

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

Bel Fury Investments Group, LLC,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case Nos: 18R 0352 & 19R 0538

Decision and Order Affirming  
County Board of Equalization

Background

1. The Subject Property is a single family dwelling, with a legal description of: Florence Field Lot 31 Block 39 N 14 FT LT 30 & All.
2. The Douglas County Assessor (the Assessor) assessed the Subject Property at \$60,100 for tax year 2018 and \$63,500 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 \$42,200 for tax year 2018 and \$42,300 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$60,100 for tax year 2018 and \$63,500 for tax year 2019.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on February 21, 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 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 being rated by the Assessor’s Office as Average condition but believes it should be rated as Fair condition. The Taxpayer stated the Subject Property is in need of repairs but has only been kept “code compliant” up to this point.
17. The Taxpayer provided comparable properties to show the equalization issue he believes to be at issue. The Taxpayer made “market adjustments” to all the properties to arrive at an “equalized assessed value.” The Taxpayers spreadsheet is showing the comparables to have a \$42.17 per square foot value compared to the Subject Property having a \$45.60 per square foot value. 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 Practices (USPAP). The Commission is unable to quantify the adjustments made to the comparable properties.
18. The Commission analyzed the comparable properties and found two of the properties are in the same neighborhood and have the same quality and condition rating. Upon further review of these two comparables, the Commission found that the Subject Property has

---

<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).

500 square foot of basement finish (valued at \$26.10 per square foot) whereas only one comparable has any basement finish (250 square foot) and it is rated as minimal (valued at \$7.03 per square foot); the other comparable from the same neighborhood does not show any basement finish. The Commission found the Subject Property has a 300 square foot wood deck whereas only one comparable had a deck and it was only 35 square foot.

19. The Commission finds that although the comparable properties are similar in many regards, the components of each property are much different and can lead to valuation differences.
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.

ORDER

IT IS ORDERED THAT:

1. The Decisions of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2018 and 2019 are affirmed.
2. The taxable values of the Subject Property for tax years 2018 and 2019 are:

**2018**

Land	\$ 1,000
<u>Improvements</u>	<u>\$59,100</u>
Total	\$60,100

**2019**

Land	\$ 1,000
<u>Improvements</u>	<u>\$62,500</u>
Total	\$63,500

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

---

James D. Kuhn, Commissioner