

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

Bel Fury Investments Group, LLC,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case Nos: 18R 0313 & 19R 0513

Decision and Order Affirming  
County Board of Equalization

Background

1. The Subject Property is a residential parcel, with a legal description of: Drew Hill Add Lot 17 Block 3 LTS 16 & 17 82x107 Omaha, Nebraska.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$58,300 for tax year 2018 and \$78,100 for tax year 2019.
3. Bel Fury Investments Group, LLC (the Taxpayer) protested these values to the Douglas County Board of Equalization (the County Board) and requested assessed values of \$21,000 for tax year 2018 and \$49,100 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$58,300 for tax year 2018 and \$78,100 for tax year 2019.
5. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on July 20, 2020, at the Tax Equalization and Review Commission Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Arielle Bloemer, legal counsel, and Scott W. Bloemer, Member, were present at the hearing for the Taxpayer.
8. Kurt Skradis (the Appraiser), was present at the hearing 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.<sup>1</sup>
10. The Commission’s review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
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

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<sup>1</sup> 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).

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>

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.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
14. The 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>
15. The Commission’s Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

#### Findings of Fact & Conclusions of Law

16. The Taxpayer asserts the Subject Property is in need of \$45,000 in repairs to the foundation, roof, siding, windows and plumbing. The increase in assessed value from 2017 to 2018 was more than \$48,000 and the Taxpayer believes the Subject Property is assessed over its current market value.
17. The Taxpayer provided a spreadsheet with two comparable properties and two sales of comparable properties for 2018 tax year. After analyzing the comparable properties, the Commission found the Subject Property to be near the median value per square foot for all four comparables and found that the two sales comparables were assessed higher than the current assessment of the Subject Property. No information was provided as to whether the two sales comparables had been improved after the purchase. None of the comparables were of the same quality and condition ratings as the Subject Property.
18. The Taxpayer provided a spreadsheet with five allegedly comparable properties for the 2019 tax year.
19. For tax year 2019, the County Assessor re-drew the lines used to divide properties into neighborhoods for assessment purposes; the Subject Property became part of a different assessment neighborhood for the 2019 assessment. Four of the comparable properties

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

<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. County 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).

offered by the Taxpayer were in different assessment neighborhoods than the Subject Property following this realignment; the fifth comparable property was not in the same neighborhood as the Subject Property before or after the realignment.

20. The assessed value for real property may be different from year to year, dependent upon the circumstances.<sup>9</sup> A prior year's assessment is not relevant to the subsequent year's valuation.<sup>10</sup>
21. The Commission did not receive any evidence to show that the County Assessor's methodology in realigning assessment neighborhoods was arbitrary or unreasonable. Although the Subject Property has a higher price per square foot than the comparable properties from its previous assessment neighborhood, no evidence was given to show the Subject Property was not equalized with homes in its new assessment neighborhood because no comparables were provided from the Subject Property's new assessment neighborhood.
22. The Appraiser stated that line item adjustments would have to be made to compare the Subject Property with the comparables provided by the Taxpayer. The Appraiser did not feel the comparable properties provided by the Taxpayer were good comparables.
23. 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.
24. 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 2018 and 2019 are affirmed.
2. The taxable value of the Subject Property for tax year 2018 is: **\$58,300**.
3. The taxable value of the Subject Property for tax year 2019 is: **\$78,100**.
4. 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).
5. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
6. Each Party is to bear its own costs in this proceeding.
7. This Decision and Order shall only be applicable to tax years 2018 and 2019.

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<sup>9</sup> *DeVore v. Bd. of Equal.*, 144 Neb. 351, 355, 13 N.W.2d 451, 453 (1944), *Affiliated Foods Coop. v. Madison County Bd. of Equal.*, 229 Neb. 605, 613, 428 N.W.2d 201, 206 (1988).

<sup>10</sup> *DeVore, Affiliated Foods*, see also *Kohl's Department Stores v. Douglas County Bd. of Equal.*, 10 Neb.App. 809, 814, 638 N.W.2d 877, 881-882 (2002).

8. This Decision and Order is effective on August 17, 2021.

Signed and Sealed: August 17, 2021

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James D. Kuhn, Commissioner