

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Belamini Properties, LLC,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case Nos: 18R 0384 & 19R 0590

Decision and Order Affirming
County Board of Equalization

Background

1. The Subject Property is a single family dwelling, with a legal description of: Redmans Sub Div Lot 133 Block 0 40 X 157.
2. The Douglas County Assessor (the Assessor) assessed the Subject Property at \$26,800 for tax years 2018 and 2019.
3. Bellamini Properties LLC (the Taxpayer) protested these values to the Douglas County Board of Equalization (the County Board) and requested lower assessments for tax years 2018 and 2019.
4. The County Board determined that the taxable value of the Subject Property was \$26,800 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 September 4, 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. Michael J. Walz was present at the hearing for the Taxpayer.
8. Stan Mlotek (the Appraiser) 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 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 asserted the Subject Property was part of a package deal with multiple parcels that he purchased March 12, 2015. The Taxpayer provided the Real Estate Transfer Statement (form 521) showing a purchase price of \$31,750.
17. The Taxpayer stated the Subject Property was under code enforcement and condemned since its purchase. The Taxpayer stated the plumbing and wiring were vandalized and the Subject Property was never rented as it was unlivable.
18. The Appraiser stated the form 521 showed a purchase price of \$31,750 and does not show that it included multiple parcels as there is only one property’s legal description shown on line 20 of the form 521. The Appraiser stated he was unaware of any condemnation of the Subject Property.
19. The Taxpayer did not provide any evidence to quantify the effects of the problems he described with the Subject Property on its market value.
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.

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 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 years 2018 and 2019 is: **\$26,800.**
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 February 17, 2021.

Signed and Sealed: February 17, 2021

James D. Kuhn, Commissioner