax year 2018.
4. The County Board determined that the taxable value of the Subject Property was \$561,548 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 9, 2019, at the Hampton Inn North Platte, 200 Platte Oasis Parkway, conference room, North Platte, Nebraska, before Commissioner James D. Kuhn.
7. Stacy W. Cochran was present at the hearing.
8. Dorothy Bartels, the Assessor, 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 Neb. Rev. Stat. §77-1301(1) (Reissue 2018).

² 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).

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 stated he rented the Subject Property for the past two years and purchased the Subject Property in March of 2018. The Taxpayer asserted he never irrigated the Subject Property during the time he rented and subsequently owned the property.
17. The Taxpayer stated the historical use of water on the Subject Property is only 1.46 inches per year. Due to the lack of enough water to properly irrigate the Subject Property, the Taxpayer has never irrigated the Subject Property, stating there isn’t enough water allocated to properly irrigate half of the property. The Taxpayer decertified the irrigated acres November 26, 2018.
18. The Assessor stated the Natural Resource District (NRD) has 129.3 acres certified as irrigated; she uses the NRD records to identify and value irrigated land in Chase County.
19. Nebraska Revised Statute 77-1301 states in part, “all real property in this state subject to taxation shall be assessed as of January 1 at 12:01 a.m.[.]”
20. The Subject Property was certified by the NRD as having 129.3 acres of irrigated crop for 2018.

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

⁴ *Id.*

⁵ Neb. Rev. Stat. §77-5016(9) (Reissue 2018).

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. 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. County Bd. of Equal. of York Cty.*, 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).

⁸ Neb. Rev. Stat. §77-5018(1) (Reissue 2018).

21. 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.
22. 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 2018, is affirmed.
2. The taxable value of the Subject Property for tax year 2018 is:

<u>Total</u>	<u>\$561,548</u>
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3. This Decision and Order, if no further action is taken, shall be certified to the Chase County Treasurer and the Chase County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Reissue 2018).
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 2018.
7. This Decision and Order is effective on September 27, 2019.

Signed and Sealed: September 27, 2019

James D. Kuhn, Commissioner