

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Bel Fury Investments Group, LLC,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case Nos: 18R 0330 & 19R 0499

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

Background

1. The Subject Property is a residential parcel, with a legal description of: Poppleton Park Lot 7, Block 16 50x128.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$66,900 for tax year 2018 and \$73,600 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 \$33,600 for tax year 2018 and \$33,600 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$59,000 for tax year 2018 and \$73,600 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 August 14, 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 1.¹
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 needs many repairs as evidenced by the Property Evaluation Report done by Connie Watson done in June of 2020. Over \$20,000 worth of repairs to the interior and exterior were noted in the report. The Taxpayer stated he feels the Subject Property could be considered “poor” condition but offered no evidence to quantify the effect of a change in condition rating on the actual value of the property. The Appraiser stated the current condition rating of “fair” accounts for many repairs being needed and obvious deferred maintenance.
17. The Taxpayer provided comparable properties and recent sales to show the Subject Property is being overvalued. When analyzing the 2018 comparable properties, the Commission found the Subject Property to be at the median price per square foot of improvements from the same neighborhood. The sales comparable was from a different neighborhood and had different quality and condition ratings from the Subject Property.
18. The Taxpayer felt the comparable located at 810 N 41 Ave (810 property) was the closest comparable to the Subject Property. The 810 property is close in age and size as well as having the same quality and condition ratings. It sold in 2018 for \$85,000 or \$99.88 per

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).

square foot, although the sale was an estate sale and not considered a valid sale for comparison purposes by the County Assessor's office.

19. After analyzing the comparable properties for the 2019 tax year, the Commission found them all to be from a different neighborhood than the Subject Property ,with a majority of them having different quality and condition ratings. The Appraiser stated the Subject Property's neighborhood was part of a reappraisal in 2018, and again in 2019, which changed some of the neighborhood boundaries. Different adjustments were made to each of the newly defined neighborhoods.
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.

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: **\$59,000**.
3. The taxable value of the Subject Property for tax year 2019 is: **\$73,600**.
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 August 24, 2021.

Signed and Sealed: August 24, 2021

James D. Kuhn, Commissioner