

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

Bel Fury Investments Group, LLC,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case Nos: 18R 0300 & 19R 0524

Decision and Order Affirming  
County Board of Equalization

Background

1. The Subject Property is a single family dwelling with a legal description of: Campbells Add Lot 4 Block 10 39x158.
2. The Douglas County Assessor (the Assessor) assessed the Subject Property at \$41,400 for tax year 2018 and \$67,200 for tax year 2019.
3. Bel Fury Investments Group (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board) and requested an assessed value of \$35,500 for tax years 2018 and 2019.
4. The County Board determined that the taxable value of the Subject Property was \$41,400 for tax year 2018 and \$49,000 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 February 27, 2020, at the Commission Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Scott W. Bloemer was present at the hearing for the Taxpayer.
8. Larry Thomsen (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.<sup>1</sup>
10. The Commission's review of the 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

<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. A 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 stated the Subject Property is a 94 year old home with two bedrooms and one bathroom. The Taxpayer feels the home is being assessed higher than comparable properties’ assessments and higher than a couple of comparable properties’ recent sale prices.
17. The Taxpayer provided spreadsheets with the comparable properties and made “market adjustments” to arrive at an “equalized assessed value.” When the Commission analyzed the comparable properties, we found that three of the comparables were from the same neighborhood as the Subject Property; two of the comparable properties are of the same quality and condition as the Subject Property. The two comparable sales provided by the Taxpayer were homes built in 1885 and 1895, whereas the Subject Property was built in 1924; the Appraiser felt as though the age difference between the sales and the Subject Property would not make them good comparable properties.
18. Although the Taxpayer may have knowledge of the local market, the adjustments being made to the comparable properties are not an accepted appraisal method and are not compliant with the Uniform Standards of Professional Appraisal Practice (USPAP). The

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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).

Commission is unable to quantify the adjustments being made to the comparable properties as they are different than the actual assessed value of the components.

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 decision 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 years 2018 and 2019 is:

	<u>2018</u>
<u>Total</u>	<u>\$41,400</u>

	<u>2019</u>
<u>Total</u>	<u>\$49,000</u>

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 May 29, 2020.

Signed and Sealed: May 29, 2020

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James D. Kuhn, Commissioner