

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Bel Fury Investments Group, LLC,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case Nos: 18R 0317 & 19R 0515

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

Background

1. The Subject Property is a residential parcel, with a legal description of: Drew Hills Add Lot 3, Block 6 W 34 FT LT 2 & E 14 FT.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$63,500 for tax year 2018 and \$87,300 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 \$43,900 for tax year 2018 and \$40,300 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$63,500 for tax year 2018 and \$87,300 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 March 18, 2021, 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 1.¹
10. The Commission’s review of a determination of the County Board of Equalization is de novo.²

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).

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 stated the Subject Property is valued in excess of its market value as evidenced by the comparable properties provided. The Taxpayer stated the comparable properties are valued much lower than the Subject Property. The Taxpayer provided an equalization spreadsheet with “market adjustments” to each of the properties to make them equal. The Taxpayer stated the “market adjustments” made are based on many years of knowledge in the real estate business.
17. The Appraiser stated there is no evidence provided to show the adjustments are correct or how the adjustment values were figured. The Appraiser stated all the comparable properties are from a different neighborhood and are much older than the Subject Property. The Appraiser stated the median sale price in the Subject Property’s neighborhood is \$66,000 as compared to the median sale price of the neighborhood of the Taxpayer’s comparable properties of \$54,725.
18. The Commission analyzed the data and found that one of the comparable properties provided by the Taxpayer was from the same neighborhood as the Subject Property. The

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).

comparable was similar in age and the same square footage as the Subject Property. The Subject Property's improvement price per square foot is \$79.58 and the comparables price per square foot is \$76.25. The Subject Property has basement finish, additional fixtures, chain link fence and a detached garage, all of which the comparable does not. The Subject Property would be considered superior to the comparable property, hence the higher price per square foot. The other comparable properties provided were in a different neighborhood and were all 40 to 50 years older than the Subject Property. These were not good comparable properties. The Commission is not convinced by the Taxpayer's evidence that the 2018 and 2019 assessments are incorrect.

19. 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.
20. 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: **\$63,500**.
3. The taxable value of the Subject Property for tax year 2019 is: **\$87,300**.
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.
8. This Decision and Order is effective on November 9, 2021.

Signed and Sealed: November 9, 2021

James D. Kuhn, Commissioner