

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Bel Fury Investments Group, LLC,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case Nos: 18R 0324 & 19R 0443

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

Background

1. The Subject Property is a residential parcel, with a legal description of: Cedar Hollow Lot 9, Block 0 60 X 125.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$92,200 for tax years 2018 and 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 \$62,100 for tax year 2018 and \$70,500 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$92,200 for tax years 2018 and 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 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
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 the Subject Property is a 43 plus year old home that is showing wear and tear from years of tenant neglect. The Taxpayer stated the condition of the Subject Property was raised from “fair” to “average” for the 2019 tax year and should be lowered back to the original “fair” condition. The Commission was provided with 2017 and 2018 property record files (PRF) where the quality and condition ratings were “average” and “fair.” The Commission does not have a PRF to show the condition of the Subject Property as “average” for tax year 2019. The Taxpayer provided a property evaluation report done by Connie Watson, who is a general contractor/property manager for Bel Fury Investments Group LLC. Ms. Watson estimated work to be done on the Subject Property would cost \$17,200. Repairs for items such as roof, gutters, foundation and driveway were part of the report.
17. The Taxpayer provided a PRF of a recently sold nearby property (23608 Elm Cir.) that sold for \$70,000. The Taxpayer stated the Subject Property is assessed at \$93.32 per square foot whereas the comparable property sold for \$71.72 per square foot. The 2018 and 2019 assessed value of the comparable was \$103,000 or \$105.53 per square foot.

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).

18. The Appraiser stated the comparable sale provided by the Taxpayer was not considered a good sale for comparison purposes as it was a private sale and not advertised. The Appraiser stated another appraiser in the office visited with the renter of the Subject Property and asked if there were any issues with the property. The renter stated there were none and everything was working. After interviewing the renter and reviewing the property, the appraiser changed the condition to “average” for the 2019 tax year.
19. The Appraiser stated that sales in the neighborhood support the current valuation of the Subject Property.
20. 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.
21. 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.

THEREFORE 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 years 2018 and 2019 is: **\$92,200**
3. 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).
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 years 2018 and 2019.
7. This Decision and Order is effective on August 20, 2021.

Signed and Sealed: August 20, 2021

James D. Kuhn, Commissioner